

**DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS**  
**OF FAIRWAY 18 VILLAS**

WHEREAS, Blanco Development, LLC, hereinafter referred to as "Declarant" is the Owner of a subdivision situate in Dona Ana County, New Mexico known as Fairway 18 Villas, which plat of said subdivision has been filed for record in the Office of the County Clerk for Dona Ana County, on 15<sup>th</sup> day of July, 2004, at Plat Book 20 at pages 736-737, and contains thirteen (13) lots, and

WHEREAS, the Declarant desires by this instrument to impose protective covenants and restrictions on the property,

NOW, THEREFORE, the property is hereby made subject to the following protective covenants and restrictions, which protective covenants and restrictions shall run with the land and shall be binding and inure to the benefit of all persons or entities owning any of said lots comprising the property within the subdivisions, and of all parties claiming under such persons and entities and these restrictive covenants shall remain in force and effect for a period of thirty (30) years from the date of recordation with the County Clerk of Dona Ana County, New Mexico, and thereafter, these protective covenants and restrictions shall be extended for successive periods of ten (10) years, provided however, that same may be amended, altered or revoked at any time pursuant to the provisions set forth hereinafter by seventy-five percent of the owners of the lots, with each lot having one vote.

1. Purpose. The purpose of these covenants is to ensure the use of the property for attractive residential purposes only, to prevent nuisances, to maintain a desired tone of the community, to prevent impairment of attractiveness of the property and to secure to each lot owner the full benefit and enjoyment of their property, consistent with the restrictions contained herein. Each lot shall be used for a single family residential dwelling and no building or structure of any kind shall be erected

or permitted to remain on said lot within said subdivision other than a single family dwelling unit and a garage.

2. Commercial Activity Prohibited. The lots are shall not be used for any commercial purpose including professional businesses such as engineering, medicine, or law. Provided however, that a party may maintain a private home office of no more than one room within the residence, so long as said home office is not used by any other employee and there are no regular visits by clients or customers, and provided further, that the Declarant may maintain a temporary office in a model home for marketing the remaining lots without approval of the Architectural Review Committee and may erect temporary offices for the purpose of marketing on the property without the Architectural Review Committee's approval.

3. Land Use and Building Types. Each lot shall be used for single family residential dwelling purposes only. There shall be no building or structure of any kind erected or permitted to be maintained on the building inside other than a single family dwelling, together with an attached or detached garage. No campers, recreational vehicles, boats, trailers, or commercial type vehicles or trucks should be stored or parked on any lot except in an enclosed garage, nor parked anywhere in any common area, provided however, that for a period of twelve hours for the purpose of loading or unloading, such vehicles may be parked in driveway of an individual lot and commercial moving vans may park in the street in front of said lot for said period of time. For the purpose of this restriction, a truck having no greater than a three-quarter ton manufacture's rate of capacity, commonly known as a pickup, shall not be deemed a commercial vehicle or truck. In addition, personal type vehicles including cars, vans, pickup trucks, SUV's, motorcycles and the like, shall not be parked or stored on a regular basis on any lot in the common areas of the subdivision except

in a closed garage.

a. All residential buildings constructed on the lot shall be at least 1,500 square feet exclusive of open porches and garages. All single family residences and garages shall be limited to one story with a maximum height above the pad elevation of fourteen feet, six inches. Said buildings will be no closer to the property lines than the set back lines shown on subdivision plat.

