

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LA CUEVA CORONA SUBDIVISION

G&A, LTD. CO., a New Mexico limited liability company, hereinafter "Developer," being the owner of property located in the City of Albuquerque, County of Bernalillo, State of New Mexico, described as follows, to-wit:

LA CUEVA CORONA SUBDIVISION, LOTS (1) THROUGH (21) BLOCK (16), A REPLAT OF THE LOTS NUMBERED TWENTY-EIGHT (28), TWENTY NINE (29), THIRTY (30), THIRTY ONE (31), AND THIRTY TWO (32), IN BLOCK NUMBERED SIXTEEN (16), TRACT 2, UNIT 3, OF THE NORTH ALBUQUERQUE ACRES, AN ADDITION TO BERNALILLO COUNTY, NEW MEXICO. AS THE SAME IS SHOWN AND DESIGNATED ON THE MAP OF THE SAID ADDITION, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO. ON SEPTEMBER 10 1931

DOES HEREBY CERTIFY AND DECLARE that it has established, and does hereby establish a general plan for the improvement, development, ownership, use and sale of said property so owned by it, and does hereby establish the manner, provisions, conditions, restrictions and covenants upon and subject to which said property shall be used, improved, occupied, owned, sold and conveyed, and does hereby declare that henceforth said property shall be used, improved, occupied, sold and conveyed, subject to the provisions, conditions, restrictions and covenants herein set forth, all of which shall be binding upon and inure to the benefit of the present and future owners of said lots and all portions thereof, and all of which provisions, conditions, restrictions and covenants are, and each of them is, impressed and imposed upon each and every parcel of the herein before described property as a servitude in favor of each and every other parcel thereof, as the dominate tenements as follows, to-wit:

1. **Lot Use.** No building, except a single-family residential dwelling (hereinafter sometimes called "Dwelling") and a private garage for no less than two (2) nor more than three (4) cars for use in connection with such Dwelling, shall be erected, maintained, or permitted on any lot or portion thereof. No Dwelling shall be used except as a single-family dwelling. No lot or lots shall be further subdivided, but any two or more lots may be combined to produce one building site. No building shall be built closer than (15) feet of the front property line and no garage within twenty feet (20') of the front property line, nor closer to the rear or side lot lines than allowed by city ordinance or as designated on the plat heretofore referenced, or as allowed by the specified written permission of the Architectural Control Committee (the "ACC") with regard to proximity to or distance from the front line.

2. **Dwelling Size.** No Dwelling shall be erected upon any lot unless such Dwelling contains a minimum of one thousand eight hundred (1,800) square feet of enclosed ("Living Area"). This provision may only be varied by the ACC by specific variance given in writing and signed by a majority of the ACC members. The term Living Area is exclusive of square footage in porches, pergolas and garages. All buildings shall be of brick, adobe or insulated frame stucco construction or insulated frame construction with siding materials approved by the ACC, or any

other material acceptable to the ACC, and all roofs shall be of clay or concrete tile, colored metal, or asphalt shingles, provided the shingles are of premium grade with architectural relief, and specifically approved by the ACC as to color and quality. All exterior colors including the roof shall be approved by the ACC. Built up or "flat" roofs will be allowed, so long as parapets obscure their view from ground level. No more than one Dwelling shall be built on any one lot, and no temporary or permanent buildings or structures of any nature detached from the Dwelling shall be built, erected, placed or maintained on said lot without approval of the ACC. Provided, however, that a detached garage for no less than two (2) nor more than four (4) cars may be erected upon any lot. No garage shall be commenced or erected upon any lot until construction of the Dwelling, complying with these restrictions, shall have been commenced by a responsible licensed contractor or pursuant to a bona fide building contract, and all buildings shall be of the same or similar style as that of the dwelling erected or being on the lot on which the said buildings are located. No alteration of the drainage plan as originally implemented by Developer shall be made, and if anyone does so alter the drainage plan, he assumes absolute liability therefor for damages caused to any other owner or to Developer as a result of such alteration

3. Parking. No vehicle, which is not in operating condition, shall be parked or left anywhere on any lot other than inside a garage, except for emergency repairs. The parking, placing or maintaining of boats, trailers, horse trailers, mobile homes, campers, recreational vehicles and other types of non-passenger vehicles on any part of the lot, or on any street adjacent to such lot, other than in a garage or other parts of the lot totally screened from view of other lots by the house or the privacy wall, is prohibited, except for such temporary periods, not to exceed forty-eight (48) hours, as may occasionally arise when preparation for use or maintenance after use requires a brief exception to be made for the convenience of their owners. A garage shall be used for vehicle parking and storage purposes only and shall not be converted for use as a living area or for recreational activities. Parking of any vehicle on a lot is prohibited except in the garage or on the driveway appurtenant to the residence.

