

WHEN RECORDED RETURN TO:
IVORY DEVELOPMENT, LLC
Christopher P. Gamvroulas
978 E. Woodoak Lane
Salt Lake City, Utah 84117
(801) 747-7440

Ent: 384004 - Pg 1 of 5
Date: 05/08/2013 12:41 PM
Fee: \$39.00
Filed By: cp
Jerry M. Houghton, Recorder
Tooele County Corporation
For: IVORY DEVELOPMENT

NOTE TO RECORDER:
RECORD ONLY AGAINST THE PROPERTY
DESCRIBED IN EXHIBIT "A-7"

**FIFTH SUPPLEMENT TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
BENSON MILL CROSSING, PHASE 7 PUD,
a part of the expandable Benson Mill Crossing planned unit development)**

This Fifth Supplement to Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Benson Mill Crossing, Phase 7 PUD, a part of the Benson Mill Crossing expandable planned unit development (the "Fifth Supplemental Declaration") is executed by Ivory Development, LLC, of 978 East Woodoak Lane, Salt Lake City, Utah 84117 (the "Declarant").

RECITALS

- A. This Fifth Supplemental Declaration affects that certain real property located in the City of Stansbury Park in Tooele County, Utah described with particularity in Article II below (hereinafter referred to as the "Phase 7 PUD Property" or "Property").
- B. Declarant is the owner of the Phase 7 Property.
- C. The Phase 7 PUD Property is an area featuring unique and distinctive terrain.
- D. Benson Mills Crossing Phase 7 PUD consists or will consist of thirty (30) Lots intended for attached town homes (the "Project").
- E. The Phase 7 PUD Property is subject to and bound by the Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Benson Mill Crossing recorded in the official records of the County Recorder of Tooele County, Utah on June 29, 2007 as Entry No. 288009 (the "Master Declaration").

F. The related Final Plat for Phase 1 of The Towns at Benson Mills Crossing has also been recorded in the office of the County Recorder of Tooele, County, Utah.

G. The related Final Plat for Phase 2 of The Towns at Benson Mills Crossing has also been recorded in the office of the County Recorder of Tooele County, Utah.

H. The related final Plat for Phase 3 of The Towns at Benson Mills Crossing has also been recorded in the office of the County Recorder of Tooele County, Utah.

I. The related final Plat for Phase 4 of The Towns at Benson Mills Crossing has also been recorded in the office of the County Recorder of Tooele County, Utah.

J. The related final Plat for Phase 5 of The Towns at Benson Mills Crossing has also been recorded in the office of the County Recorder of Tooele County, Utah.

K. The related final Plat for Phase 6 of The Towns at Benson Mills Crossing has also been recorded in the office of the County Recorder of Tooele County, Utah.

L. By subjecting the Phase 7 PUD Property to this Third Supplemental Declaration Declarant intends to annex additional real property and expand The Towns at Benson Mills Crossing.

M. This phase is to be known as "Benson Mill Crossing Phase 7 PUD" or "Phase 7 of The Towns at Benson Mill Crossing."

N. Pursuant to Article 2, Section 2.8 of the Master Declaration, Declarant reserved an option to unilaterally expand the Project and annex additional real property.

O. Declarant desires to expand the planned unit development by creating on the Phase 7 PUD Property additional Lots and Town Homes.

P. Declarant now intends that the Phase 7 PUD Property shall become subject hereto as well as the Master Declaration.

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Project and the Owners, Declarant hereby executes this Fifth Supplemental Declaration.

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

a. The term **Fifth Supplemental Declaration** as used herein shall mean and refer to this Fifth Supplement to the Master Declaration.

b. The term **Phase 7 PUD Map** as used herein shall mean and refer to the Final Plat of Benson Mill Crossing Phase 7 PUD, prepared and certified to by Karen White, a duly registered Utah Land Surveyor holding Certificate No. 191326, and filed for record in the Office of the County Recorder of Tooele County, Utah concurrently with the filing of this Fifth Supplemental Declaration.

c. The terms **Phase 7 PUD Property** or **Phase 7 of the Town at Benson Mills Crossing** or **Property** as used herein shall mean and refer to the land described on Exhibit "A-7" unless the context clearly requires otherwise.

d. The term **Planned Unit Development** as used herein with reference to this subdivision shall mean and refer to the Benson Mills Crossing Project (unless the context clearly requires otherwise) which is a Planned Unit Development.

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-7" is hereby submitted to the provisions of the Fifth Supplemental Declaration and by reference the Master Declaration, and said land shall be held, transferred, sold, conveyed, and occupied subject to the provisions of the Fifth Supplemental Declaration and by reference the Master Declaration, as they may be supplemented or amended from time to time.

