

WHEN RECORDED RETURN TO:
IVORY HOMES DEVELOPMENT, LLC.
Christopher P. Gamvroulas
978 E. Woodoak Lane
Salt Lake City, Utah 84117
(801) 268-0700
PIN 37-305-0601 through 37-305-0614

ENT 94247:2015 PG 1 of 5
Jeffery Smith
Utah County Recorder
2015 Oct 15 03:04 PM FEE 31.00 BY SW
RECORDED FOR Cottonwood Title Insurance Ag
ELECTRONICALLY RECORDED

**FIFTH SUPPLEMENT TO THE
DECLARATION OF PROTECTIVE COVENANTS
FOR DRY CREEK HIGHALNDS PHASE 6**

This Fifth Supplement to the Declaration of Protective Covenants for Dry Creek Highlands Phase 6 is made and executed by IVORY HOMES DEVELOPMENT, LLC. a Utah limited liability company, of 978 E. Woodoak Lane, Salt Lake City, Utah 84117 (hereinafter referred to as “Declarant”).

RECITALS

Whereas, the Declaration of Protective Covenants for Dry Creek Highlands Phase 1 Subdivision was recorded in the Office of the County Recorder of Utah County, Utah on August 14, 2003 as Entry No. 130561:2003 at Pages 2-18 of the Official Records (the “Declaration”).

Whereas, the related Plat Map for Phase 1 of the Project has also been recorded in the Office of the County Recorder of Utah County, Utah.

Whereas, the First Supplement to the Declaration of Protective Covenants for Dry Creek Highlands Phase 2 Subdivision was recorded in the Office of the County Recorder of Utah County, Utah on November 2, 2004 as Entry No. 3029:2005 at Pages 1-4 of the Official Records (the “First Supplement”).

Whereas, the related Plat Map for Phase 2 of the Project has also been recorded in the Office of the County Recorder of Utah County, Utah.

Whereas, the Second Supplement to the Declaration of Protective Covenants for Dry Creek Highlands Phase 3 Subdivision was recorded in the Office of the County Recorder of Utah County, Utah on January 20, 2005 as Entry No. 6709:2005 at Pages 1-4 of the Official Records (the “Second Supplement”).

Whereas, the related Plat Map for Phase 3 of the Project has also been recorded in the Office of the County Recorder of Utah County, Utah.

Whereas, the Third Supplement to the Declaration of Protective Covenants for Dry Creek Highlands Phase 4 Subdivision was recorded in the Office of the County Recorder of Utah

County, Utah on January 27, 2006 as Entry No. 10702:2006 at Pages 1-9 of the Official Records (the "Third Supplement").

Whereas, the related Plat Map for Phase 4 of the Project has also been recorded in the Office of the County Recorder of Utah County, Utah.

Whereas, the Fourth Supplement to the Declaration of Protective Covenants for Dry Creek Highlands Phase 5 Subdivision was recorded in the Office of the County Recorder of Utah County, Utah on February 26, 2015 as Entry No. 15088:2015 at Pages 1 of 5 of the Official Records (the "Fourth Supplement").

Whereas, the related Plat Map for Phase 5 of the Project has also been recorded in the Office of the County Recorder of Utah County, Utah.

Whereas, under Section 3 of the Declaration, Declarant reserved the unilateral right to expand the subdivision by annexing additional land and expanding the application of the Declaration.

Whereas, Declarant is the fee simple owner of record of that certain real property located in Utah County, Utah and described with particularity on Exhibit "A-6" attached hereto and incorporated herein by this reference (the "Phase 6 Property").

Whereas, Declarant desires to expand the subdivision by creating on the Phase 6 Property additional Lots.

Whereas, Declarant now intends that the Phase 6 Property shall become subject to the Declaration, as amended.

NOW, THEREFORE, for the reasons recited above, and for the benefit of the subdivision and the Lot Owners thereof, Declarant hereby executes this Fifth Supplement to the Declaration of Protective Covenants for Dry Creek Highlands Phase 6.

1. **Supplement to Definitions.** Article I of the Declaration, entitled "Definitions," is hereby modified to include the following supplemental definitions:

A. **Fifth Supplemental Declaration** shall mean and refer to this Fifth Supplement to the Declaration of Protective Covenants for Dry Creek Highlands Phase 6.

