

Declaration of covenants, Conditions, and Restrictions  
for

**Diamond Meadows Sub-division**

ENT 24722 BK 4994 PG 457  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
1999 Mar 01 12:20 pm FEE 37.00 BY 55  
RECORDED FOR G T INVESTMENTS

This declaration made this \_\_\_\_\_ day of \_\_\_\_\_, 1999, by GT Investments, a California Corporation, hereinafter referred to as "Declarant":

Whereas, Declarant is the owner of the real property in the County of Utah, State of Utah, described as Diamond Meadows Sub-division.

Whereas, Declarant has deemed it desirable to impose a general plan for the improvement and development of said tract and all of the property described herein and adoption and establishment of covenants, conditions, and restrictions upon said real property, and

Declarant covenants, agrees and declares that all of said lots and property described above and such additions thereto as may hereafter be made pursuant to Article II shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements.

**ARTICLE I  
DEFINITIONS**

The following terms used in these covenants, conditions, and restrictions shall be applicable to this Declaration and are defined as follows:

Section 1. "Lot" shall mean any parcel of property shown as a separate numbered lot on the recorded Plat of the Sub-division.

Section 2. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of the properties, including contract buyers, but excluding those having such interest merely as security for the performances of an obligation.

Section 3. "Declarant" shall mean GT Investments, a California Corporation, its successors and assigns.

**ARTICLE II  
ANNEXATION OF ADDITIONAL PROPERTY**

Any real property may be annexed to and become subject to this Declaration by any of the methods set forth hereinafter:

Section 1. Annexation Without Approval and Pursuant to General Plan. Any real property may be annexed to and become subject to this declaration as agreed upon by Declarant.

Section 2. The additions authorized under the forgoing section shall be made by filing a Supplementary Declaration of Covenants, Conditions, and Restrictions or similar instrument.

**ARTICLE III  
ARCHITECTURAL CONTROL**

Section 1. Approval by Architectural Committee. No building, garage, fence, wall or any other structure shall be constructed or erected, nor shall any exterior addition to or change or alteration therein be made, nor shall any excavating, removal of shrubs or trees on any lot within the properties be done unless a written application is submitted for approval to the Architectural Committee. Written application should include:

- (a) An overall view of the proposed improvement
- (b) The location of the improvement on the lot
- (c) Floor plans of each floor level
- (d) Elevations
- (e) Specifications of all materials to be used on the exterior of structures (color samples must be provided)
- (f) Proposed time schedule for construction

Section 2. The Architectural Committee shall not give its consent to the proposed improvements unless, in the opinion of the Committee, the improvement is properly designed and the general character of the improvement is in compliance with these articles, is in harmony with existing structures on the lot and adjacent lots. The approval of any plans shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plans whenever subsequently submitted for approval. If the Committee fails to approve or disapprove an application within thirty days after plans have been submitted, approval will not be required and this Article will be deemed to have been fully complied with. In order to obtain such approval, the owner must submit for consideration of the Architectural Committee such details and information as the Committee shall request.

Section 3. Appointment of Architectural Committee. The Declarant shall appoint the Architectural Committee, consisting of the Declarant, or, the Declarant and an owner, or, not less than two owners.

Section 4. Landscaping Control. Each owner shall maintain their lot in an attractive and safe manner so as not to detract from the community.

Section 5. Liability. Neither the Architectural Committee, nor any owner thereof, nor Declarant, shall be liable to any owner or third persons for any damage, loss or prejudice suffered or claimed on account of a) the approval or disapproval of any plans, b) the construction or performance of any work whether or not pursuant to approved plans, c) the development of any property within the sub-division.

## ARTICLE IV USE RESTRICTIONS

The general objective of these covenants, conditions, and restrictions is to create and maintain a residential district characterized by the following: spacious estate, large homes, open spaces, well kept lawns, trees and other planting, and quiet residential conditions favorable to family living.

