HOA 3696871
02/03/2014 10:48 AM Pages: 1 of 16 Fees: 112.00
Jeff Martin Clerk & Recorder: Yellowstone MT

Return To:
VICKI W. DUNAWAY
1250 15th St. West, Ste. 202
Billings, Montana 59102

DECLARATION OF RESTRICTIONS FOR FALCON RIDGE ESTATES SUBDIVISION, SECOND FILING AND HOMEOWNERS ASSOCIATION

On this 30th day of January, 2014, **AVIARA, INC.** and **RIMS DEVELOPMENT, LLC,** (hereinafter Developer), being owners and developers of the following described real property an all portions thereof, located in Billings, Yellowstone County, Montana, hereby establish and declare the following building and use restrictions all of which shall be applicable to said real property:

Block 1: Lots 1, 2, 3, 4, 5, and 6;
Block 2: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11;
Block 3: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15;
Block 4: Lots 1, 2, 3, 4, 5, and 6;
Block 5: Lots 1, 2, 3, 4, 5, 6, 7, and 8;
Block 6: Lots 1, 2, 3, 4, 5, and 6;
Block 7: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13;

of Falcon Ridge Estates Subdivision, 2nd Filing, Yellowstone County, Montana, according to the official plat on file and of record n the office of the Clerk and Recorder of said County, under Document No. 3682227.

Developer places these restrictions upon the Lots for the benefit of the owners of all of the above-described Lots in Falcon Ridge Estates Subdivision, 2nd Filing (hereinafter **"FALCON RIDGE ESTATES II"**) and any Lots later subjected to the provisions of this Declaration and for the purpose of protecting the value and desirability of all of said Lots in said subdivision.

Developer expects these Lots to be used for single family and for multi-family housing, such as duplexes or twin homes, condominiums, townhomes or patio homes.

All lots subject to this Declaration are hereafter referred to as the "Lots". The covenants, restrictions and conditions herein contained shall run with the land and shall be binding on all owners of the Lots and all persons claiming under them. The grantees of any of the Lots or of any duplex or twin home unit, condominium, townhome, or patio home constructed thereon (henceforth "Lot Owners", by acceptance of a conveyance, covenant and agree faithfully to observe and abide by all of said conditions, covenants and restrictions.

GENERAL RESTRICTIONS

1. Each of the Lots shall be known and described as a residential Lot. Except as otherwise provided below, no structures shall be erected, altered, or placed, or permitted to remain on any residential Lot, as aforesaid, other than one single family home, one duplex or twin home, condominium, townhome, or patio home with attached or detached garage for two or more cars, storage buildings, and playhouses for children.

2. Noxious or offensive activity shall not be permitted on any of the lots, nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

3. The term "residential", as used herein, shall be held and construed to exclude hospitals and churches and to further exclude professional and commercial uses, and any such usage of this property, except as provided herein, is expressly prohibited. In-home trades, professions and businesses shall be permitted provided that the Lot owner has no outside employees working in the residence, the business or trade does not increase vehicle traffic to the residence by more than six vehicles per day, round trip, and the in-home trade, profession or business complies with the zoning ordinances of the City of Billings. Signs identifying in-home businesses shall not be allowed. Vehicles, equipment, or products used in a trade or business shall not be stored outside on any of the Lots, except that vehicles used by building contractors during construction are permitted.

4. No trailer or garage shall at any time be used as a residence.

5. No swine, poultry, goats, or other livestock shall be permitted on any of the Lots.

6. No animals shall be raised or cared for on a breeding or other commercial basis. Wild animals shall not be kept as pets. The number of household pets may not exceed four, with the maximum number of one species limited to three. Pets remaining enclosed inside, such as fish, may be kept in unlimited numbers. All pets shall be kept under the control of their owner. Lot owners shall promptly clean up after their pets and shall be responsible for any damage caused by their pets. Lot owners shall not keep and shall not permit to be kept on the Lot owner's Lot any pet which is a nuisance to other residents in Falcon Ridge Estates II. Lot owners may install a fenced dog run and dog kennel in their back yards, but said runs or kennels shall not be constructed within 15 feet of any property line.

7. No trash, ashes, or other refuse may be thrown, dumped, or stored outside on any of the Lots.

8. No signs, billboards, posters or advertising devices of any character except subdivision promotion signs, or signs advertising a Lot for sale, shall be placed on any of the Lots. Contractor signs may be displayed during construction of a residence.

9. All garbage cans and receptacles shall be stored underground or on wheeled carts in garages so that the same are out of public view except when wheeled to the point of pick-up on pick-up days.

10. Except for playground equipment similar to that used on school playgrounds, tree houses or other high, dangerous, or homemade play devises for children shall not be constructed or maintained on any of the Lots. New, professionally constructed playhouses for children are allowed if first approved by the Architectural Review Committee provided for later herein.

11. No fence, hedge, wall, or other structure shall be erected on the street side of any corner Lot so as to endanger the safe flow of traffic. Neither shall any fence, hedge, wall or other structure extend toward the front of any Lot further than the forward part of the residence which is built on such Lot.

