

WHEN RECORDED, PLEASE MAIL TO:

Richmond American Homes of Utah, Inc.  
c/o Benson Whitney  
849 West Levoy Dr,  
Salt Lake City, Utah 84123

**FIRST AMENDMENT TO DECLARATION  
OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
SOUTH HILLS POD 4**

THIS FIRST AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOUTH HILLS POD 4 (this "Amendment") is made and executed this 19 day of March, 2018, by Richmond American Homes of Utah, Inc., a Colorado corporation, with an address of 849 West Levoy Dr, Salt Lake City, Utah 84123 ("Declarant").

**RECITALS**

- A. Declarant is the owner of certain real property in Herriman City, Salt Lake County, Utah, more particularly described on Exhibit A attached hereto (the "Property").
- B. Declarant recorded that certain Declaration of Protective Covenants, Conditions and Restrictions for South Hills Pod 4, with the Salt Lake County Recorder on March 13, 2018 as Entry No. 12732616 (the "Declaration").
- C. Declarant desires to amend the Declaration as follows.

**AMENDMENT**

NOW, THEREFORE, the undersigned hereby amends the Declaration as follows:

1. Name of Association. Item (c) of Article I of the Declaration is hereby deleted in its entirety and replaced with the following:
- (c) "Association" shall mean South Hills Pod 4 Homeowners Association, Inc., a Utah nonprofit corporation, organized to administer and enforce the covenants and to exercise the rights, powers, and duties set forth in this Declaration.
2. Replacement of Exhibit B. Exhibit B of the Declaration is hereby deleted in its entirety and replaced with the Exhibit B attached hereto and incorporated herein by this reference.
3. No Further Amendment. To the extent any of the provisions of this Amendment modify or conflict with any provisions in the Declaration, the provisions of this Amendment shall control. All provisions of the Declaration not expressly modified herein shall remain the same.



**EXHIBIT A**

**(Legal Description of the Property)**

The Property is located in Herriman City, Salt Lake County, State of Utah, and is more particularly described as follows:

A PARCEL OF LAND SITUATED IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 4 SOUTH, RANGE 1 WEST; SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT A POINT THAT IS NORTH 89°25'56" EAST ALONG THE NORTH SECTION LINE OF SECTION 17, 986.69 FEET FROM THE NORTH QUARTER CORNER OF SECTION 17, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 89°25'56" EAST 328.90 FEET; THENCE SOUTH 0°36'05" WEST 942.69 FEET; THENCE NORTH 89°23'55" WEST 92.00 FEET; THENCE NORTH 85°01'17" WEST 32.09 FEET; THENCE NORTH 89°23'55" WEST 94.17 FEET; THENCE NORTH 0°36'05" EAST 40.50 FEET; THENCE NORTH 89°23'55" WEST 220.31 FEET; THENCE SOUTH 0°36'05" WEST 81.00 FEET; THENCE NORTH 89°23'55" WEST 94.15 FEET; THENCE SOUTH 0°36'05" WEST 43.50 FEET; THENCE NORTH 89°23'55" WEST 124.30 FEET; THENCE NORTH 0°33'48" EAST 339.55 FEET; THENCE NORTH 89°07'38" EAST 328.66 FEET; THENCE NORTH 0°34'54" EAST 669.53 FEET TO THE POINT OF BEGINNING.

Contains +/- 9.16 acres

**EXHIBIT B**

**(Bylaws of the Association)**

(See attached)

**BYLAWS**  
**OF**  
**SOUTH HILLS POD 4 HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE 1.**  
**DEFINITIONS**

1.01 Declaration.

As used herein, "Declaration" means the Declaration of Protective Covenants, Conditions and Restrictions for South Hills Pod 4, as recorded in the Official Records of Salt Lake County, Utah on March 13, 2018, as Entry No. 12732616, and as may be further amended from time to time. The Declaration is that same Declaration referenced in the Articles of Incorporation of South Hills Pod 4 Homeowners Association, Inc. The development consists of detached single family home building pads and dwellings on separate parcels, separately numbered and individually described in one or more plat(s), duly approved and recorded in the Office of the Salt Lake County Recorder from time to time.