b. Any structure and any construction on any lot herein, shall be required to be approved prior to commencement of construction by the Architectural Review Committee hereinafter created. The back yard of each lot shall be surrounded by rock walls, a height no greater than four feet above the average elevation of the yard. The fence between lots shall be jointly owned and the maintenance shall be shared by each lot owner. At the time of construction of a fence, between lots, the adjoining lot owners shall agree to same and each shall pay one-half of the cost. If any lot owner fails to pay their one-half share of the construction of the fence, the joining lot owner shall have the right to place a lien upon the property of the property who does not pay their share of the construction of the common fence or their share of the maintenance of the common fence. If the parties are unable to agree, the dispute shall be submitted to the Architectural Review Committee. Such lien may be foreclosed in the manner provided for foreclosure of mortgages and the prevailing party shall be entitled to reasonable attorneys fees for the cost of such litigation. On the lots facing Picacho Hills Country Club, there may be one gate in the rear of the fence if approved by the Architectural Review Committee, which gate shall be constructed of wrought-iron material or similar material consistent with the southwestern nature of the subdivision. Such gate shall be maintained properly. Any other gates for access to the rear yards shall be of a similar material also approved by the Architectural Review Committee. There shall be no chain link fencing, or chain link fence within the subdivision.

Prior to commencement of construction, all construction of fences and gates shall be subject for approval by the Architectural Review Committee hereinafter created.

c. There shall be no receiving or transmitting antennas or dishes allowed, except a single television receiving antenna, which may not extend greater than ten feet above the roof, and/or a single antenna dish of the DSS type, being no greater than two feet in diameter, which antennas and dishes shall be approved by the Architectural Review Committee.

d. No sign of any kind shall be displayed to the public view of any lot, provided however, that a single, small appropriate for sale sign will be allowed on each lot during the time that said property is actively listed, and a small political yard sign may be allowed during the period within sixty (60) days of a primary or general election, which for sale signs and political signs shall not exceed four square feet and a maximum height of three feet.

e. So long as Picacho Hills Utility or its successors or assigns operate a water system and a sewer disposal system, the subdivision shall be served by such system and no individual shall drill a well or construct any sewage disposal system on any lot within the subdivision.

f. No animals, livestock, or poultry of any kind may be raised, bred, or kept on any lot, provided however, that household pets such as dogs or cats may be kept on the premises, but shall not be bred or maintained for any commercial purposes, nor shall household pets be kept in quantities determined to be excessive by the Architectural Review Committee, created hereinafter. All pets shall be kept within the fence or bounded areas of the property's owner and must be accompanied by the owner on a leash outside the fenced or bounded area.

g. No garbage, refuse, junk, trash, rubbish, or other waste or noxious or offensive materials shall be permitted to accumulate on the property. All such material shall be kept in sanitary

containers and shall be disposed of in accordance with accepted sanitary practices as interpreted by the appropriate governmental agency and Architectural Review Committee. No incinerator shall be kept or operated on the property. All garbage, trash or other refuse shall be placed in seal containers and depositing in designated areas for pickup on designated days.

h. Each owner of the property shall maintain continuously in good condition and repair, all structures located on its property including residents' driveways, walks, fences, retaining walls, sidewalks, patios and porches, yards and courtyards.

i. All landscaping will be approved by the Architectural Review Committee. Front yard landscaping shall be completed within six (6) months of occupancy. Only grass varieties that produce no seed head will be permitted within the development. Any landscaping on the property will be of such a nature that it does not exceed the height of the homes herein provided so as to preserve the views of all homeowners in the subdivision.

j. Any building slab footing, foundation or compaction of any fill or any cut in the lot over twelve inches will also require review and approval by a registered engineer and approval by the Architectural Review Committee.

k. Once construction is started on any project, construction shall be finished within six months from the approval of such construction by the Architectural Review Committee, unless the Architectural Review Committee grants variance hereinafter.

l. All yard lights shall comply with all state and local ordinances and shall be approved by the Architectural Review Committee created hereinafter.

4. Architectural Review Committee. In order to achieve a harmony in design within the subdivision so that reasonable expectations of owners regarding improvements and beautification

of all property can be fulfilled for the benefit of all owners, the design of all houses, walls, fences, landscaping, as well as any other construction on lots as alterations and additions within the subdivision shall be approved by the Architectural Review Committee as provided hereinafter.

a. The Declarant shall appoint one to three persons to serve as a Architectural Review Committee for the subdivision. The Architectural Review Committee shall have the duty and power to exercise its best judgment to see that any construction on any lot conforms to and harmonizes with the design theme within the subdivision. Upon the final sale of all lots by the Declarant in the subdivision, the Declarant in his discretion may transfer to the Fairway 18 Villas Neighborhood Association, the duty and obligation to appoint the Architectural Review Committee.