12. The entrance, entrance sign, and their landscaping into Falcon Ridge Subdivision is maintained by Falcon Ridge Homeowners Association, Inc.; however, because this is also the entrance into Falcon Ridge Estates II the Lot owners shall contribute to the Falcon Ridge Homeowners Association its proportionate share of the maintenance of the entrance, entrance sign, and their landscaping. The initial annual fee per lot is $50.00 after completion of the residence upon the lot; and this fee will not be increased more than 10% per year. The park bike trail, parks, and storm drainage system shall all be maintained by the City of Billings.

13. No trailer house, boats, motorcycles, motor bikes, touring vehicles, or recreational vehicles shall be stored on any of the Lots unless enclosed so that they will be concealed from the view of streets and Lots which are adjacent to the Lot on which they are located. These types of vehicles may be kept o the Lot for a period of up to five days for the purpose of loading, unloading, or winterizing.

14. Only underground utility lines shall be used in Falcon Ridge Estates II, except for already existing overhead lines, if any.

15. Basketball hoops or backboards may not be mounted on any residence or garage; or table basketball hoops may be placed on the driveway, and basketball hoops mounted on a permanent stand may be placed in a location adjoining the driveway.

16. Lot owners shall be responsible for paying for any damage they or their families, guests, or tenants cause to the entrance to Falcon Ridge Subdivision.

17. All Lot owners shall be obligated to maintain their homes, garages, outbuildings, and yards so that they are clean, tidy, and in good repair. Lot owners shall not permit peeling paint, broken sidewalks or driveways, broken shingles, or any other unsightly condition on their property. Lot owners shall keep their lawns mowed and watered, and they must remove all dead or dying trees and shrubs so that all properties in Falcon Ridge Estates II reflect a high pride of ownership.

RESTRICTIONS ON BUILDING

18. **Drainage and Soil.**

(a) Developer has contracted with Sanderson Stewart to design a drainage plan for Falcon Ridge Estates II. When designing and building in Falcon Ridge Estates II Lot owners are required to follow the plan and direct all run off as per the drainage plan and not obstruct drainage areas.

(b) The Developer agrees to share the geotechnical report at no cost to Lot owners. If a Lot owner chooses to use the report, the Lot owner is obligated to contract with GEOCIENCE, PLLP or RAWHIDE GEO TECH for site inspections and compaction tests. The Developer accepts no liability for soils or the report.

19. Any building or residence erected on a Lot shall be of new construction; no old or used buildings shall be moved onto any Lot. Neither shall any manufactured or modular home be placed upon any Lot.

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20. Log homes, geodesic domes, A-frame buildings, buildings with earth bearms to the roof line or higher, or homes having an unusual exterior design are prohibited.

21. All structures are to be constructed of high quality exterior materials, including siding, roofing, windows, doors, and trim. Vinyl siding, unless approved by Developer is prohibited. Roof pitches of less than 6/1, unless approved by Developer, are prohibited. Structures must have 150 square feet of rock, brick, or E.F.I.S. trim.

22. **Setbacks.**

(a) No residence or other structure shall be located on any of the Lots so that any part of such structure, other than entrance vestibules, awnings or minor decorative fixtures, is nearer than 20 feet from the front line of the Lot on which the structure is located. Setbacks from any street for a structure situated on a corner Lot shall comply with the City of Billings zoning ordinances.

(b) No building shall be located less than five feet from either side Lot line of the Lot on which the building is located. The five feet measurement is taken from the side Lot line to the nearest wall of the building, i.e., the side set back. Two story residences must comply with the side setback restrictions set forth in the City of Billings zoning ordinances in effect at the time of construction of the residence.

23. **Height Restrictions.**

(a) Residences constructed on any Lot may be one or two story or split-level. In addition to any one of the aforementioned story option, each residence may also have a basement, which may be walkout or daylight.

(b) All residences must also comply with the height restrictions imposed by the City of Billings zoning ordinances in effect at the time the residence is built.

24. **Size Restrictions.**

(a) Residences constructed on a Lot included in this Declaration may be single family or multi-family homes such as duplexes or twin homes, condominiums, townhomes, or patio homes.

(b) Residences built on any of the Lots shall meet or exceed the following minimum area, excluding the area of the garage and basement, if any:

(1)	One story home:	1,500 square feet on main level;
(2)	Two story home:	1,850 square feet for both first and second story;
(3)	Spilt level:	1,650 square feet on all three levels
(4)	Duplex or twin home:	1,000 square feet on each side of duplex or twin home; or
(5)	Condominium or Townhome:	1,000 square feet.

(c) Variances on these size requirements may be made only by approval of the Architectural review Committee, as provided for later herein.

25. Fences may be constructed only of vinyl, metal, or masonry, or combinations of these materials, except that dog runs may be fenced with chain link fence. Fences must be maintained by the Lot owner to reflect a high pride of ownership. Variances for fence construction materials may be made only by approval of the Architectural Review Committee, as provided for later herein.

26. All Lots must be fully landscaped within eight months after substantial completion of construction of a residence on that Lot.

27. Any garage and detached buildings on a Lot, except playhouses, shall have outside walls and a roof of the same materials and color as that used on the residence on that Lot.

