

When recorded, return to:

Sunrise 3, LLC  
Attn: Bryan Flamm  
Exchange Place, Building B  
14034 South 145 East, Suite 202  
Draper, UT 84020  
uw-8851

ENT 18135:2018 PG 1 of 10  
Jeffery Smith  
Utah County Recorder  
2018 Feb 26 08:53 AM FEE 31.00 BY DA  
RECORDED FOR United West Title  
ELECTRONICALLY RECORDED

## ASSIGNMENT AND ASSUMPTION OF DECLARANT'S RIGHTS AND OBLIGATIONS

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT'S RIGHTS AND OBLIGATIONS (this "**Assignment**") is made effective as of the 23<sup>rd</sup> day of February, 2018 (the "**Effective Date**"), by and between the WILDFLOWER DEVELOPER, LLC, a Utah limited liability company ("**Assignor**"), and RICHMOND AMERICAN HOMES OF UTAH, INC., a Colorado corporation located at 849 West LeVoy Drive, Suite 200, Salt Lake City, Utah 84123 ("**Assignee**").

### RECITALS

A. Assignor and Assignee are parties to that certain Purchase and Sale Agreement dated February 1, 2018, as amended (the "**Purchase Agreement**"), whereby Assignor has agreed to sell to Assignee, and Assignee has agreed to purchase from Assignor, one hundred seventy four (174) lots within and related to the master-planned community known as Wildflower, including but not limited to certain of Assignor's rights and obligations as the Declarant under the Declaration (as defined below) related to Wildflower. The Purchase Agreement provides for the phased purchase by Assignee of the lots, and in connection with the initial closing, Assignee shall acquire property more particularly described in Exhibit A attached hereto and incorporated herein (the "**Initial Property**").

B. Assignor is the Declarant under that certain Master Declaration of Covenants, Conditions, and Restrictions for Wildflower dated February 23, 2018, and recorded in the Official Records of Utah County, Utah, on February 23, 2018 as Instrument No. 17973:2018, and any amendments thereto (collectively, the "**Declaration**"), with respect to the planned community known as Wildflower.

C. The Declaration encumbers certain real property located in Utah County, Utah, including the Initial Property. The Initial Property is only a portion of the real property encumbered by the Declaration.

D. In furtherance of the commitments set forth in the Purchase Agreement, Assignor desires to assign, transfer and convey to Assignee, and Assignee desires to assume from Assignor certain of Assignor's right, title, interest and obligations under and in the Declaration and pertaining to the Initial Property upon the terms and conditions set forth herein.

**FOR VALUABLE CONSIDERATION**, it is agreed as follows:

1. Assignment. Effective as of the Effective Date, Assignor hereby assigns, transfers and conveys unto Assignee the following rights and exemptions pertaining to the Initial Property that Assignor holds as the Declarant under the Declaration, and acknowledges Assignee's designation as a "Declarant" under the Declaration with respect to the rights and exemptions enumerated herein relating to the Initial Property:

(a) Architectural Review: The right and responsibility to give prior approval, in lieu of the "**Master Association**," as that term is defined in the Declaration, to an "**Owner**" within the Initial Property, as that term is defined in the Declaration, regarding (1) the installation or construction of any new structure, fence, landscaping, or dwelling upon the Initial Property; (2) the alteration, upgrade, repair, or modification of any part of the exterior of any structure or dwelling upon the Initial Property; (3) the installation or alteration of any new or existing exterior feature such as a driveway, walkway, fence, landscaping, or anything else that alters the exterior appearance of a "**Lot**" within the Initial Property, as that term is defined in the Declaration; and (4) the alteration or modification of the finished grade to a Lot within the Initial Property, or the alteration of the ground level, slope, pitch or drainage patterns of any Lots within the Initial Property as fixed by the original finish grading. Assignee shall also have the authority and responsibility, until the expiration of the earlier of the "**Control Period**," as that term is defined in the Declaration or the sale by Assignee of its last Lot within the Initial Property (as applicable, the "**Property Control Period**"), to approve the plans for the construction of all dwellings upon the Initial Property and landscaping of each Lot within the Initial Property. Nothing herein shall alter or modify the obligation of Assignee to obtain required approvals (i) pursuant to Section 4.9 of the Purchase Agreement, and (ii) from the Wildflower Design Review Committee ("**WDRC**") (in accordance with the Master Development Agreement for Wildflower dated February 24, 2015 ("**MDA**")).

