

WHEN RECORDED RETURN TO:
IVORY DEVELOPMENT, LLC.
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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
08/24/2018 09:04 AM
FEE \$45.00 Pgs: 5
DEP RT REC'D FOR SYRACUSE CITY

**FIFTH SUPPLEMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MONTEREY ESTATES - PHASE 6**

12-923-0601 → 0628

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This Fifth Supplement to the Declaration of Covenants, Conditions and Restrictions for Monterey Estates - Phase 6 is made and executed by IVORY 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 Covenants, Conditions and Restrictions for Monterey Estates - Phase 1 Subdivision was recorded in the Office of the County Recorder of Davis County, Utah on April 17, 2015 as Entry No. 2860754 in Book 6248 at Pages 14-61 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 Davis County, Utah.

Whereas, the First Supplement to the Declaration of Covenants, Conditions and Restrictions for Monterey Estates - Phase 2 Subdivision was recorded in the Office of the County Recorder of Davis County, Utah on July 5, 2016 as Entry No. 2949610 in Book 6551 at Pages 81-84 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 Davis County, Utah.

Whereas, the Second Supplement to the Declaration of Covenants, Conditions and Restrictions for Monterey Estates - Phase 3 Subdivision was recorded in the Office of the County Recorder of Davis County, Utah on March 3, 2017 as Entry No. 3005790 in Book 6715 at Page 70 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 Davis County, Utah.

Whereas, the Third Supplement to the Declaration of Covenants, Conditions and Restrictions for Monterey Estates - Phase 5 Subdivision was recorded in the Office of the County Recorder of Davis County, Utah on March 6, 2017 as Entry No. 3006161 in Book 6716 at Pages 174-178 of the Official Records (the "Third Supplement").

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

Whereas, the Fourth Supplement to the Declaration of Covenants, Conditions and Restrictions for Monterey Estates - Phase 4 Subdivision was recorded in the Office of the County Recorder of Davis County, Utah on October 24, 2017 as Entry No. 3053526 in Book 6877 at Pages 135-139 of the Official Records (the "Fourth Supplement").

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

Whereas, under Section 4 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 Davis County, Utah and described with particularity on Exhibits "A-4" (the "Phase 6 Property") attached hereto and incorporated herein by this reference.

Whereas, Declarant desires to expand the subdivision by creating on the Phase 6 Property twenty-eight (28) additional Lots, numbered 601-628.

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

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 Covenants, Conditions and Restrictions for Monterey Estates - 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 Covenants, Conditions and Restrictions for Monterey Estates - Phase 6.

B. **Phase 6 Map** shall mean and refer to the Final Plat Map of Monterey Estates - Phase 6 prepared and certified to by Steven C. Earl, a duly registered Utah Land Surveyor holding Certificate No. 318575-2201, and filed for

record in the Office of the County Recorder of Davis County, Utah concurrently with the filing of this Fifth Supplemental Declaration.

C. **Subdivision** shall mean and refer to Monterey Estates - Phases 1, 2, 3, 4, 5 and 6, as it may be supplemented 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-4 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 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) as or supplemented (the "Act"). The recordation of this Fifth Supplemental Declaration shall constitute and effectuate the expansion of the Project, making the real property described in Exhibit A-4 subject to this Declaration and the functions, powers, rights, duties and jurisdiction of the Association/Board of Directors.

4. **Total Number of Units Revised.** As shown on the Phase 6 Map, twenty-eight (28) new Lots, Numbers 601- 628, 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 will be one hundred and sixty-six (166). 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 Phase.

5. **Incorporation of Original Declaration as Supplemented and.** 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 and this Fifth Supplemental Declaration, the latter shall in all respects govern and control. If there is a conflict between a provision in the Declaration, as supplemented, and a provision in the Act, the Act 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 or dates on which said instruments are filed for record in the Office of the County Recorder of Davis County, Utah.

Dated the 14th day of August, 2018.

EXHIBIT "A-4"
LEGAL DESCRIPTION

The real property referred to in the foregoing document as the Monterey Estates - Phase 6 Property is located in Davis County, Utah and is described more particularly as follows:

A PART OF THE SOUTH HALF OF SECTION 3, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE MERIDIAN, LOCATED IN THE CITY OF SYRACUSE, COUNTY OF DAVIS, STATE OF UTAH, DESCRIBED AS FOLLOWS:

*COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 3;
THENCE N25°17'14"W 1275.73 FEET TO THE POINT OF BEGINNING AT THE NORTHEAST CORNER OF LOT 506 OF MONTEREY ESTATES PHASE 5;
THENCE N0°03'04"E 11.18 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 430.00 FEET AND A LONG CHORD THAT BEARS N10°18'15"E 153.08 FEET;
THENCE NORTHERLY 153.90 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20°30'23";
THENCE N69°26'33"W 3.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 433.00 FEET AND A LONG CHORD THAT BEARS N24°51'43"E 65.00 FEET;
THENCE NORTHEASTERLY 65.06 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°36'31";
THENCE N29°09'58"E 101.90 FEET;
THENCE S60°50'02"E 110.75 FEET;
THENCE S89°56'56"E 930.20 FEET;
THENCE N80°48'52"E 60.15 FEET;
THENCE N76°48'18"E 100.00 FEET;
THENCE S13°11'42"E 240.00 FEET TO THE NORTHEAST CORNER OF LOT 309 OF MONTEREY ESTATES PHASE 3;
THENCE ALONG THE NORTHERLY BOUNDARY OF SAID MONTEREY ESTATES PHASE 3 AND THE NORTHERLY BOUNDARY OF MONTEREY ESTATES PHASE 5 THE FOLLOWING THREE COURSES:
1. S76°48'18"W 160.00 FEET;
2. S13°11'42"E 19.82 FEET;
3. N89°56'56"W 1188.74 FEET TO THE POINT OF BEGINNING.*

CONTAINING 7.67 ACRES, MORE OR LESS.