

DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS
FOR PORTIONS OF BLOCKS 47, 52 AND 61
UNIT 10, RIO RANCHO ESTATES, SANDOVAL COUNTY, NEW MEXICO

The undersigned (the "Declarant") is the owner in fee simple of the following described real estate described located in Sandoval County, New Mexico, to wit:

Lots 18, 19, 24, 26, 27, 30 thru 34, 36, 40, 42 and 45, Block 47, Unit 10, Rio Rancho Estates, Lots 8 thru 29, 31 thru 37, and 39 thru 49, Block 52, and Lots 3 thru 11, Block 61, Unit 10, Rio Rancho Estates, as said Lots are show and designated on the plat (hereinafter, the "Plat") entitled, "Northerly Portion, Southwesterly Portion Unit Ten, Rio Rancho Estates, Town of Alameda Grant, Sandoval County, New Mexico", filed in the office of the County Clerk of Sandoval County, New Mexico, on May 13, 1968 in Rio Rancho Estates Plat Book Number 1, page 74.

Rocky Road Investments LLC is the owner in fee simple of Lot 23, Block 47, as said lot is shown and described on the Plat, and joins this Declaration for purposes of subjecting said lot to the terms and provisions of this Declaration.

All of such real estate is referred to collectively as the "Lots" or the "Subdivision" and individually as a "Lot," and shall include all real property which is subsequently made subject to this Declaration of Restrictive and Protective Covenants ("Declaration").

Declarant hereby establishes the manner, conditions, restrictions, and covenants upon and subject to which the Lots shall be used, improved, occupied, owned, sold and conveyed. The provisions, conditions, restrictions and covenants in this Declaration shall run with the land and shall all be binding upon and inure to the benefit of the present and future Owners (as hereinafter defined) of Lots, and of any interest or interests in the Lots, all of which provisions, conditions, restrictions and covenants are, an each of them is, hereby impressed and imposed upon each and every Lot as a servitude in favor of each and every other Lot.

1. Definitions. The following words, when used in this Declaration, shall have the following meanings:

- (a) "City" shall mean the City of Rio Rancho.
- (b) "Declarant" shall mean Curb, Inc., a New Mexico corporation, and its successors and assigns.
- (c) "Declaration" shall mean this Declaration of Restrictive and Protective Covenants and any written amendment or modification thereto executed in accordance with

the terms of this Declaration and filed of record in the office of the County Clerk for Sandoval County, New Mexico.

(d) "Dwelling" shall mean any building or portion of a building situated on a Lot and intended for use as a Single-family Residential Unit.

(e) "Improvements" shall mean and include, without limitation, buildings, out-buildings (including sheds and storage buildings), roads, driveways, parking areas, fences, gates, retaining walls, stairs, decks, windbreaks, poles, antennas, signs, utility or communication installations (whether above or below ground), and any structure and/or excavation on a Lot of any type or kind.

(f) "Owner" shall mean the person or entity, or persons or entities, including Declarant, holding legal title or beneficial ownership of the fee to a Lot, including the purchaser of a Lot under a real estate contract, or a lessee of a Lot pursuant to a leasehold agreement for a term equal to 25 or more years inclusive of options to renew or extend the term of such leasehold agreement.

(g) "Party Walls" means walls constructed on Lot lines between Lots.

(h) "Single-family Residential Use" shall mean the occupation or use of a building or other structure on a Lot as a residence by a single person or a Single Family Unit in conformity with this Declaration and the requirements imposed by applicable zoning laws or any other state, county or municipal laws, rules, regulations, codes or ordinances. An Owner may rent or lease a Dwelling on a Lot to a third party, but any such rental or lease must be by a written agreement which requires the tenant to observe the covenants, conditions and restrictions of this Declaration and no Dwelling or other residential structure on a Lot may be rented or leased for a period of less than thirty (30) days.

(i) "Single-family Residential Unit" means shall mean any building situated upon a Lot or Tract designed and intended for use and occupancy as a residence by a Single Family Unit.

(j) "Single Family Unit" and "Single-family" means one or more persons who are related by blood, marriage, adoption and other legally recognized relationships.

