

After recording, please return to:

The Boyer Company  
Attention: Richard Moffat  
127 South 500 East, Suite 100  
Salt Lake City, UT 84102

7610410  
04/04/2000 10:51 AM 76.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
THE BOYER CO  
BY: RDJ, DEPUTY - WI 6 P.

**FIFTH SUPPLEMENT TO DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS OF  
EMIGRATION OAKS, A PLANNED UNIT DEVELOPMENT**

This Fifth Supplement is made and executed this 4<sup>th</sup> day of April, 2000, by THE BOYER COMPANY, a Utah general partnership (the "Declarant").

**RECITALS:**

A. Declarant is the record owner of those certain tracts of property known as Emigration Oaks Phase 6, a Planned Unit Development recorded on the official records of Salt Lake County, State of Utah, April 4, 2000 as entry number 7610409 and The Estates at Emigration Oaks, Emigration Oaks Phase 4A, a Planned Unit Development recorded on the official records of Salt Lake County, State of Utah, April 4, 2000 as entry number 7610408, (the "Plats"). Said Phases 4A and 6 are more particularly described in the legal description in Exhibit "A" of this Fifth Supplement.

B. Declarant is the owner of certain lots and has previously executed and recorded property known as:

1. Emigration Oaks Phase 1A, a Planned Unit Development on the official records of Salt Lake County, State of Utah on April 26, 1985 as Entry No. 4078734 in Book 85-4 of Plats at Page 77 ("Phase 1A").
2. Emigration Oaks Phase 2A, a Planned Unit Development on the official records of Salt Lake County, State of Utah on January 3, 1991, as Entry No. 5008247 in book 9101 of Plats at Page 0001 ("Phase 2A").
3. Emigration Oaks Phase 2B, a Planned Unit Development on the official records of Salt Lake County, State of Utah, on January 3, 1991 as Entry No. 5008248 in Book 9101 of Plats at Page 0002 ("Phase 2B").
4. Emigration Oaks Phase 3, a Planned Unit Development on the official records of Salt Lake County, State of Utah on January 4, 1993 as Entry No. 5407643 in Book

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93-1 at Page 1 ("Phase 3").

5. The Estates at Emigration Oaks, Emigration Oaks Phase 4, A Planned Unit Development on the official records of Salt Lake County, State of Utah on February 3, 1994 as Entry No. 5730921 in Book 94-2-34 ("Phase 4") and an Easement for Well Head Protection Zones for the Estates at Emigration Oaks Phase 4 on the official records of Salt Lake County in December 1994 in Book 94-12-266.

6. Emigration Oaks Phase 5, a Planned Unit Development on the official records of Salt Lake County, State of Utah on January 3, 1995 as Entry No. 5997303 in Book 95-1P at Page 1 ("Phase 5").

C. Declarant has previously executed and recorded a Declaration of Covenants, Conditions, and Restrictions of Emigration Oaks, a Planned Unit Development dated February 4, 1985 which was recorded April 26, 1985 as entry number 4078735 in Book 5648, at Page 2997 of the official records of Salt Lake County, State of Utah (the "Declaration").

D. Declarant has previously executed and recorded an Amendment to Declaration of Covenants, Conditions, and Restrictions of Emigration Oaks, a Planned Unit Development dated July 3, 1985 which was recorded July 10, 1985 as entry number 4108691 in Book 5670, Pages 816-818 of the official records of Salt Lake County, State of Utah (the "Amendment").

E. Declarant has previously executed and recorded a Second Amendment to the Declaration of Covenants, Conditions, and Restrictions of Emigration Oaks, a Planned Unit Development dated August 8, 1991 which was recorded August 9, 1991 as entry number 5109545 in Book 6344, Pages 2221-2227 of the official records of Salt Lake County, State of Utah (the "Second Amendment").