(b) Design Guidelines:

(i) The right to prepare and adopt requirements governing the site location and architectural design of dwellings, buildings, and other structures and improvements upon the Initial Property (the "**Assignee Design Guidelines**"), which may contain general provisions applicable to the entire Initial Property as well as specific provisions that vary among uses, housing types, or locations within the Initial Property.

(ii) The sole and full authority to amend the Assignee Design Guidelines during the Property Control Period. Assignee's right to amend the Assignee Design Guidelines shall continue even if it delegates reviewing authority to the "**Master Association**," as that term is defined in the Declaration, or another entity.

(iii) The Assignee Design Guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to Assignee. The Assignee Design Guidelines may also designate landscaping requirements and may require complete landscaping of Lots as that term is defined in the Declaration, prior to occupancy. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values.

Nothing herein shall alter or modify the obligation of Assignee to (a) obtain required approvals (i) pursuant to Section 4.9 of the Purchase Agreement, and (ii) from the WDRC (in accordance with the MDA, or (b) comply with the Design Guidelines set forth in the MDA.

(c) Easements: The right to construct and maintain offices, prefabricated structures, trailers, or other structures and signs and parking areas for administrative, development, marketing, sales and promotional purposes relating to the Initial Property during the Property Control Period.

(d) Temporary Structures: The exemption from the requirement that, during the Property Control Period, no structure or building of a temporary character, including a tent, trailer, or shack, be placed upon the Initial Property or used therein unless it is approved by the “**Board of Directors**,” as that term is defined in the Declaration.

(e) Improvements: The right to:

(i) construct any improvements shown on the “**Plat**,” as that term is defined in the Declaration, on the Initial Property.

(ii) construct any other buildings, structures, or improvements that Assignee desires to construct on the Initial Property.

(f) Special Rights: The right to designate parcels for religious use and convey title to those properties to religious institutions.

Assignor reserves any and all rights as Declarant not expressly enumerated herein.

2. Assumption. Effective as of the Effective Date and continuing in perpetuity, Assignee hereby assumes all of Assignor’s responsibilities and obligations as “Declarant” which are set forth in the Declaration and are applicable to the Initial Property, and agrees to perform and observe all of Assignor’s covenants and conditions contained in the Declaration and applicable to the Initial Property.

### 3. Indemnities.

(a) Assignor shall hold Assignee harmless from any and all actions, suits, proceedings and claims, and all costs and expenses incurred in connection with the Initial Property (including without limitation reasonable attorney’s fees), relating to the Declaration and arising prior to the Effective Date.

(b) Assignee shall hold Assignor harmless for, from, and against any and all actions, suits, proceedings and claims, and all costs and expenses incurred in connection with the Initial Property (including without limitation reasonable attorney’s fees), relating to the Declaration and arising on or after the Effective Date.

(c) Assignor and Assignee shall each be responsible for its own negligent or intentional acts which it commits or which are committed by its agents, officials or employees.

(g) Additional Exemptions. Those exemptions provided for Declarant pursuant to Section 7.13 of the Declaration, and in addition, an exemption from obtaining any approval required by the DRC or Board under such Section 7.13.

4. Payments. Assignor hereby agrees to pay, when due, all amounts due and payable by Declarant under the Declaration and pertaining to the Initial Property arising prior to the Effective Date. Assignee hereby agrees to pay, when due, all amounts due and payable by Declarant under the Declaration and pertaining to the Initial Property arising from the Effective Date and continuing in perpetuity.

5. Binding Effect. This Assignment shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns.

6. Choice of Law. This Assignment shall be construed in accordance with the laws of the State of Utah, without giving effect to choice of law principles.

7. Attorney Fees. If either party to this Assignment initiates or defends any legal action or proceeding with the other party in any way connected with this Assignment, the prevailing party in any such legal action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to recover from the losing party in any such legal action or proceeding its reasonable costs and expenses of suit, including reasonable attorney fees and costs and expert witness fees. All such costs and attorney fees shall be deemed to have accrued on commencement of any such legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment. Attorney fees and costs under this Section include attorney fees and costs on any appeal and in any bankruptcy or similar or related proceeding in federal or state courts. Any dispute as to the amounts payable pursuant to this Section shall be resolved by the court and not by a jury.