b. Improvements, including but not limited to construction of house, attached or detached garage, swimming pool, parking area, fences, walls, patios, decks, landscaping, carport, antenna, curbs, sidewalks or any addition or alteration thereto shall not be constructed or installed upon the land within Fairway 18 Villas, until two complete plans of such construction or landscaping are submitted to the Architectural Review Committee and such plans are approved in writing by the Architectural Review Committee prior to commencement of such work. In the event the Architectural Review Committee fails to take action within thirty (30) days after plans for such work had been submitted to the Committee acknowledged by a signed written receipt, then such plans shall be deemed to be approved. All approvals or rejections shall be in writing, dated and signed by a representative of the Architectural Review Committee. If there is a rejection, the Committee shall state the reasons for the rejection. No application for a building permit shall be made prior to approval of plans by the Architectural Review Committee. Prior to any construction, there shall be a \$500.00 damage deposit collected by the Committee to be used to clean up or repair in connection

with any construction approved by the Committee. In the event that upon completion of construction, said deposit is not used or only partially used, said deposit or any portion remaining thereof shall be returned to the party making the deposit. In the event the cleanup costs are more than \$500.00, the Architectural Review Committee may make a special assessment against the lot and file a lien for the cost of such work, which lien to be foreclosed as provided for by law, including recovery of reasonable attorney's fees by the prevailing party.

c. The Architectural Review Committee or any member thereof, shall not be liable for any damages to any persons submitting any plans for approval, or to any owners of any lots within Fairway 18 Villas, or to any third party, by reason of any action, failure to act, or failure to approve or reject any plans. The persons submitting the plans will covenant and agree that as a result of submission of said plans that said person will not bring any action or a suit to recover damages against the Architectural Review Committee, its members, employees or agents.

d. The Architectural Review Committee shall keep its records for four years from the date of approval or rejection of all submissions.

e. During any construction phase, no construction materials or landscaping materials will be unloaded with any common area, including streets and right of ways, or on neighboring lots. Furthermore, the cleaning of concrete trucks is prohibited anywhere within the subdivision except on the lot to which the delivery has been made.

f. The Architectural Review Committee shall maintain the established general design theme for the subdivision which is a traditional southwest adobe-type home featuring as exterior elements, rounded corners, stepped walls, interior courtyards and patios, carved wood entry doors, canals, with colors to be selected from traditional earth tones.

g. Exterior construction of the residence and the attached or detached garage shall be of adobe/stucco or frame/stucco or similar type building as approved by the Architectural Review Committee. The house shall be consistent with the size of lot.

5. Neighborhood Association. There shall be created by Declarant a Fairway 18 Villas Neighborhood Association, including Articles of Incorporation and the By-laws of the Association as same may be duly amended from time to time. Until conveyance by the Declarant of seventy-five percent of the total lots in the subdivision, the Declarant shall maintain and repair the common areas. The common areas for the purpose herein shall be the land within the subdivision except the lots, including ponds and drainage channels, which exist for the mutual benefit of the owners of the lots in the subdivision. Thereafter, the Fairway 18 Villas Neighborhood Association shall be responsible for setting standards for the maintenance of the common areas.

a. Prior to sale of seventy-five percent of the lots, Declarant may make an assessment for the maintenance and repair for those common areas to each lot. After sale of seventy-five percent of the lots, the Association shall may make such assessment.

b. Each owner of the lot agrees to pay to the Declarant while the Declarant has responsibility for maintenance of the common areas and thereafter to Fairway 18 Villas Neighborhood Association an annual assessment or charge which will be established by the Declarant during the time the Declarant maintains the common area, and thereafter by the Fairway 18 Villas Neighborhood Association. Such assessment shall be used exclusively for the purpose of maintaining and repairing common areas, including labor, material and supervision and cost to enforce these restrictive covenants if necessary. In January of each year, an equal annual assessment will be set for each lot within the subdivision, which will be due and payable within thirty days after the date of such



assessment. The Declarant and thereafter, the Fairway 18 Villas Neighborhood Association may place a lien upon the lot of any person failing to pay such assessment, which lien may be foreclosed in the manner provided for foreclosure of mortgages, including payment of reasonable attorneys fees to the prevailing party.