F. Declarant has previously executed and recorded a Supplement to Declaration of Covenants, Conditions and Restrictions of Emigration Oaks, a Planned Unit Development dated August 27, 1991 which was recorded August 29, 1991 as Entry No. 5118708 in book 6351, Pages 0337-0340 of the official records of Salt Lake County, State of Utah (the "Supplement").

G. Declarant has previously executed and recorded a Third Amendment to the Declaration of Covenants, Conditions and Restrictions of Emigration Oaks, a Planned Unit Development dated January 4, 1993 which was recorded January 4, 1993 as Entry No. 5407646 in Book 6584, Pages 0108-0111 of the official records of Salt Lake County, State of Utah (the "Third Amendment").

H. Declarant has previously executed and recorded a Second Supplement of Covenants, Conditions and Restrictions of Emigration Oaks, A Planned Unit Development dated January 4, 1993 which was recorded January 4, 1993 as Entry No. 5407647 in Book 6584, Pages 0112-0115 of the Official Records of Salt Lake County, State of Utah (the "Second Supplement").

I. Declarant has previously executed and recorded a Third Supplement to Declaration of Covenants, Conditions and Restrictions of Emigration Oaks a Planned Unit Development dated February 22, 1994 which was recorded February 24, 1994 as Entry No. 5747029 in Book 6878 Pages 2672-2676 of the Official Records of Salt Lake County, State of Utah (the "Third Supplement").

J. Declarant has previously executed and recorded a Fourth Supplement to Declaration of Covenants, Conditions and Restrictions of Emigration Oaks, a Planned Unit Development dated January 3, 1995 which was recorded January 3, 1995 as Entry No. 5997304 in Book 7081, Pages 2244-2248 of the Official Records of Salt Lake County, State of Utah (the "Fourth Supplement").

K. Declarant hereby expands the project by adding a portion of the additional land, known as Emigration Oaks Phase 6, a Planned Unit Development and The Estates of Emigration Oaks, Emigration Oaks Phase 4A, a Planned Unit Development and supplements the Declaration and Amendment to include Emigration Oaks Phase 6 and The Estates at Emigration Oaks, Emigration Oaks Phase 4A in accordance with Article XI, Paragraph 3 of the Declaration.

L. Declarant deems it desirable for the efficient preservation of the values and amenities in the project to amend certain portions of the Declaration as per the Amendment, Second Amendment and Third Amendment.

NOW, THEREFORE, in consideration of the foregoing covenants and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby declares that as more fully set forth in Article XI of the Declaration, the project known as Emigration Oaks shall be expanded to include the additional land described in Exhibit "A" of this Fifth Supplement (known as Emigration Oaks Phase 6, a Planned Unit Development and The Estates at Emigration Oaks, Emigration Oaks Phase 4A, a Planned Unit Development). Declarant also declares that the newly added plats shall be held, transferred, sold, conveyed, and occupied subject to the Declaration of Covenants, Conditions, and Restrictions, easements, charges and liens set forth in the Declaration, the Amendment, the Second Amendment, the Third Amendment, the Supplement, the Second Supplement, the Third Supplement, the Fourth Supplement, or this Fifth Supplement.

Declarant further declares the Declaration shall provide as specified hereinbelow:

1. LOT CONVEYANCING: As required in Article XI, Section 3(f) the form for conveyancing lots in the new Plats shall remain similar to the present form as set forth in Section 2 of Article IV of the Declaration with appropriate changes in Phase, recording date, entry number, and book and page.

Furthermore, said conveyancing language shall include reference to any Amendments and Supplements to the Original Declaration.