4. Commercial or Institutional Use. No lot, and no building erected or maintained on any lot shall be used for manufacturing, industrial, business, commercial, institutional or other non-residential purposes. Nothing in this section shall prohibit an owner's use of a residence for conducting a business such as an office type business with no more than one (1) employee, so long as activities of such business do not materially increase the number of cars parked on the street or interfere with adjoining homeowners' use and enjoyment of their residences and yards.

5. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except for cats, dogs or other generally recognized household pets of a reasonable number, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further, that no more than two (2) adult animals may be kept on a single lot. No dangerous dogs such as pit bulls may be raised, bred or kept on any lot. All such animals shall be kept in strict accordance with all local laws and ordinances (including leash laws).

6. **Walls, Fences.** Except as planned or erected by the Developer or allowed by the City Code, no solid wall or fence or hedge shall be erected or maintained on any lot nearer to the street than the building setback lines for the front and side yards, except for fences erected in conjunction with model homes or sales offices. Courtyard walls are not considered a part of the Dwelling, and must be stucco and consistent with the residence in color. No side or rear wall, fence or hedge other than the wall of a Dwelling constructed on said lots, shall be less than five feet (5') in height nor more than six feet (6') measured from the developer-graded ground elevation to the highest point of the fence or the fence posts, wall or wall posts or the hedge. The cement block walls and metal grill fences, if any installed by Developer shall be maintained in their original condition, color, and shall not be allowed to deteriorate. Except as planned or erected by Developer, any wall or fence must have a uniform appearance on both sides of the fence or wall. Block walls constructed by an owner or builder on the lot (including side yard walls on corner lots adjacent to the street) must be painted or stucco to match the color of the Dwelling. Walls, fences, hedge in front of the residence may not be over forth eight inches (48") in height. Notwithstanding the foregoing, the ACC shall have the right and authority to approve variances of wall height, and or location for reasonable cause or to alleviate hardship as determined in the sole judgement of the ACC; provided however, the ACC may no approve a variance which contradicts the zoning and/or subdivision ordinances of the city unless the city has previously approved the variance.

7. **Accessory Buildings.** No prefabricated building nor any auxiliary structure of any nature whatsoever, permanent or temporary, attached or detached from a Dwelling, shall be moved or placed upon or assembled or otherwise maintained on any lot; provided, however, that a temporary office, tool shed, saw shed, lumber shed, and sales office may be maintained upon any lot or lots by any building contractor or Developer for the purpose of erecting and selling Dwellings on any lot or lots, but such temporary structures shall be removed upon completion of construction or of selling of Dwellings, whichever later occurs.

8. **Storage: Clotheslines: Rubbish.** All clotheslines, equipment, service yards, wood piles, or storage piles shall be kept screened by a solid wall, a solid fence, or a hedge so as to conceal them from view of neighboring lots, streets or park areas. All rubbish, trash or garbage shall be regularly removed at least once a week from each lot and shall not be allowed to accumulate thereon, and shall not be burned. All trash receptacles shall be kept in enclosed areas and not exposed to public view.

9. **Landscaping, Drainage Alteration Prohibited**

(a). The owner must landscape the front yard three (3) months from conveyance of the lot from the developer to an owner provided construction of the dwelling is complete.

(b). Individual lot owners shall be responsible for maintaining landscaping and/or street trees installed by Developer, where certain "private landscape easements" have been dedicated on the recorded plat.

(c). The surface water drainage contours of each lot shall conform to the approved grading plan established by the Developer. No builder or owner shall fill or alter any drainage swale established by the Developer, nor shall any builder or owner install landscaping or other improvements that divert surface water runoff from the drainage patterns, swales and easements established by the Developer.

10. **Antennas, Satellite Dishes and Solar Collectors.** No owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or solar collector panels or equipment upon any lot unless such apparatus is erected and maintained in such a way that it is screened from public view along the public street right-of-way directly in front (and side, in the case of a corner lot) of the house erected on such lot; and no such apparatus shall be erected without the prior written consent of the ACC. The ACC shall have the absolute authority to determine whether an accessory is adequately screened from public view.

11. **Signs.** No advertising signs (except one of not more than three (3) square feet "For Rent" or "For Sale" sign per lot), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health, safety or welfare of the owner or any residents thereof. These restrictions shall not apply to the business activities, signs, billboards, or the construction or maintenance of buildings, if any, of Developer, its agents or designees, during the construction and sale period.