1.02 Other Definitions.

Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Declaration.

**ARTICLE 2.**  
**OFFICES**

South Hills Pod 4 Homeowners Association, Inc. (the "Association") is a Utah nonprofit corporation, with its principal office located at 849 West Levoy Dr, Salt Lake City, Utah 84123.

**ARTICLE 3.**  
**VOTING, QUORUM, AND PROXIES**

3.01 Voting.

As more fully set forth in the Articles and in the Declaration, the Association shall have two classes of membership, Class A and Class B.

Class A Members shall be all Owners, except Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held. Although each of the multiple Owners of a single Lot shall be a Class A Member, in no event shall more than one (1) Class A vote exist or be cast on the basis of a single Lot. Which of the multiple Owners of a single Lot shall cast the vote on the basis of that Lot is determined as provided in Section 2.3 of the Declaration.

3.01 Class B Member. The Class B Member shall be the Declarant. The Class B Member shall be entitled to seventy (70) votes for each Lot in which the interest required for membership in the Association is held. The Class B membership shall cease and the Declarant shall become a Class A Member upon the first to occur of the following: (i) the sale and conveyance by Declarant to purchasers of all of the Lots contained in the Project; or (ii) the expiration of fifteen (15) years after the date on which Declarant first conveys to a purchaser fee title to a Lot.

Additional provisions governing the voting of the members of the Association are set forth in the Declaration.

### 3.02 Quorum.

Subject to and except as otherwise required by law, the Declaration, or the Articles, as amended, the presence in person or by proxy of Owners entitled to vote more than fifty percent (50%) of the total votes of the Owners shall constitute a quorum.

### 3.03 Proxies.

Votes may be cast in person or by proxy. Every proxy must be executed in writing by the Owner or such Owner's duly authorized attorney-in-fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after the expiration of eleven months from the date of its execution unless otherwise provided in the proxy.

### 3.04 Majority Vote.

At any meeting of the Owners, if a quorum is present, the affirmative vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the act of the Owners, unless the vote of a greater number is required by law, the Articles, the Declaration, or these Bylaws.

## **ARTICLE 4.** **ADMINISTRATION**

### 4.01 Annual Meeting.

The annual meeting of the Owners shall be held at a time designated by the Board in the month of March in each year, or at such other date designated by the Board, for the purpose of electing trustees and for the transaction of such other business as may come before the meeting. If the election of trustees shall not be held on the date designated herein for the annual meeting of the Owners, or at any adjournment thereof, the Board shall cause the election to be held at a special meeting of the Owners to be convened as soon thereafter as may be convenient. The Board may from time to time by resolution change the date and time for the annual meeting of the Owners.

#### 4.02 Special Meetings.

Except as otherwise prescribed by statute or the Declaration, special meetings of the Owners, for any purpose, may be called by the president or by a majority of the trustees and shall be called by the president at the written request of Owners entitled to vote twenty percent (20%) or more of the total votes of all Owners, such written request to state the purpose or purposes of the meeting and to be delivered to the Board or to the president.

#### 4.03 Place of Meetings.

The Board may designate the Association's principal offices or any place within Salt Lake County, Utah, as the place for any annual meeting or for any special meeting called by the Board.

#### 4.04 Notice of Meeting.

Written or printed notice of any meeting of the Owners, stating the place, day, and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered personally, by mail, or by electronic means (i.e. e-mail, text messaging or another similar manner) to each Owner entitled to vote at such meeting not less than thirty (30) nor more than sixty (60) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Owner at such Owner's address as it appears in the office of the Association, with postage thereon prepaid. If sent by electronic means, such notice shall be deemed to be delivered when sent. For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, the Board may set a record date for such determination of Owners, in accordance with the laws of the State of Utah. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof at the expense of the Association.