3. **Annexation.** Declarant hereby declares that the Phase 7 PUD Property shall be annexed to and become subject to the Fifth Supplemental Declaration and by reference the Master Declaration which, upon recordation of this Fifth Supplemental Declaration, shall constitute and effectuate the expansion of the Project, making the real property described in Exhibit A-7 subject to this Fifth Supplemental Declaration and by reference the Master Declaration, and the functions, powers, rights, duties, and jurisdiction of the Master Association.

4. **Total Number of Lots Revised.** As shown on the Phase 7 Map, eighteen (18) new Lots, Numbers 701-718, are or will be constructed and/or created in the Project on the Phase 7 Property. Upon the recordation of the Phase 7 Map and this Fifth Supplemental Declaration, the total number of Lots in the Benson Mill Project will be two hundred and four (204), of which the number of single family residential Lots is one hundred and two (102) and the number of Lots in The Towns at Benson Mill Crossing will be one hundred and two (102). 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 phases for detached single family homes.

5. **Percentage Interest Revised.** The percentages of ownership for the Lots in the entire subdivision are uniform and equal.

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

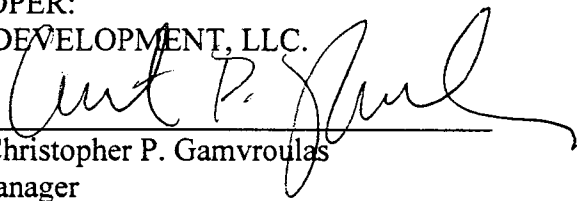
7. **Severance.** If any provision of this Supplemental Declaration is held to be illegal, invalid, or unenforceable under any present or future law, then that provision will be fully severable. This Supplemental Declaration will be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part hereof, and the remaining provisions of this Supplemental Declaration will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Supplemental Declaration. Furthermore, in lieu of each such illegal, invalid, or unenforceable provision, there will be added automatically, as a part of this Supplemental Declaration, a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

8. **Incorporation by Reference.** This Fifth Supplement is supplemental to the Master Declaration, which are by this reference made a part hereof, and all the terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Fifth Supplement and are made a part of this Fifth Supplement as though they were expressly rewritten, incorporated, and included herein.

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

Dated the ____ day of April, 2013.

DEVELOPER:
IVORY DEVELOPMENT, LLC.

By: 
Name: Christopher P. Gamvroulas
Title: Manager

ACKNOWLEDGMENT

STATE OF UTAH)
 ss:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 19 day ^{April BKB}~~February~~, 2013 by Christopher P. Gamvroulas, the Manager of IVORY DEVELOPMENT, LLC., a Utah limited liability company, and said Christopher P. Gamvroulas duly acknowledged to me that said company executed the same.



NOTARY PUBLIC



EXHIBIT "A-7"
LEGAL DESCRIPTION

The Property referred to in the foregoing document is located in Tooele County, Utah and is described more particularly as follows:

Beginning at a point on the Northwesternly Right-of-Way Line of State Route 138, said point also being North 89°57'10" East 515.97 feet along the Section Line and North 68.28 feet from the Southwest Corner of Section 10 Township 2 South, Range 4 West, Salt Lake Base and Meridian; and running

thence Southwesterly 100.52 feet along the arc of a 984.25 foot radius curve to the left (center bears South 32°43'10" East and the chord bears South 54°21'17" West 100.48 feet with a central angle of 05°51'06") along said Northwesternly Right-of-Way Line;

thence South 51°25'52" West 228.20 feet along said Northwesternly Right-of-Way Line;

thence North 38°34'08" West 276.09 feet to the Boundary Line of Benson Mill Crossing Phase 2 PUD;

thence North 51°34'03" East 104.00 feet along the Boundary Line of said Benson Mill Crossing Phase 2 PUD;

thence Southeasterly 12.53 feet along the arc of a 25.00 foot radius curve to the right (center bears South 22°52'55" West and the chord bears South 52°45'50" East 12.40 feet with a central angle of 28°42'30") along the Boundary Line of said Benson Mill Crossing Phase 2 PUD;

thence North 51°32'02" East 34.00 feet along the Boundary Line of said Benson Mill Crossing Phase 2 PUD;

thence Northwesternly 12.51 feet along the arc of a 25.00 foot radius curve to the right (center bears North 51°35'25" East and the chord bears North 24°04'43" West 12.38 feet with a central angle of 28°39'45") along the Boundary Line of said Benson Mill Crossing Phase 2 PUD;

thence North 51°34'03" East 103.42 feet along the Boundary Line of said Benson Mill Crossing Phase 2 PUD to the Northwest Corner of Benson Mill Crossing Phase 3 PUD;

thence South 38°34'08" East 223.49 feet along the Boundary Line of said Benson Mill Crossing Phase 3 PUD;

thence North 51°25'52" East 81.00 feet along the Boundary Line of said Benson Mill Crossing Phase 3 PUD;

thence South 38°34'08" East 57.14 feet along the Boundary Line of said Benson Mill Crossing Phase 3 PUD to the point of beginning.

Contains 72,226 Square Feet or 1.658 Acres and 18 Lots