B. **Phase 6 Map** shall mean and refer to the Plat Map of Phase 6 of the Project, prepared and certified to by Dennis P. Carlisle, a duly registered Utah Land Surveyor holding Certificate No. 172675, and filed for record in the Office of the County Recorder of Utah County, Utah concurrently with the filing of this Fifth Supplemental Declaration.

C. **Subdivision** shall mean and refer to Dry Creek Highlands Phases 1, 2, 3, 4, 5 and 6, as it may be amended or expanded from time to time.

Except as otherwise herein provided, the definition of terms contained in the Declaration are incorporated herein by this reference.

2. **Legal Description.** The real property described in Exhibit A-6 is hereby submitted to the provisions of the Declaration and said land shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Declaration as it may be supplemented or amended from time to time.

3. **Annexation.** Declarant hereby declares that the Phase 6 Property shall be annexed to and become subject to the Declaration and the Utah Community Association Act, Utah Code Ann., Sections 57-8a-101 et seq. (2004). The recordation of this Fifth Supplemental Declaration shall constitute and effectuate the expansion of the Project, making the real property described in Exhibit A-6 subject to this Declaration and the functions, powers, rights, duties and jurisdiction of the ARC.

4. **Total Number of Units Revised.** As shown on the Phase 6 Map, twelve (12) new Lots, and Numbers 601- 612, inclusive, are or will be constructed and/or created in the Project on the Phase 6 Property. Upon the recordation of the Phase 6 Map and this Fifth Supplemental Declaration, the total number of Lots in the Project (Phase 1-6) will be one hundred thirty four, not including future Phase 7 or 8. The additional Lots (and the homes to be constructed therein) are or will be substantially similar in construction, design and quality to the Lots and homes in the prior Phases.

5. **Incorporation of Original Declaration as Supplemented and Amended.** It is expressly agreed by the parties that this document is supplemental to the Declaration which is by reference made a part hereof, and all of the terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to the Phase 6 Property and are made a part of this document as though they were expressly rewritten, incorporated and included herein.

6. **Conflict.** In the event of any conflict, inconsistency or incongruity between the provisions of the Declaration, as supplemented or amended, and the Fifth Supplemental Declaration, the latter shall in all respects govern and control.

7. **Effective Date.** The effective date of this Fifth Supplemental Declaration and the Phase 6 Map shall be the date on which said instruments are filed for record in the Office of the County Recorder of Utah County, Utah.

EXHIBIT "A-6"
LEGAL DESCRIPTION

The Property referred to in the foregoing document as the Dry Creek Highlands Phase 6 Property is located in Utah County, Utah and is described more particularly as follows: A portion of the NE $\frac{1}{4}$ of Section 27, Township 4 South, Range 1 East, Salt Lake Base and Meridian, located in Highland, Utah, more particularly described as follows: Beginning at the northwest corner of Lot 507, Phase 5, DRY CREEK HIGHLANDS Subdivision, according to the Official Plat thereof on file in the Office of the Utah County Recorder, said lot corner being located N.00°03'17"E. 424.47 feet along the $\frac{1}{4}$ Section line from the Center $\frac{1}{4}$ Corner of Section 27, Township 4 South, Range 1 East, Salt Lake Base and Meridian; thence N00°03'17"E. 486.30 feet; thence S. 89°46'28"E. 349.45 feet; thence S.63°35'02"E. 183.91 feet; thence N.25°08'03" E. 10.37 feet; thence S.64°51'57"E. 218.40 feet; thence N.19°38'07"E. 5.92 feet; thence S.66°37'40"E. 228.54 feet; thence S 23°22'29" W 29.00 feet; thence S.66°37'40"E. 268.13 feet to the centerline of Highland Boulevard and the westerly line of Phase 3, DRY CREEK HIGHLANDS Subdivision, according to the Official Plat thereof on file in the Office of the Utah County Recorder; thence S.22°17'00"W. along said centerline and plat 271.69 feet to the northeast corner of said Phase 5; thence along the north line of said subdivision the following 6 (six) courses and distances N. 67°25'59"W. 346.55 feet; thence S.36°56'04"W. 46.50 feet; thence along the arc of a 472.00 foot radius curve to the right 103.72 feet through a central angle of 12°54'27" (chord: S.43°23'16"W. 106.10 feet); thence N.40°07'54"W. 121.79 feet; thence N. 72°05'40"W. 131.98 feet; thence S.89°38'58"W. 435.19 feet to the point of beginning.