28. No excavations, except that which is necessary for the construction of improvements, shall be permitted on any Lot until such time as the actual construction of the residence is to begin. However, the Lot owner may drill and excavate for the purpose of testing the sub-soil conditions.

29. No building material of any manner or character shall be placed or stored on a Lot until the Lot owner is ready to commence construction of improvements, and then such materials shall be placed within the property lines of the Lot on which the residence is to be erected and shall not be placed in the streets, on the sidewalks, or between the curb and property line. Construction of any building must be completed within twelve months after construction is commenced.

ARCHITECTURAL REVIEW

30. **Architectural Review Committee**. So long as Developer or Buscher Construction & Development, Inc. and Dan Fleury Construction owns any of the lots in Falcon Ridge Estates II, Buscher Construction & Development, Inc., and Dan Fleury Construction shall have the sole authority to appoint an Architectural Review Committee, henceforth "ARC", and to review any and all Plans for residences or for improvements to any Lot subject to this Declaration. The initial ARC members shall be Dennis Buscher, Dan Fleury and Kelly Donovan. Upon Developer's sale of all Lots, the Association shall appoint the members of the ARC. Buscher Construction & Development, Inc., and Dan Fleury Construction in their sole discretion, may elect to turn over their power to appoint the ARC members to the Association at any time prior to sale of all Lots. Once the Association is empowered to appoint the ARC members, the ARC shall have a total of three members.

31. **Required Plan Review**. Except for residences and other improvements constructed by Buscher Construction Development Inc. or Dan Fleury Construction, no residence or other improvement shall be erected, constructed, placed, or maintained upon any Lot, nor shall any additions, remodeling, reconstruction, or alteration of the exterior of any residence or improvement be made or continue to be made, unless and until the same has been approved in writing by the ARC. Lot owners must also obtain ARC approval for any changes to approved Plans if those changes affect the exterior of a residence or any improvement.

32. **Review Application**. Before beginning the construction of any residence or other improvement, or before any alteration of the exterior thereof, the person desiring to erect, construct, or modify the same shall submit to the ARC two sets of the following Plans for the proposed residence or other improvement in addition to any other information the ARC requests:

(a) **Site Plan**: A site plan showing: 1) the location of all improvements, including structures, fences, walls, driveways, parking areas, utilities, outbuildings and decks;

and 2) existing topography and contour in relation to the proposed residence or other improvement and cut and fill excavation requirements, 3) drainage plan including window well location and measurement; and 4) other pertinent information relating to the residence or other improvement.

(b) **Building Plan:** A building plan consisting of: 1) the structure's dimensions; 2) elevation drawings or sketches of the exterior of the structure(s); and 3) information concerning the exterior of the structure(s) including all exterior colors, materials, finishes, roofing materials to be used.

The ARC may, in its sole discretion, require the Lot owner to furnish additional specifications, drawings, material samples, and such other information as it deems necessary for the purpose of reviewing the application.

33. **Basis of Approval**. Approval by the ARC shall be based upon, among other things, the following: a) conformity and harmony of external design with neighboring residences and other improvements; b) effects of location of the proposed residence or other improvements on neighboring Lots; c) relation of residence or other improvements and finished ground elevations to existing topography and grades; d) the overall aesthetics of Falcon Ridge Estates II; and f) conformity of Plans to the provisions of this Declaration.

The review will include subjective judgments about aesthetics which cannot be clearly defined in this Declaration. Each Lot owner, by acceptance of a deed to any Lot subject to this Declaration, agrees to accept the decisions of the ARC as final and binding, and waives any right to challenge those decisions through legal action.

34. **Decision.** The ARC shall render its decision with respect to an application within 30 days after the receipt of a complete application. The decision of the ARC can be in the form of an approval, a conditional approval, or denial and shall be in writing. A copy shall be mailed to the applying Lot owner and to the Association's Board of Directors.

35. **Non-Liability.** Neither the ARC nor any member thereof, nor the Developer nor any member, officer, employee, agent, successor or assign thereof, shall be liable to the Association, any Lot owner, or any other person for any loss, damage, or injury arising out of or connected with the ARC members' performance of their duties and responsibilities by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval, or failure to approve an application. The aforementioned parties will not make decisions on and assume no responsibility for the following: 1) the structural capacity, safety features, or building code compliance of any residence or other improvement; b) whether the proposed location of a residence or other improvement is free from possible geologic or natural hazards or other possible hazards caused by conditions occurring either on or off the subject property; c) the internal operation or functional integrity of any residence or other improvement; or d) conformity with or violation of any City of Billings zoning ordinance or any applicable building code.

Every person who submits an application to the ARC, by submission of such an application, and every Lot owner by acceptance of a deed to any Lot agrees not to bring any action or suit against the Association, its Board, members of the ARC, or the Developer or its members, officers, employees, agents, successors, or assigns to recover damages resulting from the architectural review process set forth herein.