c. As above stated, each landowner will keep their property free of noxious weeds and not only as above provided trash or other materials to accumulate on said property. As part of said assessment, Declarant may assess the costs by special assessment and thereafter, the homeowners when they assume duties over the property may by special assessment assess the cost of special assessments to individual lots of enforcing compliance with these covenants including any trash or weeds on any lots. Failure to pay such sums by any lot owner within thirty days after demand is made therefore, the Declarant or the Fairway 18 Villas Neighborhood Association as the case may be, shall have the right to file a lien and may foreclose same in the manner provided for foreclosure of mortgages, including the prevailing party may recover reasonable attorneys fees.

6. Enforcement. The Declarant, the Architectural Review Committee, the Fairway 18 Villas Neighborhood Association and the owner of any lot within the subdivision shall have the right to enforce the provisions of these covenants by pursuing their legal and equitable remedies in a court of competent jurisdiction. In the event of legal proceedings for enforcement of these Restrictive Covenants, the prevailing party shall be entitled to an award of reasonable attorney fees and costs incurred. It is specifically understood that, while the Declarant, the Architectural Review Committee and the Fairway 18 Villas Neighborhood Association may have the right to enforce these covenants, said parties are under no obligation to do so.

7. General provisions. The covenants contained in this instrument shall run with the land

and shall inure to the benefit of all lot owners in Fairway 18 Villas.

a. Each party acquiring ownership in a lot within the subdivision acknowledges that the lots are adjacent to Picacho Hills Country Club. Each lot owner acknowledges that there is inherent risk, including but not limited to golf ball damage to improvements in structures installed on the lots and agrees to accept any and all responsibility for damage caused to the improvements because of this proximity.

b. Each lot owner acknowledges that the location of the subdivision is on the extended flight patterns for Las Cruces Municipal Airport, and there will be noise from landing airplanes.

c. Should any part or parts of these covenants be declared invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of remaining covenants or portions of these covenants.

d. The paragraph headings in this instrument are for convenience only and shall not be construed to be a part of the covenants contained herein.

8. Amendments. Until the Declarant has sold all thirteen lots in this subdivision herein described, Declarant shall have the sole right and authority to modify or amend these restrictive covenants with a provision that such modifications or amendments shall not materially alter, or change the nature or purpose of the restrictive covenants. After the sale by the Declarant of all thirteen lots, these restrictive covenants may be amended, modified or revoked in whole or part by written and recorded instrument executed by the owners of seventy-five percent of the lots comprising the subdivision, one vote per lot.

o.c.c

BLANCO DEVELOPMENT, LLC

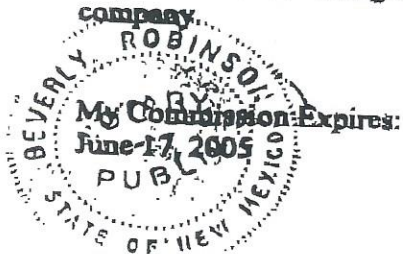
Dated this 19<sup>th</sup> day of July, 2004

By: [Signature]  
Stephen Blanco, Manager

STATE OF NEW MEXICO )  
County of Dona Ana ) ss.

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of July, 2004, by Stephen Blanco, Manager of BLANCO DEVELOPMENT, LLC, a New Mexico limited liability company.

[Signature]  
Notary Public



State of New Mexico County of Dona Ana ss  
RECEPTION NO. 65221  
I hereby certify that this instrument  
was filed for recording and duly recorded  
on 10:55 Jul 19 2004  
at 5:36 PM in  
of the Records of said County, this Twenty  
County of  
BY: [Signature]