#### 4.05 Informal Action by Owners.

Any action required or permitted to be taken at a meeting of the Owners may be taken with or without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted. Unless the written consents of all Owners entitled to vote have been obtained, notice of any Owner approval without a meeting shall be given at least ten (10) days before the consummation of the transaction, action, or event authorized by the Owner action to: (i) those Owners entitled to vote who have not consented in writing; and (ii) those Owners not entitled to vote and to whom the Utah Revised Nonprofit Corporation Act (the "Act") requires that notice of the proposed action be given. The notice must contain or be accompanied by the same material that, under the Act and these Bylaws, would have been required to be sent in a notice of meeting at which the proposed action would have been submitted to the Owners for action. Notwithstanding the foregoing, trustees may not be elected by written consent except by unanimous written consent of all Owners entitled to vote for the election of trustees.

**ARTICLE 5.**  
**BOARD OF TRUSTEES**

5.01 Number and Election of Trustees.

The Board of Trustees (the "Board") shall consist of no less than three (3) and no more than five (5) trustees.

The initial Board shall be composed of three (3) natural persons, designated by Declarant, who need not be Members of the Association. Thereafter, prior to the termination of Class B membership, Declarant may appoint, remove and replace each trustee at its discretion. Upon cessation of the Class B Membership, the acting Board shall hold a special meeting wherein the Owners will elect new trustees. The new trustees shall be elected by the Owners entitled to vote at such special meetings for any number of three (3) year terms. The term of one of the new trustees expires at the first annual meeting after incorporation, the term of a second new trustees expires at the second annual meeting after incorporation, and the term of a third new trustees expires at the third annual meeting after incorporation. Upon the expiration of each staggered term, trustees shall be elected by the Owners entitled to vote at the annual meetings for any number of three (3) year terms to succeed those whose terms expire. Despite the expiration of a trustee's term, the trustee shall continue to serve until the election and qualification of a successor or until there is a decrease in the number of trustees, or until such trustee's earlier death, resignation, or removal from office.

After the termination of the Class B membership as provided in the Declaration, the Board may, upon the majority vote of all Owners of the Lots entitled to vote, be expanded to a total of five (5) natural persons, and the additional two persons need not be Members.

5.02 Removal of Trustees.

Each trustee may be removed, with or without cause, by a majority vote of all Owners of the Lots entitled to vote.

5.03 Replacement of Trustees.

i. A vacancy on the Board created by the removal, resignation, or death of a trustee appointed or elected by the Owners shall be filled by the remaining trustees until the next annual meeting of Owners, at which time the Owners shall elect a trustee to fulfill the then-remaining term of the replaced trustee.

ii. Any trustee elected or appointed pursuant to this Section 5.03 shall hold office for the remainder of the unexpired term of the trustee who was replaced.

5.04 Resignations.

Any trustee may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.



5.05 Regular Meetings.

Regular meetings of the Board may be held without call or formal notice at such places within or outside the State of Utah, and at such times as the Board from time to time by vote may determine. Any business may be transacted at a regular meeting. The regular meeting of the Board for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of Owners, or any special meeting of Owners at which a Board is elected.

5.06 Special Meetings.

Special meetings of the Board may be held at any place designated by the Board or by telephone, provided that each trustee can hear each other trustee, at any time when called by the president, or by two or more trustees, upon the giving of at least three (3) days' prior notice of the time and place thereof to each trustee by leaving such notice with such trustee or at such trustee's residence or usual place of business, or by mailing it prepaid and addressed to such trustee at such trustee's address as it appears on the books of the Association, or by electronic mail or telephone. Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the trustees shall be required.