The decisions of the ARC and the requirement to obtain approval of the ARC may be enforced by the Association or by any Lot owner by bringing an action for specific performance or for an injunction, prohibitory or mandatory. Such actions shall be timely if brought within four months after it becomes apparent that any Lot owner has not obtained the required approval or has deviated from the approved Plans, whichever occurs later. In any such action, the prevailing party shall be entitled to recover from the losing party all costs and attorney fees incurred.

HOMEOWNERS ASSOCIATION

36. **Membership in Association**. Lot owners shall be members of a Montana non-profit corporation, formed or about to be formed, known as "**FALCON RIDGE ESTATES II HOMEOWNERS ASSOCIATION**", herein called "Association". "Lot owner" shall mean each person, as shown by the records of the Yellowstone County Clerk and Recorder, owning all of or an undivided interest in a Lot, or in the case of duplexes or twin homes, condominiums, townhomes, or patio homes constructed upon a Lot, owning all of or an undivided interest in any Unit thereof. If such owner has sold to a third person under the terms of an agreement for future delivery of title, and notice of such agreement is recorded with the Yellowstone County Clerk and Recorder, such third person shall be deemed the Lot owner. Co-owners or joint owners of a Lot or Unit shall be deemed to be one member for the purposes of voting and assessment. The affairs of the Association shall be governed by its Bylaws, attached hereto as Exhibit "A".

37. **Obligations of the Association.** The Association shall have the responsibility for contributing to the maintenance of the entrance to Falcon Ridge Subdivision and shall pay up to thirty (30%) percent of the cost of the maintenance of the entrance, entrance sign, and their landscaping to Falcon Ridge Homeowners Association who actually performs this maintenance. The Association shall also have any other obligations its members decide to undertake.

38. **Rights of the Association.** The Association shall have the right, but not the obligation, to enforce this Declaration. In the event that any Lot owner shall permit any residence or other improvement, including any landscaping for which it is the responsibility of such Lot owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly, or unattractive condition, the Association may notify the Lot owner to take corrective action. If corrective action is not taken by the Lot owner within a reasonable time, as determined by the Board, the Board may cause such corrective action to be taken and shall assess the expense of correction to the Lot owner as a special assessment, payable only by that Lot owner. If a Lot owner fails or refuses to pay such an assessment, the Association may, as provided below, file and foreclose a lien for the amount of the assessment.

39. **Annual assessments.** The Association, through its Board of Directors, shall establish and collect an annual assessment from each association member to pay for all costs of the maintenance described in Section 37 above, for administrative and legal expenses, and for any other expenses authorized or required by the provisions of this Declaration. The Board shall not have the authority to increase the annual assessment more than 10% per year for these expenses without a vote of 51% of the Association members.

40. **Payment of assessments.** Each Lot owner shall be responsible for the payment of assessments within 30 days after the Board gives notice of assessment. Assessments paid more than 30 days after the date when due shall bear interest at the rate of 12% per annum from the due date until paid. All payments upon assessments shall be applied first to interest and then to the earliest assessment due. Interest collected shall become part of the Association's account. In no event shall the interest charged be more than permitted by the Montana usury statutes. All assessments collected by the Association may be commingled

in a single fund. The Secretary-Treasurer of the Association shall maintain records showing the amounts of all assessments paid and unpaid. Such records shall be available for inspection at all reasonable times by Lot owners or their representatives.

41. **Covenant to pay maintenance assessments.** Each lot owner, by acceptance of a deed, whether or not it shall be expressed in said deed, is deemed to covenant and agree to pay to the Association all assessments lawfully made by the Association and to waive any right said Lot owner may have, under the laws of the United States or the State of Montana, to claim a homestead exemption for said assessments. Lot owners and their grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of conveyance of any Lot, but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor. The Secretary-Treasurer of the Association shall notify third parties, upon their request, of the amount of unpaid assessments on any Lot.

42. **Remedies for non-payment of assessments.** All unpaid sums assessed by the Association to any Lot, together with interest, collection costs, costs of suit, and reasonable attorney fees, shall constitute a lien on such Lot, and if filed of record, may be foreclosed in the same manner as a construction lien. Such lien shall not take priority over any sums unpaid on a first mortgage or trust indenture of record prior to the recording of the lien for assessments. Each assessment, together with interest, collection costs, costs of suit, and reasonable attorney fees shall also be the personal obligation of the Lot owner of the Lot against which the assessment was made at the time the assessment fell due. Furthermore, suit to recover a money judgment for unpaid assessments shall be maintainable by the Association against the Lot owner without foreclosing or waiving the lien securing the same. All costs of collection of delinquent assessments, including but not limited to, court costs, costs of filing liens, and attorney fees, shall be the obligation of the non-paying Lot owner, and may be added to the next regular assessment for that Lot. No sale or transfer of a Lot shall relieve the grantee or transferee from liability for past due assessments or from the lien thereof. All right, remedies and privileges granted to the Association or the Lot owners pursuant to the terms hereof shall be deemed to be cumulative.