### Section 1. Land Use and Building Type.

- (a) No lot shall be used except for single family residential purposes.
- (b) Single story dwellings shall have at least 1,850 square feet on the ground floor, excluding basements, garage, porch, patio and deck.
- (c) Two story dwellings shall have at least 1,450 square feet on the ground floor, excluding basements, garage, porch, patio and deck, with combined square footage for both floors not less than 2,350 square feet.
- (d) Split entries, bi-level splits and other unique homes shall be reviewed by the Architectural Committee as to the square footage requirements.
- (e) All single family dwellings must have a minimum three car garage with side entry.
- (f) Driveways must be large enough to accommodate two parked automobiles side by side, completely off the street.
- (g) Building location must be in accordance with City of Highland setback requirements. The front setback must be a minimum of thirty five feet.
- (h) No fences shall be allowed in the front yards. Hedges and landscaping will be permitted if it does not interfere with driving visibility. No chain link fences will be allowed.
- (i) No home shall exceed two stories above grade.
- (j) Swamp coolers and/or air conditioning units may not be located forward of the front yard setback or on the front side or slope of the roof.

### Section 2. Dwelling Construction and Fence Restrictions.

- (a) Dwelling style, design, alterations or additions will conform to standards determined by the Architectural Committee.
- (b) Exterior construction material will be a minimum of 25% stone, brick or other natural masonry material, with the balance of the exterior finish to be wood or stucco as approved by the Architectural Committee.
- (c) A minimum 8'x10' courtyard of brick or stone construction. Exceptions may be granted for Architectural reasons by the Architectural Committee.
- (d) Fences or walls shall be of wood, block, or brick and shall not exceed six feet in height.
- (e) Roofs shall be pitched to a minimum 8/12. All roofing materials must be of architectural grade asphalt shingles, shake, or tile. The following roof shapes will not be permitted: mansards, domed, and geodesic domes.

### Section 3. Nuisances.

- (a) No noxious or offensive activity shall be carried out upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
- (b) No inoperable vehicles or automobiles may be in view on the owners property or on adjacent streets for greater than 96 hours.
- (c) No parking or storage of commercial vehicles or trucks in view on owners property or on adjacent streets.
- (d) All trailers and vehicles on trailers (boats, snow-mobiles, campers, etc.) must be parked and stored behind front yard setback.

**Section 4.** Temporary Structures. No structure of a temporary character shall be used on any lot at any time as a residence either temporarily or permanently. No mobile homes are permitted.

**Section 5.** Animals.

- (a) No animals, large or small, shall be kept, maintained, housed, or bred for commercial purposes of any kind.
- (b) Horses shall be kept in accordance with Highland City applicable zoning laws. Any lot allowing horse rights must have a proper structure of quality materials approved by the Architectural Committee.

**Section 6.** Maintenance of Property. All lots and all improvements on any lot shall be kept and maintained by the owner in a clean, safe, attractive and sightly condition and kept in good repair.

**Section 7.** Building and Landscaping time restrictions. The exterior construction of all structures shall be completed within a period of eighteen months following commencement of construction. The front yard of each lot (including planter strip between curb and sidewalk) shall be landscaped within a period of one year following completion or occupancy of each dwelling. Side and rear yards shall be landscaped within a period of two years following completion or occupancy of each dwelling.

- (a) All owners possessing vacant lots shall be responsible for keeping the lots clean and free from all refuse or potential fire hazards. No vacant lot shall be used for storage of any kind except during the construction period.
- (b) In the event that a residence is not constructed during the first twenty-four months of ownership, then said owner shall landscape fifty feet of the frontage, including planter strip between curb and sidewalk.

**Section 8.** Variances. The Architectural Committee may approve a variance request of the covenants and restrictions contained in this instrument.