2. Land Use and Building Type.

(a) Each Lot Owner shall not use any of a Lot for other than Single-family Residential Use and is restricted to one Single-family Residential Unit per Lot.

(b) No Dwelling shall be erected, altered, placed or permitted to remain on any Lot or portion thereof other than one Dwelling with a private garage either attached or detached for no less than two (2) automobiles nor more than four (4) automobiles.

(c) The total enclosed, heated area of each Dwelling, exclusive of any guest house located on a Lot, shall not be less than eighteen hundred square feet (1,800 sq. ft.).

(d) Masonite, vinyl siding, and T-111 textured plywood (or similar products) are prohibited as exterior finishes for Dwellings and accessory buildings.

(e) The exterior color of Dwellings and accessory buildings are limited to earth tones, and exterior garage doors must be painted or stained to compliment the adjoining wall surfaces and colors.

(f) If asphalt roof shingles are used on any Dwelling or on any accessory building, the asphalt roof shingles must be at least "30 year" manufacture rated shingles.

(g) All exterior lighting used on a Lot shall be shielded source so as to direct all illumination down to the ground. No lighting shall illuminate areas beyond the limits of the Residential Lot's property lines.

(h) Manufactured homes, mobile homes, modular homes, and houses built off site are prohibited on and within the Subdivision as Dwellings or as detached garages or guest quarters.

(i) A Lot may not have more than one detached accessory building, other than a detached guest quarter, which shall be used for storage use, limited in size to not more than two hundred square foot (200 sq. ft.) building footprint, in height to not more than twelve feet (12 ft.), for use in the storage of garden tools and supplies and garden and household furniture.

(j) No Lot shall have more than one detached guest quarter, and such guest quarter shall not exceed in heated square footage six hundred square feet (600 sq. ft.).

(k) The exterior of any guest quarter or accessory building shall be roofed and finished to match the exterior color and finish textures, including roof, of the Dwelling.

(l) All Dwellings, guest quarters, accessory buildings and other structures must be located inside of required property line setbacks.

3. Compliance with Grading and Drainage Plans. All Improvements constructed on each Lot shall comply with the City approved grading and drainage plans for the Lot. Excepting historical flows, drainage from one Lot shall not drain on to any other Lot except as allowed by the City approved drainage plan for the Lot

4. Setbacks. The Lot set-backs (the shortest distance between any structures constructed on a Lot and the present or future street line or property line for a Lot) are:

(a) Thirty five feet (35.0') from the front Lot line;

- (b) Twenty five feet (25.0') from rear Lot line; and
- (c) Five feet (5.0') from each side Lot line.

Pitched roofs on a Dwelling overhang Lot set-backs by not more than two feet (2.0') shall not be construed as violating the set-back requirements stated above provided the overhanging roof is constructed at the time of the construction of the Dwelling.

5. Landscaping. The front yard landscaping of each Lot shall be completed within six (6) months following the substantial completion of the Dwelling on said Lot. Substantial completion shall be deemed to mean the date when the City of Rio Rancho issues a certificate of occupancy, or its equivalent, for the Dwelling, thus allowing the Dwelling to be occupied for residential purposes. The Owner of a Lot shall maintain, at all times, the landscaping in the front yard and in side yard areas which are visible from the street in good condition, free of weeds, litter and debris.

6. Tolerance. A four-inch (4") tolerance for mechanical variances in construction is hereby automatically allowed for Dwelling, buildings and other improvement setbacks imposed by this Declaration.