2. CONVEYANCE OF COMMON AREA: In accordance with Paragraph 3(g) of Declaration and Paragraph 1(e) of the Second Amendment, Declarant states it has conveyed the platted Common Areas in the Plat to the Association by Quit Claim Deeds which were recorded August 9, 1991 as entry number 5109548 in Book 6344, Page 2232 of the official records of Salt Lake County, State of Utah; and February 24, 1994 as Entry No. 5747028 in Book 6870, Page 2670 of the official records of Salt Lake County, State of Utah; and August 29, 1996 as Entry No. 6442742 in Book 7477, age 1213 of the Official Records of Salt Lake County, State of Utah; and

January 18, 1996 as Entry No. 6259430 in Book 7311, Page 1821 of the Official Records of Salt Lake County, State of Utah; and .

3. RIGHTS-OF-WAY FOR DECLARANT: In accordance with Paragraph 3(h) and Paragraph 2(e) of Declaration, Declarant reserves herewith such rights-of-way and/or easements as necessary through the new plats being added to the project for purposes of enabling access to, furnishing utilities to, and facilitating or enabling development of the additional land being added to the project.

Executed by Declarant on this 3<sup>rd</sup> day of April, 2000.

"DECLARANT":

THE BOYER COMPANY,  
a Utah general partnership

By *Kem C. Gardner*  
Kem C. Gardner  
Its: Partner

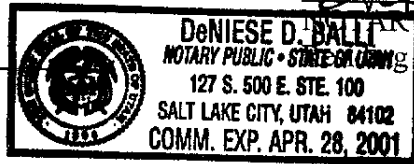
NOTARY

STATE OF Utah  
COUNTY OF Salt Lake : ss.

On this 3 day of April, 2000, personally appeared before me Kem C. GARDNER, who being by me duly sworn, did say that he is a partner of THE BOYER COMPANY, a Utah general partnership, that the foregoing Declaration of Covenants, Conditions, and Restrictions was signed on behalf of said partnership by proper authority, and did acknowledge to me that said partnership executed the same.

My commission expires:

4-28-01



*Deniese D. Balli*  
NOTARY PUBLIC  
at: Salt Lake County

## EXHIBIT "A" CONT'D

## THE ESTATES AT EMIGRATION OAKS, EMIGRATION OAKS PHASE 4A, A PLANNED UNIT DEVELOPMENT

Beginning at a point that is North 89 Degrees 53'41" East 2258.405 feet along the South line of the Southeast Quarter of Section 29 and North 470.706 feet (said point being the southeast corner of the Estates of Emigration Oaks, Emigration Oaks Phase 4 plat, recorded as Entry No. 5730921 in Book 94-02 of Plats at Page 34 in the official records of the Salt Lake County Recorder) from the South  $\frac{1}{4}$  corner of Section 29, Township 1 North, Range 2 East, Salt Lake Base and Meridian; and running thence the following fifteen courses and distances along the boundary of the Estates at Emigration Oaks, Emigration Oaks Phase 4: (1) through a 203.018' radius curve to the left 65.659 feet through a delta of 18 Degrees 31'49" (chord bears North 07 Degrees 10'39" West 65.373 feet); (2) North 16 Degrees 26'34" West 156.505 feet to a point on a 175.00' radius curve to the right; (3) along the arc of said curve 31.386 feet through a delta of 10 Degrees 16'33" (chord bears North 11 Degrees 18'18" West 31.344 feet); (4) North 06 Degrees 10'01" West 340.921 feet to a point on a 225.000' radius curve to the left; (5) along the arc of said curve 219.677 feet through a delta of 55 Degrees 56'25" (chord bears North 34 Degrees 08'14" West 211.056 feet) to a point on a 175.000' radius reverse curve to the right; (6) along the arc of said curve 199.268 feet through a delta of 65 Degrees 14'29" (chord bears North 29 Degrees 29'11" West 188.677 feet); (7) North 03 Degrees 08'03" East 70.879 feet to a point on a 275.000' radius curve to the right; (8) along the arc of said curve 47.377 feet through a delta of 09 Degrees 52'15" (chord bears North 08 Degrees 04'11" East 47.318 feet); (9) North 13 Degrees 00'18" East 131.184 feet to a point on a 275.000' radius curve to the right; (10) along the arc of said curve 55.785 feet through a delta of 11 Degrees 37'22" (chord bears North 18 Degrees 48'59" East 55.690 feet); (11) North 24 Degrees 37'40" East 79.829 feet; (12) North 19 Degrees 52'15" West 309.073 feet; (13) North 09 Degrees 40'07" West 170.612 feet; (14) North 17 Degrees 54'43" West 287.075 feet; (15) North 23 Degrees 16'50" West 142.148 feet to the North line of the Southeast Quarter of Section 29; thence along said line South 89 Degrees 53'26" East 1011.258 feet to the East Quarter Corner of said section 29; thence South 89 Degrees 58'00" East 1291.320 feet along the North line of the Southwest Quarter of Section 28; thence South 00 Degrees 02'00" West 208.710 feet; thence South 89 Degrees 58'00" East 208.710 feet; thence North 00 Degrees 02'00" East 208.710 feet to said North line of the Southwest Quarter of Section 28; thence South 89 Degrees 58'00" East 1038.303 feet to the Center Quarter of Section 28, said point also being on the boundary of Emigration Oaks Phase 5 (recorded as Entry No. 5997303 in Book 95-01 of Plats at Page 0001 in the official records of the Salt Lake County Recorder); thence the following six courses and distances along said boundary of Emigration Oaks Phase 5: (1) South 66 Degrees 33'06" West 696.206 feet; (2) South 49 Degrees 37'42" West 1381.897 feet; (3) North 89 Degrees 45'56" West 96.345 feet; (4) South 00 Degrees 14'04" West 126.056 feet; (5) South 40 Degrees 16'06" West 99.044 feet; (6) South 63 Degrees 46'58" West 529.045 feet to a point on the boundary of Emigration Oaks Phase 3 (recorded as Entry No. 5407643 in Book 93-01 of Plats at Page 0001 in the official records of the Salt Lake County Recorder); thence the following five courses and distances along the boundary of said Emigration Oaks Phase 3: (1) South 66 Degrees 00'37" West 358.448 feet; (2) South 52 Degrees 41'47" West 169.943 feet; (3) South 39 Degrees 40'53" East 82.497 feet; (4) South 38 Degrees 40'01" West 85.569 feet; (5) South 57 Degrees 47'54" West 313.952 feet to the point of beginning.

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## EXHIBIT "A"