## ARTICLE V RELEASE OF LIABILITY

**Section 1.** In consideration of the agreement by Declarant to not require the piping, fencing, covering or other obstruction of the Provo Reservoir Canal (Murdock Canal) adjacent to the sub-division all owners of Lots in the sub-division, for themselves and their successors, assigns, invitees, licensees, and all other parties under their influence or control, hereby completely and irrevocable release the Declarant, and their respective owners, members, officers, managers, directors, shareholders, employees, agents, etc., of and from any and all liability in connection with any injury or death to any person(s), or any flooding or other damage to real or personal property, arising from, attributable to, or in any way associated with the Provo Reservoir Canal (Murdock Canal). Further, each Lot Owner irrevocably shall indemnify and hold harmless the Declarant, and their respective owners, members, officers, managers, directors, shareholders, employees, agents, etc., of and from any and all damages, claims, actions or proceedings (in law or equity), of whatsoever kind or nature (including attorneys fees) arising from, attributable to, or in any way associated with the Provo Reservoir Canal (Murdock Canal). The forgoing release and indemnification shall be irrevocable, shall constitute a covenant running with each of the Lots, and shall survive any termination (for any reason whatsoever) of this Declaration.

**Section 2.** In addition to the release and indemnification obligations incumbent on each and every Lot Owner pursuant to Section 1 of this Article, promptly upon Declarant's conveyance to him of fee title, each and every owner of the sub-division agrees to execute, deliver and cause to be recorded a written agreement in such form as Declarant may specify to accomplish the following purposes:

- (a) Release. The owners of all lots in the sub-division, for themselves and all other residents of their respective Lots, shall confirm that each such Owner completely and irrevocably releases and agrees to indemnify and hold harmless the Declarant, and their respective owners, members, officers, managers, directors, shareholders, employees, agents, etc., of and from any and all liability in connection with any injury or death to any person(s), or any flooding or other damage to real or personal property, arising from, attributable to, or in any way associated with the Provo Reservoir Canal (Murdock Canal).
- (b) Indemnification. The owners of Lots 1-6, inclusive, shall irrevocably agree to indemnify and hold harmless the Declarant, and their respective owners, members, officers, managers, directors, shareholders, employees, agents, etc., of and from any and all damages, claims, actions or proceedings (in law or equity), of whatsoever kind or nature (including attorneys fees) arising from, attributable to, or in any way associated with any uncovered waterway located adjacent to such Owners Lot.

Neither Declarant, the Architectural committee, nor any Owner, or agent of the same shall be liable to any party for any action or for any failure to act with respect to any matter pertaining or contemplated by this Declaration, provided, however, that this limited liability shall not apply if the loss, expense or liability involved resulted from the willful misconduct or gross negligence of such person.

Each owner will sign a copy of these Covenants and Restrictions prior to the purchase of any lot, acknowledging their existence, representing that they fully understand the contents of these Covenants and Restrictions, and agreeing to full compliance.

In Witness Whereof, Declarant has executed this instrument the day and year first herein above written.

GT Investments; by: JCSLP

State of UTAH

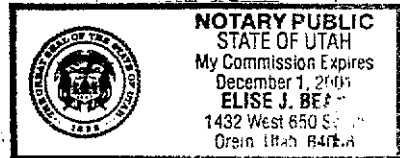
County of Utah

The foregoing instrument was acknowledged before me on March 1, 1999 by \_\_\_\_\_ and \_\_\_\_\_

My commission Expires: Dec, 1 2001

Residing in: Drem, Utah

Elise J. Besh  
Notary Public



Owner of Lot \_\_\_\_\_, Diamond Meadows

Name: \_\_\_\_\_

Signed: \_\_\_\_\_

GT Investments  
100 West Canyon Crest  
Alpine, UT 84004

**WAIVER AND INDEMNITY AGREEMENT**

(Lots 1-16, inclusive, of Diamond Meadows Sub-division)

THIS WAIVER AND INDEMNITY AGREEMENT (this "Agreement") is entered into effective \_\_\_\_\_, \_\_\_\_\_ by the undersigned grantee(s) (collectively, the "Owner") of the lot(s) in Diamond Meadows Sub-division specified below, in favor of GT Investments, a California Corporation, whose address is 100 West Canyon Crest, Alpine, UT 84004 (referred to herein as "Developer") and other Benefited Parties specified below.