MISCELLANEOUS

43. **Severability.** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

44. **Alterations to these restrictions.** Unless otherwise provided herein, any alteration or amendment to these restrictions must be in writing and signed by all of the Lot owners, as defined herein, of no less that 75% of the number of Lots or total number of individual units in the case of multi-family housing. These restrictions may be revoked in whole or in part and additional provisions may be added by written amendment signed by all owners of no less than 90% of the number of Lots or total number of individual units in the case of multi-family housing. No amendment shall be effective until it is recorded in the office of the Yellowstone County Clerk and Recorder. Unless approved by Developer, no amendment or revocation of any of these restrictions shall take effect prior to sale of all Lots by Developer.

45. **Enforcement.** The Association and each and every one of the Lot owners of Lots in Falcon Ridge Estates II shall have the right to enforce the restrictions and covenants herein, and any and all amendments thereto, by civil action, including the right to injunctive relief and for damages. It is presumed that some damage would be occasioned by reason of the failure of any Lot owner or owners to comply with these restrictions and the covenants herein contained. If litigation is applicable at law or in equity, a reasonable attorney's fee and expenses.

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IN WITNESS WHEREOF, FALCON RIDGE II, LLC has executed this Declaration of Restrictions the day and year first above written.

AVIARA, INC.

By: Dennis J. Buscher
Dennis J. Buscher, President

RIMS DEVELOPMENT, LLC

By: Dan Fleury
Dan Fleury, Member

By: Kelly Donovan
Kelly Donovan, Member

STATE OF MONTANA)
:ss.
County of Yellowstone)

This instrument was acknowledged before me on the 30 day of January, 2014, by Dennis J. Buscher, President of **AVIARA, INC.**

VICKI W. DUNAWAY
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
July 25, 2014

VICKI W. DUNAWAY NOTARIAL SEAL STATE OF MONTANA

Vicki W Dunaway
Notary Public for the State of Montana

STATE OF MONTANA)
:ss.
County of Yellowstone)

This instrument was acknowledged before me on the 31st day of January, 2014, by Dan Fleury, Member of **RIMS DEVELOPMENT, LLC.**

ROBIN DEVERNIERO
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
April 30, 2017

ROBIN DEVERNIERO NOTARIAL SEAL STATE OF MONTANA

Robin Deverniero
Notary Public for the State of Montana

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STATE OF MONTANA)
:ss.
County of Yellowstone)

This instrument was acknowledged before me on the 31st day of January, 2014, by Kelly Donovan, Member of **RIMS DEVELOPMENT, LLC.**

Robin Deverniero
Notary Public for the State of Montana

ROBIN DEVERNIERO NOTARIAL SEAL STATE OF MONTANA
ROBIN DEVERNIERO
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
April 30, 2017

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EXHIBIT "A"

BYLAWS OF FALCON RIDGE ESTATES II HOMEOWNERS ASSOCIATION
(a Non Profit Corporation)

The Board of Directors of **FALCON RIDGE ESTATES II HOMEOWNERS ASSOCIATION,** A Montana non-profit corporation, ("the Association"), hereby adopt the following Bylaws:

OFFICES

1. **Principal Office.** The principal office of this Association is situated at 3671 Spaulding, Billings, Montana 59106. The Board of Directors may change the principal office.

MEMBERS

2. **Membership.** Each owner of all of the following described Lots shall be a Member of the Association:

Block 1: Lots 1, 2, 3, 4, 5, and 6;
Block 2: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11;
Block 3: Lots 1, 2, 3, 4, 5, 6, 7, 8 , 9, 10, 11, 12, 13, 14 and 15;
Block 4: Lots 1, 2, 3, 4, 5, and 6;
Block 5: Lots 1, 2, 3, 4, 5, 6, 7, and 8;
Block 6: Lots 1, 2, 3, 4, 5, and 6;
Block 7: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13;

of Falcon Ridge Estates Subdivision, 2nd filing, Yellowstone County, Montana, according to the official plat on file and of record n the office of the Clerk and Recorder of said County, under Document No. 3682227.

Co-owners, or joint owners of a Lot or unit shall be deemed to be one Member for the purposes of voting and assessment.

3. **Annual Meeting.** The annual meeting of the Members for election of Directors, approval of an annual budget, and the transaction of such other business as may properly come before them shall be held at the principal office of this Association or at such other place that shall be set forth in the Notice of meeting. The annual meeting shall be held on the third Monday of February, 2013, at 6:00 o'clock p.m. and on the third Monday of February of each and every year thereafter.

4. **Notice of Annual Meeting.** The Secretary-Treasurer of this Association shall give written notice stating the place, day and hour of the meeting by delivering the same not less than 10 days prior to the date of the meeting, if notice is personally delivered, or not less than thirty (30) days, nor more than 50 days before the date of the meeting, if notice is delivered by mail, to each Member or record entitled to vote at such meeting. The notice shall be deemed delivered when deposited, postage prepaid, in the United States mail addressed to the Member at the Member's address as it appears on records of the Association.

5. **Special Meeting.** Special meetings of the Members may be called by the Board of Directors or by not less than 25% of all the Members entitled to vote at the meeting. Notice of said special

meeting shall be given in the same manner as notice for the annual meeting as outlined in Section 4 above except that the notice, in addition to all other requirements, must state the purpose or purposes for which the meeting is called. No business other than that specified in the Notice of Meeting shall be transacted at any such special meeting.