8. Cooperation. Assignor covenants that it will, at any time and from time to time upon written request of Assignee and at the Assignee's sole expense and without the assumption of any additional liability, execute and deliver to the Assignee, and its successors and assigns, any new or confirmatory instruments and take such further acts as the Assignee may reasonably request to fully evidence the assignment contained herein and to enable the Assignee, and its successors and assigns, to fully realize and enjoy the rights and interests assigned hereby. Assignee also covenants that it will, at any time and from time to time upon written request of Assignor and at the Assignor's sole expense and without the assumption of any additional liability, execute and deliver to the Assignor, and its successors and assigns, any new or confirmatory instruments and take such further acts as the Assignee may reasonably request to fully evidence the termination of the assignment contained herein and to enable the Assignor, and its successors and assigns, to resume and retake any and all rights, interests and obligations assigned hereby.

9. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

12. Force Majeure. If either Assignor or Assignee is delayed or hindered in or prevented from the performance of any act required hereunder by reason of inability to procure materials, failure of power, riots, insurrection, war, acts of God, labor disputes, and other reasons of a like nature not the fault of the party delayed in performing work or doing other acts required under the terms of this Assignment, then performance of such act shall be excused for the period of delay and the time for the performance of any such act shall be extended for a period equivalent to the period of such delay.

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EXECUTED as of the date set first forth above.

Assignee:

Assignor:

RICHMOND AMERICAN HOMES OF UTAH, INC., a Colorado corporation

WILDFLOWER DEVELOPER, LLC, a Utah limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Nathan Shipp  
Its: Manager

STATE OF \_\_\_\_\_ )  
:SS  
COUNTY OF \_\_\_\_\_ )

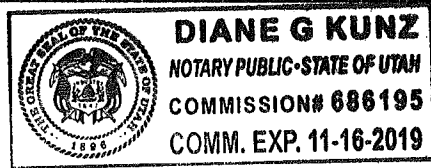
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of February, 2018, by \_\_\_\_\_, the \_\_\_\_\_ of RICHMOND AMERICAN HOMES OF UTAH, INC., a Colorado corporation.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_

Residing at: \_\_\_\_\_

STATE OF Utah )  
:SS  
COUNTY OF Salt Lake )



The foregoing instrument was acknowledged before me this 23rd day of February, 2018, by Nathan Shipp, the Manager of WILDFLOWER DEVELOPER, LLC, a Utah limited liability company.