12. **Promotions.** No restrictions in this Article shall prohibit Developer from constructing, placing and maintaining one or more promotions: signs and/or a sales model park within LA CUEVA CORONA SUBDIVISION to aid and promote the sale of lots in this and other subdivisions.

13. **Offensive Activity.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done, placed or stored thereon which may be or become an annoyance or nuisance to the neighborhood, or occasion any noise or odor which will or might disturb the peace, comfort, or serenity of the occupants of neighboring properties. No unshaded floodlights may be maintained which cause light to shine directly into the home of any other resident in LA CUEVA CORONA SUBDIVISION.

14. **Additions.** Any addition to the Dwelling unit must be of like material, color and craftsmanship as the Dwelling originally constructed and approved by the ACC and the City of Albuquerque.

15. **Air Conditioning: Solar Units.** No solar units for heating or cooling or other purpose shall be erected, constructed, installed or maintained on any lot if it is visible from the front of the lot or from the side of the intersecting street if it is on a corner lot. A solar unit may be erected, constructed, installed, or maintained on the rear of the house if it consists of flat plate collectors lying flush with the roof surface and protruding therefrom no more than six inches (6") or the solar unit is boxed in by a solid wall covered with shingles to match the color and texture of the existing roof.

16. **Exterior.** The stucco color, trim color, or exterior tile of each residence must be maintained in the same colors as originally approved by the ACC.

17. **Architectural Control Committee.**

(a) The ACC is initially composed of three (3) members but may be expanded in number by the Developer. The Committee may designate a representative to act for it. In case of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The members of this Committee shall serve until December 31, 1999, or until they resign, whichever sooner occurs. Thereafter the then record owners of a majority of the lots shall have the power to elect the members of the Committee and, through a duly recorded written instrument, to charge the membership of the Committee or to withdraw from the Committee or restore to it any of its powers and duties. Until such change in membership is effected as stated herein, the original committee may continue to serve. The Committee may appoint a Review Board consisting of three (3) members who will serve at the pleasure of the Committee and will conduct the review of plans as provided in subparagraph (b) below. A majority vote of the Committee will serve to override any decision by the Board.

(b) No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the ACC or its designee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. Furthermore, no existing Dwelling shall be altered, remodeled or changed until plans for such changes; the ACC or its designee has approved alterations or remodeling. Action shall be taken on said plans and specifications by the ACC, its designee, or its successors in interest within thirty (30) days after submittal thereof.

(c) The work on constructing any Dwelling on any part of said property shall be completed within four (4) months from the commencement thereof.

(d) The ACC is specifically empowered to grant variances from these Covenants, from time to time and in its sole discretion, in order to facilitate and implement construction details, material substitutions and setback requirements with LA CUEVA CORONA SUBDIVISION.

18. **Duration.** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until the year 2030 AD, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless amended as hereinafter provided.

19. **Amendments.** These covenants may be amended at any time by the affirmative vote of the then record owners of three-fourths (75%) of the residential lots in LA CUEVA CORONA SUBDIVISION.

20. **Violations.** If the parties hereto, or any of them, or their grantees, successors-in-interest or assigns, shall violate or attempt to violate any of the covenants herein provided, Grantor or any person or persons owning any real property in LA CUEVA CORONA SUBDIVISION shall have the right to prosecute any action in the proper court to enjoin such party from violating such covenant, or to recover damages for such violation, or both.

21. **Validity.** Invalidation of any provision of these covenants shall in no way affect the validity of the other provisions, which shall remain in full force and effect.

22. **Non-Waiver.** No delay or omission on the part of the undersigned, its successors or assigns, or of the owners of other lots in said subdivision having the right hereunder to exercise the same, in exercising any right, power or remedy herein provided for in the event of any breach of the restrictions, covenants or reservations herein contained, shall be construed as a waiver thereof or acquiescence therein; and no right of action shall accrue, nor shall any action be brought or maintained by anyone whatsoever against the undersigned, its successors or assigns, for or on account of failure or neglect to exercise any right, power or remedy herein provided for in the event of breach of said covenants, restrictions or reservations.

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed on its behalf, attested as of the 22nd day of January 1998.

DEVELOPER

G&A, LTD. CO., a New Mexico limited liability company

BY: George Brunacini
ITS: Member

STATE OF NEW MEXICO

COUNTY OF BERNALILLO

The foregoing instrument was acknowledged before me the 22nd day of January 1998, by George Brunacini, Member of G&A LTD. CO., a New Mexico limited liability company on behalf of said company.

Notary Public, State of New Mexico
Notary's Name Printed:

My Commission Expires: _____