7. Nuisances. No noxious or offensive activity shall be carried on, or permitted upon any Lot. Nothing shall be done, placed or stored on any Lot which may be or may become an annoyance or nuisance to the Owner(s) of other Lot(s), or which will occasion any noise or odor which will or might disturb the peace, comfort or serenity of the occupants of Dwellings on other Lot(s). An Owner of a vacant Lot shall be responsible for keeping, and shall keep, his Lot in a neat and orderly condition, free and clear of weeds, trash and other debris, and shall at all times keep his Lot and the Dwelling and other improvements located from time to time thereon free of and secure from trespassers, vagrants and other similar persons. No trash or garbage shall be burned on any Lot. Garbage and other waste materials shall be placed in covered containers provided by or acceptable to the City of Rio Rancho and/or the private refuse collector servicing the Subdivision. Trash and refuse containers shall not be placed on the street for collection more than 24 hours prior to the scheduled collection time. When not placed on the street for collection in accordance with the preceding sentence, trash and refuse containers shall be concealed from the street. A roll off waste container shall be provided during periods of construction on a Lot by Owner, or his builder, in the construction area of the Lot, and all construction and related debris shall be placed in such container by no later than the end of each day. Each construction debris receptacle shall be emptied when full.

8. Temporary Buildings. No Improvement of a temporary character, such as a shack, barn, basement, trailer, tent, garage or other outbuilding, mobile home, or motor home, shall be used on any Lot at any time as a Dwelling, either temporarily or permanently. No Dwelling placed or erected on a Lot shall be occupied in any manner at any time prior to its being fully completed; provided, however, that this provision shall not prevent the occupancy and use of Improvements on a Lot for residential purposes while additions, modifications, or alterations are being made to a completed Dwelling. Notwithstanding anything to the contrary,

each Lot may be used for a model home complex, or storage or construction yard, during the initial construction of a Dwelling on the Lot and the sales period which follows.

9. Equipment. No satellite dish, radio, television or other antennae shall be erected upon a Lot unless such can be concealed from view behind a parapet or inside the roof structure or attic. Where external air conditioning units, heating units and evaporative coolers are installed, whether on the ground or roof mounted, they shall be so installed that they will not and are not visible from the front or side streets. No out-door clotheslines shall be placed outside on any Lot. Notwithstanding the foregoing, that any such devices may be erected or installed by the Declarant or licensed home builder during its sales or construction upon a Lot.

Further, notwithstanding the foregoing, the requirements of this Paragraph shall not apply to those "antennae" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or applicable regulations, as amended from time to time. As to "antennae" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996; the following restrictions shall apply to any such "antennae":

- (a) There shall only be one such "antennae" installed at any time on a Lot;
- (b) Satellite dishes shall not be greater in diameter than one meter (39"); and
- (c) Satellite dishes shall be placed, to the extent feasible, in a location not visible from the street.

10. Parking and Storage of Recreational Vehicles, Campers, Trailers, Boats or Similar Property. No recreational vehicles, campers, trailers, boats, motorcycles, buses, inoperable motor vehicles, commercial motor vehicles, dune buggies, fifth-wheels, RVs, or similar type personal shall stored or parked on a Lot for a period of more than forty-eight (48) consecutive hours.

11. No Improvement Shall Obstruct Vision of Vehicle Operators. No Improvement, including walls, fences, hedges or other obstructions, shall be erected, maintained, placed, altered, or permitted to remain on a Lot which would obstruct, reduce or impair the vision of any type of vehicle operated on a public street, or the entrance to the Subdivision, and said Improvements shall also comply with all applicable City of Rio Rancho ordinances, resolutions, plans or regulations including those governing clear site triangle.

12. Walls and Gates.

(a) Each wall, whether structural or freestanding, including patio walls, which is built upon the Lots and placed on or at any Lot line and issued or intended to be used by two or more adjoining Owners (a "Party Wall") shall constitute a party wall and to the extent not inconsistent with the provisions of this Declaration, the general rules of New Mexico law regarding Party Walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto.

(b) An Owner shall not construct a Party Wall without the written consent of the adjoining Owners whose Lot(s) the Party Wall is constructed on.

(c) Each Owner of a Lot on which a Party Wall is constructed in accordance with the foregoing subparagraph (b) shall be responsible for the maintenance of that portion of the Party Wall situate on his Lot.

(d) Party Walls shall have a minimum height of forty-eight inches (48.0"), and all walls located on the Lots shall have a maximum height of seventy-two inches (72.0").

(e) Walls for purposes of visual screening or privacy may be constructed within the rear and side yard setback lines.

(f) Walls, other than Party Walls, shall be constructed to match the Dwelling and be either stone, CMU or other block with finish stucco, or a combination.