[Signature]  
NOTARY PUBLIC

My Commission Expires: 11-16-2019  
\_\_\_\_\_

Residing at: Salt Lake County

**EXHIBIT A****WILDFLOWER PLAT "A-1" SUBDIVISION BOUNDARY**

A PORTION OF THE WEST HALF OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED S0°11'02"W ALONG THE QUARTER SECTION LINE 2001.67 FEET FROM THE NORTH 1/4 CORNER OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN; THENCE S0°11'02"W ALONG THE QUARTER SECTION LINE 921.58 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF A 382.45 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (RADIUS BEARS: S3°59'12"E) 36.62 FEET THROUGH A CENTRAL ANGLE OF 5°29'09" (CHORD: S83°16'13"W 36.60 FEET); THENCE WEST 38.61 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT 23.61 FEET THROUGH A CENTRAL ANGLE OF 90°11'02" (CHORD: N44°54'29"W 21.25 FEET); THENCE N89°52'42"W 56.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF A 15.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: N89°48'58"W) 23.65 FEET THROUGH A CENTRAL ANGLE OF 90°21'03" (CHORD: S45°21'33"W 21.28 FEET); THENCE ALONG THE ARC OF A 4961.50 FOOT RADIUS CURVE TO THE RIGHT 46.57 FEET THROUGH A CENTRAL ANGLE OF 0°32'16" (CHORD: N89°11'48"W 46.57 FEET); THENCE N88°55'40"W 9.43 FEET; THENCE N1°04'20"E 90.00 FEET; THENCE N31°32'22"W 66.48 FEET; THENCE N1°04'20"E 70.30 FEET; THENCE N14°37'44"W 61.64 FEET; THENCE N21°45'07"W 62.02 FEET; THENCE N32°55'15"W 62.17 FEET; THENCE N41°22'09"W 62.17 FEET; THENCE N66°48'30"W 122.50 FEET; THENCE N30°56'47"E 19.16 FEET; THENCE N34°33'04"E 5.56 FEET; THENCE N48°39'40"W 84.39 FEET; THENCE N58°03'46"W 56.76 FEET; THENCE N51°31'05"W 163.22 FEET; THENCE S57°02'49"W 81.58 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF A 4440.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: N87°13'58"E) 454.37 FEET THROUGH A CENTRAL ANGLE OF 5°51'48" (CHORD: N0°09'52"E 454.17 FEET); THENCE S86°54'13"E 100.00 FEET; THENCE N60°33'16"E 66.61 FEET; THENCE S86°25'28"E 96.50 FEET; THENCE S3°42'02"W 64.05 FEET; THENCE S0°52'55"E 61.91 FEET; THENCE S12°15'42"E 74.63 FEET; THENCE N70°28'03"E 118.86 FEET; THENCE N23°58'50"E 80.62 FEET; THENCE N75°48'59"E 52.61 FEET; THENCE S47°45'06"E 100.89 FEET; THENCE S88°15'09"E 65.75 FEET; THENCE S53°08'04"E 142.92 FEET; THENCE N59°12'21"E 62.77 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±11.59 ACRES

**WILDFLOWER PLAT "A-2" SUBDIVISION BOUNDARY**

A PORTION OF THE WEST HALF OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED S0°11'02"W ALONG THE QUARTER SECTION LINE 2926.50 FEET AND WEST 217.09 FEET FROM THE NORTH 1/4 CORNER OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN; THENCE; N88°55'40"W 290.19 FEET; THENCE ALONG THE ARC OF A 5038.50 FOOT RADIUS CURVE TO THE LEFT 94.30 FEET THROUGH A CENTRAL ANGLE OF 1°04'20" (CHORD: N89°27'50"W 94.29 FEET); THENCE WEST 90.54 FEET, THENCE ALONG THE ARC OF A 4440.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: N78°55'13"E) 644.18 FEET THROUGH A CENTRAL ANGLE OF 8°18'46" (CHORD: N6°55'25"W 643.61 FEET); THENCE N57°02'49"E 81.58 FEET; THENCE S51°31'05"E 163.22 FEET; THENCE S58°03'46"E 56.76 FEET; THENCE S48°39'40"E 84.39 FEET; THENCE S34°33'04"W 5.56 FEET; THENCE S30°56'47"W 19.16 FEET; THENCE S66°48'30"E 122.50 FEET; THENCE S41°22'09"E 62.17 FEET; THENCE S32°55'15"E 62.17 FEET; THENCE S21°45'07"E



62.02 FEET; THENCE S14°37'44"E 61.64 FEET; THENCE S1°04'20"W 70.30 FEET; THENCE S31°32'22"E 66.48 FEET; THENCE S1°04'20"W 90.00 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±5.86 ACRES