5.07 Quorum.

A majority of the number of trustees fixed by these Bylaws, as amended from time to time, shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time. When a quorum is present at any meeting, a majority of the trustees in attendance shall, except where a larger number is required by law, by the Articles, by the Declaration, or by these Bylaws, decide any question brought before such meeting.

5.08 Waiver of Notice.

Before, at, or after any meeting of the Board, any trustee may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a trustee at any meeting of the Board shall be a waiver of notice by such trustee except when such trustee attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

5.09 Informal Action by Trustees.

Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if each and every member of the Board in writing either (a) votes for the action or (b) waives the right to demand that action not be taken without a meeting and (i) votes against the action or (ii) abstains from voting. Action is taken under this section only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the trustees then in office were present and voted. An action taken pursuant to this section will not be effective unless the Association receives writings describing the action taken, satisfying the above requirements, signed by all of the trustees, and not revoked by any trustee.

**ARTICLE 6.**  
**OFFICERS AND AGENTS**

6.01 General.

The officers of the Association shall be a president, a secretary, and a treasurer. The Board may appoint such other officers, assistant officers, committees, and agents, including assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent, or employee are not prescribed by the Bylaws or by the Board, such officer, agent, or employee shall follow the orders and instructions of the president.

6.02 Removal of Officers.

The Board may remove any officer, either with or without cause, and elect a successor at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

6.03 Vacancies.

A vacancy in any office, however occurring, shall be filled by the Board for the unexpired portion of the term.

6.04 President.

The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Association and of the Board. The president shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents, and employees. The president of the Association is designated as the officer with the power to prepare, execute, certify, and record amendments to the Declaration on behalf of the Association.

6.05 Secretary.

The secretary shall perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to it by the president or by the Board

Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

6.06 Treasurer.

The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board.

The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

**ARTICLE 7.**  
**EVIDENCE OF OWNERSHIP, REGISTRATION OF**  
**MAILING ADDRESS, AND LIEN HOLDERS**

7.01 Proof of Ownership.

Any person on becoming an Owner shall furnish to the Association a photocopy or a certified copy of the recorded instrument vesting that person with an ownership interest in the Lot. Such copy shall remain in the files of the Association.

7.02 Registration of Mailing Address.

If a Lot is owned by two or more Owners, such Owners shall designate one address as the registered address. The registered address of an Owner or Owners shall be furnished to the secretary of the Association within ten (10) days after transfer of title, or after a change of address. Such registration shall be in written form and signed by all of the Owners of the Lot or by such persons as are authorized to represent the interests of all Owners of the Lot. If no address is registered or if all of the Owners cannot agree, then the address of the Lot shall be deemed the registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Lot.

7.03 Liens.

Any Owner who mortgages or grants a deed of trust covering such Owner's Lot shall give the Association written notice of the name and address of the holder of such mortgage or deed of trust and shall file true, correct, and complete copies of the note and security instrument with the Association.

7.04 Address of the Association.

The address of the Association shall be 849 West Levoy Dr, Salt Lake City, Utah 84123. Such address may be changed by the Board from time to time upon written notice to all Owners and all listed mortgagees.

**ARTICLE 8.**  
**SECURITY INTEREST IN MEMBERSHIP**

Owners shall have the right irrevocably to constitute and appoint a holder of a mortgage or deed of trust their true and lawful attorney-in-fact to vote their membership in the Association at any and all meetings of the Association in which such Owner is entitled to vote and to vest in such holder any and all rights, privileges, and powers that they have as Owners under the Articles and these Bylaws or by virtue of the Declaration. Unless otherwise expressly provided in such proxy, such proxy shall become effective upon the filing of notice by such holder with the secretary of the Association. A release of the mortgage or deed of trust covering the subject Lot shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve

Owners, as mortgagors or grantors of a deed of trust, of their duties and obligations as Owners or to impose upon the holder of a mortgage or deed of trust the duties and obligations of an Owner.