6. **Quorum of Members.** A majority of the Members entitled to vote and represented in person or by proxy shall constitute a quorum at a meeting of Members. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. If a quorum is present, the affirmative vote of the majority of Members represented at the meeting and entitle to vote on the subject matter shall be the act of the Members unless the vote of a greater number is required by the Articles of Incorporation, these bylaws, or the Declaration of Restrictions for Falcon Ridge Estates Subdivision, Second Filing. Approval of an increase in regular annual assessments which is more than 10% greater than assessments for the prior year and approval of special assessments shall require an affirmative vote of 51% of the Members.

If a meeting cannot be organized because a quorum is not present, those present may adjourn the meeting from time to time until a quorum is present and at which time any business may be transacted that could have been transacted at the meeting as originally called.

7. **Voting.** Each Member shall be entitled to one vote. For voting purposes, co-owners of a single Lot or Unit shall be considered to be a single Member with one vote. A Member may vote either in person or by proxy, provided the Member has property executed the document indicating his or her designation of proxy. At each election for Directors, every Member entitled to vote at such election shall have the right to vote in person or by duly elected proxy for as many persons as there are Directors to be elected.

8. **Proxies.** Every proxy must be dated and signed by the Member and given to the Secretary-Treasurer before or at the time of the meeting. No proxy shall be valid after the expiration of 11 months from the date of its execution. Every proxy shall be revocable by the Member executing it. Said revocation must be in writing, dated and signed by the Member and given to the Secretary-Treasurer before or at the time of the Association's next meeting.

9. **Order of Business.** The order of business at all meetings of the Members shall be as follows:

(a) Proof of notice of meting or waiver of notice.
(b) Reading of minutes of preceding meeting.
(c) Reports.
(d) Business.

10. **Informal Action.** Resolutions required or permitted to be approved by Members may be approved without a meeting of Members if the written resolution is signed by at least 51% of the Members entitled to vote and filed with the corporate records.

BOARD OF DIRECTORS

11. **Directors.** After the first annual meeting, following a sale of 70% of the Lots by the Developer, the Association shall be governed by a Board of five persons, all of whom shall be Members of the Association and who shall be elected by majority vote of the Members present at the annual meeting. The directors shall serve without compensation.

12. **Term.** At the first annual meeting of the Association, following a sale of 70% of the Lots by the Developer, five Directors shall be elected. The term of two of the Directors shall be fixed for one year. The term of two of the Directors shall be fixed for two years. The term of one of the Directors shall be fixed at three years. At the expiration of the initial term of each Director, an election shall be held; all successor Directors shall serve two-year terms. A Director may be re-elected to successive terms.

13. **Initial Directors.** Until the first annual meeting following a sale of 70% of the Lots by the Developer, the Association shall be governed by the Board constituted by three persons, Dennis J. Buscher, Dan Fleury and Kelly Donovan, who shall serve as Directors.

14. **Powers and Duties of Directors.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all acts and things as are not by law, by these bylaws, or by the Declaration of Restrictions of Falcon Ridge Estates Subdivision, Second Filing directed to be exercised and done by the Members.

(a) The Directors shall have the power to determine the amount each Lot or unit will be assessed for fees to be paid to Falcon Ridge Homeowners Association for maintenance of the entrance into Falcon Ridge Subdivision, its entrance sign and landscaping. The initial annual fee per lot is $50.00 after completion of the residence upon the lot.

(b) The board shall have the power to levy and collect regular annual assessments.

(c) The board shall have the power to levy and collect special assessments approved by the Members.

(d) The Board shall prepare an annual budget and obtain contractors' bids for insurance, improvements, and maintenance of the perimeter fence or wall, decorative entrance, and landscaping at the entrance and fence or wall, if any.

(e) The board shall have the authority to take appropriate legal action to collect delinquent assessments, to file a lien against any Lot or Unit having delinquent assessments, and to levy penalties and interest charged in accordance with the Declaration of Restrictions of Falcon Ridge Estates Subdivision, Second Filing.

(f) The Board shall have the power to enter into and carry out contracts as necessary to its duties herein.

(g) The board shall have the power to establish a bank account for the Association and to keep records in accordance with common accounting procedures.

(h) The Board shall have the power to employ and pay a Secretary-Treasurer.

15. **Removal of Directors.** At any regular or special meeting of the Association called for that purpose, any Director may be removed for good cause by a vote of a majority of the Members entitled to vote. In the event of such removal, a successor may then and there e elected to fill the vacancy thus created.

16. **Vacancies in Board of Directors.** Vacancies in the board of Directors caused by any reason other than the removal of a Director by vote of the Members shall be filled by a vote of the majority of the remaining Directors, and each person so selected shall serve until the next annual meeting of the Association, at which time the Members shall elect a successor to fill out the balance of the unexpired term.

17. **Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least one such meeting shall be held during each fiscal year. Notice of such regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone, facsimile or e-mail at least three days prior to the date of such meeting.

18. **Special Meetings.** Special meetings of the Board of Directors may be called by the president on three days' notice to each Director. Notice may be given personally or by mail, telephone, facsimile or e-mail and shall state the time, date, place, and purpose of the meeting.