(g) No barbed wire, welded wire, welded pipe, chain link (except during periods of construction) or wood slat fences shall be permitted on any Lot.

(h) During the construction of the Dwelling, temporary privacy/security fences will be permitted between adjoining Lots until the adjoining Dwellings are completed.

(i) All temporary fences must be uniform, provide privacy/security, and be a minimum of five feet (5.0') in height.

13. Casualty. If any Improvement on any Lot is destroyed, wholly or in part, by fire, vandalism, flood, wind, or other casualty, the Improvement so damaged or destroyed shall be promptly and properly rebuilt or repaired in conformity with the provisions of this Declaration; or, in the alternative, all remaining portions of the Improvement, including all foundations and debris, shall be promptly removed from the Lot. If the Owner of the Lot elects to clear the Lot, the razing and clearing work of the damaged Improvement(s) shall be completed within one hundred twenty (120) days following the casualty.

14. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot; except, however, domestic dogs and cats or other household pets may be kept on a Lot at times when the Dwelling thereon is occupied by inhabitants, such are limited in number so as to comply with applicable ordinances, such do not create a nuisance, and such are not are not kept, bred or maintained for any commercial breeding purpose.

15. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying, or mining operations or exploration of any kind shall be permitted upon any Lot. No oil wells, tanks, tunnels, minerals, excavation shafts or mining or drilling equipment or activities shall be permitted upon any Lot.

16. Billboards, Poster-Boards, and Advertising. The construction and/or maintenance of billboards, poster-boards, and advertising structures of any kind on any part of

any Lot is prohibited; provided, notwithstanding the foregoing, a real estate agent and/or the Owner of a Lot may display one (1) "For Sale" sign on a Lot during a listing period and one temporary "Open House" sign when the Dwelling is being opened to the public for showing during a listing period. The sum of the length and width of each such sign shall not exceed sixty inches (60"). Declarant and the initial builder of a Dwelling and related Improvements on a Lot shall be exempt from the requirements of this paragraph.

17. No Business or Commercial Enterprises Permitted. No business, whether or not for profit, and no commercial enterprise of whatever kind, except from time to time as may be permitted by the City of Rio Rancho, shall be undertaken or carried on, upon, or from any Lot, except only the original sales and subsequent sales of the Lots and the Dwellings constructed and to be constructed thereon. No stores, shops, business, commercial or industrial buildings, or other such structures of whatever type shall be erected, placed, constructed or permitted to remain upon any Lot, except only in connection with the original development and sales of the Lots by the Declarant or the construction and use of a sales office and one or more model homes by home builder(s) in the Subdivision. Notwithstanding the foregoing, home offices shall be allowed in occupied Dwellings under the following guidelines:

(a) There shall be no signs and/or advertising of the home office; and

(b) A garage may be converted to a home office; provided, at the completion of any such conversion there shall remain on the Lot a garage capable of housing not less than two (2) automobiles.

18. Enforcement. Enforcement of the terms and provisions of this Declaration shall be proceeding at law or in equity against any person violating or attempting to violate any covenant either to restrain violation or to recover damages. Such proceedings may be brought forth by Declarant and/or any person or legal entity owning any legal or equitable title interest in any Lot. Declarant and/or any such person or legal entity may apply to any Court of law or equity having jurisdiction thereof for any injunction or any other proper relief. If such relief be granted, the court may, in its discretion, award to the Declarant and/or such person or legal entity enforcing this Declaration in such action its or his reasonable expenses in prosecuting such suit, including court costs and attorney's fees.

19. Severability. In the event that any one or more of the provisions of this Declaration herein set forth shall be held by any court of competent jurisdiction to be null and void, all remaining provisions of this Declaration shall continue unimpaired and in full force and effect.

20. No Waiver. No delay or omission in exercising any right, power or remedy herein provided for by Declarant and/or any Owner shall be construed as a waiver thereof or acquiescence therein.