Lot: \_\_\_\_\_

**RECITALS:**

- A. Owner owns fee simple title to Lot(s): \_\_\_\_\_ (collectively, the "Lot") of Diamond Meadows Sub-division (the "Sub-division"). The Lot is more particularly described on the plats of the Sub-division recorded in the official records of the recorder of Utah County, Utah.
- B. One uncovered, open, watercourse (the "Canal") known as the Provo Reservoir Canal (Murdock Canal) currently run adjacent to the Sub-division. Notwithstanding the potential danger of the open canal to persons (particularly children) and property, Owner believes that the existence of the Canal will enhance the market value of Owners Lot and ambiance of the Sub-division and Owners Lot.
- C. To induce Developer to sell and convey the Lot to Owner, Owner desires to act as provided in this Agreement.

**AGREEMENT:**

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner hereby covenants and agrees as follows:

Section 1. Owner's Acknowledgments. Owner acknowledges, and desires, that the Canal adjacent to the Sub-division perpetually will remain in an open, uncovered, natural state. Owner further acknowledges that open waters of any type, including the Canal, may attract children and may be extremely dangerous to children, adults and animals such as domestic pets, even to permanent impairment or loss of life due to drowning. Notwithstanding such potential risks, Owner has determined that the aesthetic benefits to the Lot and the rest of the Sub-division, and the attendant enhancement of the market value of the Lot outweigh those potential risks.

Section 2. Waiver and Release from Liability. In consideration of the agreement by Developer to not require the piping, fencing, covering or other obstruction of the Canal adjacent to the sub-division, Owner, for itself and its successors, assigns, invitees, licensees, and all other parties under its influence or control, hereby completely and irrevocably waives, releases and forever discharges the Developer and the owner(s) of

the Lots adjacent to the Canal from any and all liability in connection with any injury or death to any person(s), or flooding or other damage to real or personal property, arising from, attributable to, or in any way associated with the Provo Reservoir Canal (Murdock Canal).

Section 3. Indemnification. Owner shall indemnify and hold harmless the Developer, the owners of the Lots adjacent to the Canal, and their respective owners, members, officers, managers, directors, shareholders, employees, agents, etc., of and from any and all damages, claims, actions or proceedings (in law or equity), of whatsoever kind or nature (including attorneys fees) arising from, attributable to, or in any way associated with any uncovered waterway located adjacent to such Owners Lot.

Section 4. Benefited Parties. The forgoing waivers, releases and indemnification's shall perpetually exist, and shall inure to the benefit of the Developer, the owner(s) of Lots adjacent to the Canal and their respective owners, trustees, members, officers, managers, directors, shareholders, employees, agents, etc., (collectively, the "Benefited Parties").

Section 5. Duration. The obligations hereunder shall be perpetual in duration.

Section 6. Covenants Run with Land. The foregoing waivers, releases and indemnification shall be irrevocable and shall constitute a covenant running with owner's Lot and shall bind every person having any fee, leasehold or other interest in any portion of the Lot at any time or from time to time.

Section 7. General Provisions. The following provisions are also an integral part of this Agreement:

- (a) Binding Agreement. This agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.
- (b) Severability. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not effect the other provisions of this Agreement.
- (c) Interpretation. This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah.
- (d) Attorneys' Fees. In the event any action or proceeding is brought by either party concerning this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees, whether such sums are expended with or without suit, at trial or on appeal.

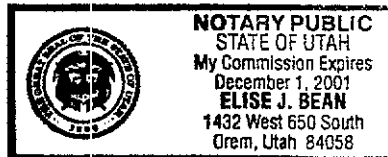
DATED effective the date first-above written.

OWNER

*[Handwritten Signature]*

State of UTAH

County of Utah



The foregoing instrument was acknowledged before me on March 1, 1999 by \_\_\_\_\_ and \_\_\_\_\_

My commission Expires: Dec 1, 2001

*[Handwritten Signature: Elise J. Bean]*  
Notary Public

Residing in Orem, UT.