19. **Quorum.** A quorum of the board for transaction of business at any meeting shall be a majority of the Directors.

20. **Proxies.** Only Directors will be allowed an official vote. No proxies shall be allowed under any circumstances.

OFFICERS

21. **Designation.** The officers of this Association shall be a President, a Vice-President, and a Secretary-Treasurer.

22. **Election and Term of Officers.** The Officers shall be elected by the Board of Directors for a one-year term. Officers may be re-elected for successive terms. The President and Vice-President shall be Members of the Association; the Secretary-Treasurer need not be a Member of the Association.

23. **Payment of Officers.** The President and Vice-President shall serve without salary; the Secretary-Treasurer may be paid a reasonable salary, as determined by the Board.

24. **Removal of Officers.** Any Officer may be removed at any time for cause by vote of a majority of the Directors then in office.

25. **Filling Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by a vote of a majority of the Board of Directors. The newly elected Officer shall serve for the unexpired portion of the term.

26. **President.** The President shall be the chief executive officer of this Association, and shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the affairs of this Association. The president shall preside at al meetings of the Board of Directors and of the Members.

27. **Vice-President.** In the absence or disability of the President, the Vice-President shall perform all the duties of the President, and when so acting, the Vice-President shall have all the powers of the President and shall be subject to all the restrictions upon the President.

28. **Secretary-Treasurer.** The Secretary-Treasurer shall keep the minutes of every meeting held and conduct such correspondence as the Boar deems necessary. The Secretary-Treasurer shall have the care and custody of and be responsible for all funds and securities of this Association and shall deposit such funds and securities in the name of this Association in such bank or safe deposit companies as the Board of Directors may designate. The Secretary-Treasurer shall also have authority to pay out and dispose of all orders for payment of money under the direction of the President or the Board of Directors. The Secretary-Treasurer shall keep at the principal office of this Association accurate books of accounts of all its business and transactions and shall at all reasonable hours exhibit books and accounts to any Director or Member of this Association. The Secretary-Treasurer shall render a report of the condition of the finances of this Association, at each regular meeting of the Board of Directors and regular meeting of Members and shall perform all other duties incident to the office of Secretary-Treasurer.

CONTACTS, CHECKS, DEPOSITS AND FUNDS

29. **Contracts and Instruments.** The President or vice-President shall sign and approve all contracts and instruments on behalf of this Association after authorization has been granted and approval obtained from a majority of the Board of Directors.

30. **Checks and Drafts.** All checks, drafts, or other orders for payment of money, notes, or other evidence of indebtedness, issued in the name of or payable to this Association, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors. In the absence of such determination by the Board of directors, such instruments shall be signed by any two of the Officers of this Association.

31. **Depository.** All funds of this Association shall be deposited from time to time to the credit of this Association in such banks, trust companies, or other depositories as the Board of Directors may select.

MISCELLANEOUS PROVISIONS

32. **Waiver of Notice.** Whenever any notice is required to be given under the provisions of law or under the provisions of the Articles of Incorporation or the Bylaws of this Association, a waiver thereof in a writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

33. **Amendment of Bylaws.** At any regular meeting or at any special meeting of this Association these bylaws may be altered, amended or repealed, and new Bylaws may be adopted by 75% of the Members entitled to vote.

34. **Transfer of Membership.** One Membership is attached to each of the Lots or units within Falcon Ridge Estates. A Membership shall not be transferable except upon transfer of said Lot or Unit. Said Membership is appurtenant to and runs with the Lot or Unit.

35. **Expulsion of Members.** Members may not be expelled from the Association and their voting rights cannot be canceled. No Member may withdraw from the Association so long as that Member owns a Lot or Unit in Falcon Ridge Estates II.

36. **Reimbursement of Costs and Expenses.** All Officers and Directors shall be reimbursed their costs and expenses directly incurred in work performed n furthering the purposes of this Association.

37. **Dissolution.** The Association shall be dissolved only if improvements or maintenance required to be done by the Association is assumed by some other entity. In the event of dissolution of the Association, the funds of the Association shall be divided equally among its Members after payment of all debts of the Association.

BYLAWS DATED this 31st day of JANUARY, 2014.

FALCON RIDGE ESTATES II HOMEOWNERS ASSOCIATION

Dennis J Buscher

DENNIS J. BUSCHER, Director

H0A 3696871
02/03/2014 10:48 AM Pages: 16 of 16 Fees: 112.00
Jeff Martin Clerk & Recorder, Yellowstone MT

DAN FLEURY, Director

KELLY DONOVAN, Director

STATE OF MONTANA)
:ss.
County of Yellowstone)

This instrument was acknowledged before me on the 30 day of January, 2014, by DENNIS J. BUSCHER. DIRECTOR of Falcon Ridge Estates # Homeowners Association

VICKI W. DUNAWAY
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
July 25, 2014

Notary Public for the State of Montana

STATE OF MONTANA)
:ss.
County of Yellowstone)