**WILDFLOWER PLAT "B-1" SUBDIVISION BOUNDARY**

A PORTION OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED S0°11'02"W ALONG THE QUARTER SECTION LINE 386.89 FEET FROM THE NORTH 1/4 CORNER OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN; THENCE S0°11'02"W ALONG THE QUARTER SECTION LINE 625.20 FEET; THENCE S63°42'26"W 335.94 FEET; THENCE S37°54'36"W 56.14 FEET; THENCE S38°31'03"W 68.09 FEET; THENCE S33°08'32"W 65.13 FEET; THENCE S27°28'54"W 69.66 FEET; THENCE S21°14'04"W 69.60 FEET; THENCE S15°47'16"W 68.02 FEET; THENCE S9°26'25"W 65.66 FEET; THENCE S5°54'54"W 122.17 FEET; THENCE S3°42'02"W 114.60 FEET; THENCE N86°25'28"W 96.50 FEET; THENCE S60°33'16"W 66.61 FEET; THENCE N86°54'13"W 100.00 FEET; THENCE ALONG THE ARC OF A 4440.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: S86°54'14"E) 729.01 FEET THROUGH A CENTRAL ANGLE OF 9°24'27" (CHORD: N7°48'00"E 728.19 FEET); THENCE N66°46'41"E 190.59 FEET; THENCE N26°15'58"E 81.78 FEET; THENCE N76°21'31"E 63.03 FEET; THENCE N43°35'10"E 49.57 FEET; THENCE N33°23'05"E 75.42 FEET; THENCE N58°27'33"E 58.62 FEET; THENCE N31°58'05"E 70.90 FEET; THENCE N0°52'28"W 69.58 FEET; THENCE N27°34'13"E 70.48 FEET; THENCE N80°11'02"E 51.97 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 20.94 FEET THROUGH A CENTRAL ANGLE OF 80°00'00" (CHORD: N40°11'02"E 19.28 FEET); THENCE N0°11'02"E 100.32 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 30.86 FEET THROUGH A CENTRAL ANGLE OF 117°51'34" (CHORD: N58°44'45"W 25.70 FEET); THENCE N27°40'32"W 66.00 FEET; THENCE ALONG THE ARC OF A 333.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: S27°40'32"E) 42.71 FEET THROUGH A CENTRAL ANGLE OF 7°20'58" (CHORD: N65°59'57"E 42.69 FEET); THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 19.84 FEET THROUGH A CENTRAL ANGLE OF 75°47'13" (CHORD: N31°46'50"E 18.43 FEET); THENCE N73°07'02"E 57.00 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT (RADIUS BEARS: N83°53'13"E) 23.54 FEET THROUGH A CENTRAL ANGLE OF 89°54'30" (CHORD: S51°04'02"E 21.20 FEET); THENCE ALONG THE ARC OF A 333.00 FOOT RADIUS CURVE TO THE RIGHT 36.06 FEET THROUGH A CENTRAL ANGLE OF 6°12'19" (CHORD: N87°04'52"E 36.05 FEET); THENCE S89°48'58"E 43.24 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±9.51 ACRES

**WILDFLOWER PLAT "B-3" SUBDIVISION BOUNDARY**

A PORTION OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED S0°11'02"W ALONG THE QUARTER SECTION LINE 496.63 FEET AND WEST 146.00 FEET FROM THE NORTH 1/4 CORNER OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN; THENCE S0°11'02"W 100.32 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT 20.94 FEET THROUGH A CENTRAL ANGLE OF 80°00'00" (CHORD: S40°11'02"W 19.28 FEET); THENCE S80°11'02"W 51.97 FEET; THENCE S27°34'13"W 70.48 FEET; THENCE S0°52'28"E 69.58 FEET; THENCE S31°58'05"W 70.90 FEET; THENCE S58°27'33"W 58.62 FEET;

THENCE S33°23'05"W 75.42 FEET; THENCE S43°35'10"W 49.57 FEET; THENCE S76°21'31"W 63.03 FEET; THENCE S26°15'58"W 81.78 FEET; THENCE S66°46'41"W 190.59 FEET; THENCE ALONG THE ARC OF A 4440.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: S77°29'47"E) 508.86 FEET THROUGH A CENTRAL ANGLE OF 6°34'00" (CHORD: N15°47'13"E 508.59 FEET); THENCE N19°04'13"E 100.97 FEET; THENCE S69°12'04"E 18.76 FEET; THENCE ALONG THE ARC OF A 333.00 FOOT RADIUS CURVE TO THE LEFT 312.29 FEET THROUGH A CENTRAL ANGLE OF 53°43'57" (CHORD: N83°55'58"E 300.97 FEET); THENCE ALONG THE ARC OF A 267.00 FOOT RADIUS CURVE TO THE RIGHT 24.50 FEET THROUGH A CENTRAL ANGLE OF 5°15'29" (CHORD: N59°41'43"E 24.49 FEET); THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT 30.86 FEET THROUGH A CENTRAL ANGLE OF 117°51'34" (CHORD: S58°44'45"E 25.70 FEET) TO THE POINT OF BEGINNING.

CONTAINS: ±3.53 ACRES