## EMIGRATION OAKS P.U.D. PHASE 6 A PLANNED UNIT DEVELOPMENT

Beginning at the Southwest corner of Lot 84, Emigration Oaks Phase 3 (recorded as Entry No. 5407643 in Book 93-01, at Page 0001 in the official records of the Salt Lake County Recorder), said point being South 32 Degrees 18'44" West 1514.998 feet from the Northeast Corner of Section 32, Township 1 North, Range 2 East, Salt Lake Base and Meridian; running thence the following four courses and distances along the boundary of said Emigration Oaks Phase 3: (1) North 52 Degrees 00'26" East 919.172 feet; (2) North 08 Degrees 37'12" East 273.920 feet; (3) North 88 Degrees 50'42" East 499.667 feet; (4) North 01 Degrees 09'18" West 92.516 feet to a point on the boundary of Emigration Oaks Phase 5 (recorded as Entry No. 5997303 in Book 9501, at Page 0001 in the official records of the Salt Lake County Recorder); thence the following nine courses and distances along the boundary of said Emigration Oaks Phase 5: (1) North 88 Degrees 50'42" East 682.667 feet; (2) North 08 Degrees 57'39" West 543.763 feet; (3) North 01 Degrees 09'18" West 130.043 feet; (4) North 53 Degrees 09'00" East 852.455 feet; (5) North 75 Degrees 15'41" East 288.155 feet; (6) North 35 Degrees 44'16" West 194.123 feet; (7) North 59 Degrees 17'32" East 239.513 feet; (8) North 37 Degrees 13'26" East 371.921 feet; (9) South 74 Degrees 20'33" East 292.203 feet to the quarter section line of Section 28; thence South 00 Degrees 44'20" East 1462.663 feet along said quarter section line to the South Quarter Corner of Section 28, Township 1 North, Range 2 East; thence South 00 Degrees 44'20" East 348.779 feet; thence South 22 Degrees 24'12" West 293.776 feet to a point on a 125.000' radius curve to the right; thence along the arc of said curve a distance of 194.245 feet (center bears North 67 Degrees 35'48" West, chord bears South 66 Degrees 55'16" West 175.283 feet) through a central angle of 89 Degrees 02'08"; thence South 21 Degrees 41'58" West 67.140 feet; thence South 76 Degrees 23'52" East 318.823 feet; thence South 13 Degrees 36'08" West 879.567 feet; thence South 49 Degrees 21'37" West 549.727 feet; thence North 65 Degrees 33'00" West 122.733 feet to a point common with the Northeasterly corner of the Margarethe Subdivision as recorded in the Salt Lake County Margarethe Subdivision North 65 Degrees 33'00" West (South 65 Degrees 30'00" East Recorded) 550.000 feet; thence North 01 Degrees 06'20" East 81.732 feet; thence North 18 Degrees 38'43" West 201.469 feet; thence North 13 Degrees 13'08" West 320.912 feet; thence North 79 Degrees 27'18" West 125.880 feet; thence South 11 Degrees 41'17" West 222.394 feet to a point on a 275.000 foot radius curve to the left; thence along the arc of said curve a distance of 43.145 feet (center bears South 78 Degrees 18'43" East, chord bears South 07 Degrees 11'36" West 43.101 feet); through a central angle of 08 Degrees 59'21"; thence South 02 Degrees 41'56" West 142.223 feet to a point on a 325.000 foot radius curve to the right; thence along the arc of said curve a distance of 210.295 feet (center bears North 87 Degrees 18'04" West, chord bears South 21 Degrees 14'09" West 206.645 feet) through a central angle of 37 Degrees 04'26"; thence South 39 Degrees 46'22" West 191.674 feet; thence North 50 Degrees 13'38" West 50.000 feet; thence South 39 Degrees 46'22" West 108.158 feet; thence North 38 Degrees 05'44" West 323.485 feet; thence North 65 Degrees 09'49" West 152.978 feet; thence South 87 Degrees 44'34" West 172.592 feet; thence South 66 Degrees 24'23" West 103.638 feet; thence South 42 Degrees 16'45" West 197.009 feet; thence South 81 Degrees 38'32" West 142.843 feet; thence South 62 Degrees 42'04" West 534.787 feet; thence North 15 Degrees 46'32" West 881.716 feet to the point of beginning.

Less and Excepting the following described property:

Beginning at a point that is South 32 Degrees 18'44" West 1514.998 feet, South 15 Degrees 46'32" East 121.564 feet, and North 67 Degrees 53'01" East 1265.428 feet from the Northeast Corner of Section 32, Township 1 North, Range 2 East, Salt Lake Base and Meridian; running thence North 67 Degrees 53'01" East 337.302 feet; thence South 78 Degrees 53'54" East 307.762 feet; thence South 14 Degrees 55'28" West 308.467 feet; thence South 78 Degrees 18'43" East 170.631 feet; thence South 11 Degrees 41'17" West 220.338 feet to a point on a 325.000 foot radius curve to the left; thence along the arc of said curve a distance of 29.669 feet (center bears South 78 Degrees 18'43" East, chord bears South 09 Degrees 04'22" West 29.659 feet) through a central angle of 05 Degrees 13'50"; thence North 67 Degrees 53'26" West 174.435 feet; thence North 65 Degrees 39'57" West 563.576 feet; thence North 06 Degrees 00'03" East 213.243 feet to the point of beginning.

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