This instrument was acknowledged before me on the 31st day of January, ~~20XX~~ 2014, by DAN FLEURY. DIRECTOR of Falcon Ridge Estates # Homeowners Association

ROBIN DEVERNIERO
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
April 30, 2017

Notary Public for the State of Montana

STATE OF MONTANA)
:ss.
County of Yellowstone)

This instrument was acknowledged before me on the 31st day of January, 2014, by KELLY DONOVAN. DIRECTOR of Falcon Ridge Estates # Homeowners Association

ROBIN DEVERNIERO
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
April 30, 2017

Notary Public for the State of Montana

HOA 3697493
02/11/2014 10:24 AM Pages: 1 of 4 Fees: 28.00
Jeff Martin Clerk & Recorder, Yellowstone MT

Return To:
First Montana Title Company
ATTN: Kelly Donovan
204 North 29th Street
Billings, MT 59101

FIRST AMENDMENT TO THE DECLARATION OF RESTRICTIONS FOR FALCON RIDGE ESTATES SUBDIVSION, SECOND FILING AND HOMEOWNERS ASSOCIATION

On this 11 day of Feb, 2014, **AVIARA, INC.** and **RIMS DEVELOPMENT, LLC,** (hereinafter Developer), being owners and developers of the following described real property and all portions thereof, located in Billings, Yellowstone County, Montana, do hereby amend the Declaration of Restrictions for Falcon Ridge Estates Subdivision, Second Filing and Homeowners Association recorded February 3, 2014, under Document No. 3696871, records of Yellowstone County, Montana, which are applicable to the following real property:

Block 1:	Lots 1, 2, 3, 4, 5 and 6;
Block 2:	Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11;
Block 3:	Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15;
Block 4:	Lots 1, 2, 3, 4, 5 and 6;
Block 5:	Lots 1, 2, 3, 4, 5, 6, 7 and 8;
Block 6:	Lots 1, 2, 3, 4, 5 and 6;
Block 7:	Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13;

of Falcon Ridge Estates Subdivision, 2nd Filing, Yellowstone County, Montana, according to the official plat on file and of record in the office of the Clerk and Recorder of said County, under Document No. 3682227.

The Declaration of Restrictions for Falcon Ridge Estates Subdivision, Second Filing and Homeowners Association recorded February 3, 2014, under Document No. 3696871, is amended as follows:

(1) Paragraph No. 37, under heading of "Homeowners Association", is hereby deleted in its entirety and in lieu thereof the following paragraph is added:

37. **Obligations of the Association.** The Association shall have the responsibility for contributing to the maintenance of the entrance to Falcon Ridge Subdivision; and for each lot and home sold and completed shall pay 1/70th of thirty (30%) percent of the cost of the maintenance of the entrance, entrance sign, and their landscaping to Falcon Ridge Homeowners Association who actually performs this maintenance. It is the intention that upon all of the lots and homes in Falcon Ridge Estates II being sold and completed that the

Association shall be responsible for thirty percent (30%) of the cost of said maintenance. The Association shall also have any other obligations its members decide to undertake.

In all other respects, the Declaration of Restrictions for Falcon Ridge Estates Subdivision, Second Filing and Homeowners Association, described above, shall remain as written.

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, FALCON RIDGE II, LLC has executed this Amendment to Declaration of Restrictions the day and year first above written.

AVIARA, INC.

By: [signature]
Dennis J. Buscher, President

RIMS DEVELOPMENT, LLC

By: [signature]
Dan Fleury, Member

By: [signature]
Kelly Donovan, Member

STATE OF MONTANA)
:ss.
County of Yellowstone)

This instrument was acknowledged before me on the 10th day of February, 2014, by Dennis J. Buscher, President of **AVIARA, INC.**

VALERIE GRAMMENS
NOTARY PUBLIC for the State of Montana
Residing at Worden, Montana
My Commission Expires October 20, 2017
NOTARIAL SEAL — VALERIE GRAMMENS — STATE OF MONTANA

[signature]
Notary Public for the State of Montana

STATE OF MONTANA)
:ss.
County of Yellowstone)

This instrument was acknowledged before me on the 4th day of February, 2014, by Dan Fleury, Member of **RIMS DEVELOPMENT, LLC.**

ROBIN DEVERNIERO
NOTARY PUBLIC for the State of Montana
Residing at Billings, Montana
My Commission Expires April 30, 2017
NOTARIAL SEAL — ROBIN DEVERNIERO — STATE OF MONTANA

[signature]
Notary Public for the State of Montana

H0A 3697493
02/11/2014 10:24 AM Pages: 4 of 4 Fees: 28.00
Jeff Martin Clerk & Recorder, Yellowstone MT

STATE OF MONTANA)
:ss.
County of Yellowstone)

This instrument was acknowledged before me on the 4th day of February, 2014, by Kelly Donovan, Member of **RIMS DEVELOPMENT, LLC.**

VALERIE GRAMMENS
NOTARIAL SEAL
STATE OF MONTANA
VALERIE GRAMMENS
NOTARY PUBLIC for the
State of Montana
Residing at Worden, Montana
My Commission Expires
October 20, 2017

Valerie Grammens
Notary Public for the State of Montana