21. No Right of Action Against Declarant. No right of action shall accrue nor shall any action be brought or maintained by anyone whomsoever against the Declarant for or on account of the failure or neglect of the Declarant to exercise any right, power or remedy herein

provided for in the event of any such breach of any said provisions of the terms and provisions of this Declaration.

22. Disclosure on Lot Development. Declarant did not “develop” the Lots and is not responsible for the physical condition of the Lots existing from time to time. Each Owner purchasing a Lot is advised to exercise reasonable care and diligence in investigating the physical aspects of such Lot including existing drainage of the Lot, the Lot’s soils condition, and the location of utility stub outs servicing the Lot. Grading or other work on any Lot affecting drainage, compaction, or other physical characteristics of a Lot must be approved by the City.

23. General Terms.

(a) All of the limitations, restrictions, covenants, and conditions of the terms and provisions of this Declaration shall be liberally construed, together, to promote and effectuate the beneficial operation of the Subdivision.

(b) No provision of the terms and provisions of this Declaration shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over such person or the Subdivision.

(c) Notwithstanding other provisions in this Paragraph, the limitations, restrictions, covenants, and conditions of the terms and provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision, or portion thereof, of any of such limitations, restrictions, covenants, or conditions shall not affect the validity or enforceability of any other provision.

(d) The terms and provisions of this Declaration may be amended from time to time by written amendment executed by Owners owning seventy-five percent (75%) or more of the Lots, which Amendment shall become effective upon recording with the Sandoval County Real Estate Records.

(e) Notwithstanding subparagraph D of this Paragraph 23, Declarant shall have the authority to unilaterally change, amend or modify the terms and provisions of this Declaration until homes have been constructed on all Lots; provided, (a) upon assignment by Declarant in writing of Declarant’s rights and responsibilities hereunder to an assignee who accepts such in writing, any such change, amendment, or modification shall be subject to the written consent of Curb, Inc., not to be unreasonably withheld, conditioned or delayed, and (b) that such changes, modifications or amendments do not materially change the character and quality of the Lots subject to the terms and provisions of this Declaration and do not materially increase the number of Lots within the Subdivision.

(f) At any time during which Declarant is the only owner of property within the Subdivision, Declarant may amend or correct the terms and provisions of this Declaration by a recorded instrument of amendment or correction.

24. Duration. This Declaration as amended from time to time shall continue to be binding upon the Declarant, its successors and assigns, the Owners, and their heirs, assigns, personal representatives and all parties claiming by, through or under them, for a period of forty (40) years from the date this instrument is filed for record in the office of the County Clerk of Sandoval County, New Mexico. This Declaration as amended from time to time shall continue to automatically be extended for successive periods of fifteen (15) years each.

25. Effective Date. The terms and provisions of this Declaration and any amendments or exceptions thereto shall be effective as of the date of their filing with the County Clerk of Sandoval County, New Mexico.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the day and year first above written.

Curb, Inc.
a New Mexico corporation

SANDOVAL COUNTY
200813247
Book-411 Page- 13247
9 of 10
04/17/2008 02:20:10 PM

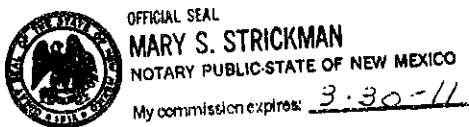
By: Charles A Haegelin
Charles A. Haegelin, President

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)


This instrument was acknowledged before me on this 16th day of April, 2008, by Charles A. Haegelin, as President of Curb, Inc., a New Mexico corporation.

WITNESS my hand and official seal.

Mary S Strickman
Notary Public



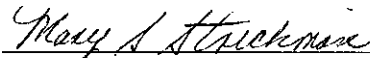
Rocky Road Investments LLC
a New Mexico limited liability company

By: 
Bo K. Johnson, Manager


STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this 16th day of April, 2008,
by Bo K. Johnson, as Manager of Rocky Road Investments LLC, a New Mexico limited
liability company.

WITNESS my hand and official seal.


Notary Public

SANDOVAL COUNTY
200813247
Book-411 Page- 13247
10 of 10
04/17/2008 02:20:10 PM

 OFFICIAL SEAL
MARY S. STRICKMAN
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 3-30-11