## **ARTICLE 9.** **AMENDMENTS**

### 9.01 By Trustees.

Except as limited by law, the Articles, the Declaration, or these Bylaws, the Board shall have power to make, amend, and repeal the Bylaws of the Association at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is represented. If, however, the Owners shall make, amend, or repeal any Bylaw, the trustees shall not thereafter amend the same in such manner as to defeat or impair the object of the Owners in taking such action. Notwithstanding the foregoing, unanimous approval of the trustees shall be required to amend or repeal Sections 5.02 through 5.04 hereof.

### 9.02 Owners.

Subject to any rights conferred upon holders of a security interest in the Declaration, the Owners may, by the vote of the holders of at least sixty-seven percent (67%) of the votes of the Owners entitled to vote, unless a greater percentage is expressly required by law, the Articles, the Declaration, or these Bylaws, make, alter, amend, or repeal the Bylaws of the Association at any annual meeting or at any special meeting called for that purpose at which a quorum shall be represented.

## **ARTICLE 10.** **INDEMNIFICATION**

10.01 Indemnification. No current or former director, officer, employee, fiduciary or agent shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said person performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a director, officer, employee, fiduciary or agent of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a director, officer, employee, fiduciary or agent of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such director, officer, employee, fiduciary or agent, and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that the Association shall have the power to defend such person from all suits or claims; provided further, however, that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not

specifically provided for herein or otherwise permitted. The Association, its directors, officers, employees, fiduciaries and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

10.02 Other Indemnification. The indemnification herein provided shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be under any Bylaw, agreement, vote of disinterested director, officer, employee, fiduciary or agent, or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent hereof that all such persons be and hereby are indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The indemnification herein provided shall continue as to any person who has ceased to be a director, officer, employee, fiduciary or agent and shall inure to the benefit of the heirs, executors and administrators of any such person.

10.03 Insurance. By action of the Board, notwithstanding any interest of the directors in such action, the Association may purchase and maintain insurance, in such amounts as the Board may deem appropriate, on behalf of any individual indemnified hereunder against any liability asserted against such individual and incurred by such individual in such individual's capacity of or arising out of such individual's status as an agent of the Association, whether or not the Association would have the power to indemnify such individual against such liability under applicable provisions of law. The Association may also purchase and maintain insurance, in such amounts as the Board may deem appropriate, to insure the Association against any liability, including without limitation, any liability for the indemnifications provided in this Article.

10.04 Right to Impose Conditions to Indemnification. The Association shall have the right to impose, as conditions to any indemnification provided or permitted in this Article, such reasonable requirements and conditions as the Board may deem appropriate in each specific case, including but not limited to any one or more of the following: (a) that any counsel representing the individual to be indemnified in connection with the defense or settlement of any action shall be counsel that is mutually agreeable to the individual to be indemnified and to the Association; (b) that the Association shall have the right, at its option, to assume and control the defense or settlement of any claim or proceeding made, initiated or threatened against the individual to be indemnified; and (c) that the Association shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified individual's right of recovery, and that the individual to be indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the Association.

## **ARTICLE 11.** **MISCELLANEOUS**

### 11.01 Fiscal Year.

The fiscal year of the Association shall be such as may from time to time be established by the Board.

11.02 Other Provisions.

The Declaration contains certain other provisions relating to the administration of the Project, which provisions are hereby incorporated herein by reference.

11.03 Officer/Trustee Qualifications.

No individual who is a Class A Member (as defined in the Declaration) may serve as an officer or trustee of the Association if that individual, or if such individual is associated with a Class A Member, the Class A Member associated with that individual, is delinquent in the payment of any dues, fees, assessments, or the like arising out of the Declaration, these Bylaws, or the Association's Articles of Incorporation, or is otherwise in material default of any of the covenants within such Declaration, Bylaws, or the Articles of Incorporation. Provided, that nothing in the previous sentence shall require an officer or trustee of the Association to also be an Owner.