

**DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS,
AND RESTRICTIONS OF
THE MURANO ESTATES SUBDIVISION**

WHEREAS CF Investments, LLC (hereinafter referred to as the "Declarant") has caused certain real property in Doña Ana County, New Mexico, described on Exhibit "A" annexed hereto and incorporated herein by this reference, to be surveyed, subdivided, and platted into lots as shown on the plat of the Murano Estates Subdivision, which plat has been filed for record in the real property records of Doña Ana County, New Mexico, the 6th day of June, 2002, in Plat Record Book 20, pages 76-77;

NOW, THEREFORE, the Declarant, the owner of all of the lands included within the Murano Estates Subdivision as so platted and described above, does hereby declare and acknowledge that all of the lands included within said Subdivision area shall hereafter be subject to all of the following covenants, conditions, and restrictions.

ARTICLE I

PURPOSE OF COVENANTS

1. General Requirements. It is the intention of the Declarant, expressed by its execution of this instrument, that the lands within the Murano Estates Subdivision be developed and maintained as a highly desirable residential area. It is the purpose of these covenants that both the natural and the man-made beauty of the Murano Estates Subdivision shall always be protected and preserved insofar as is possible in connection with the uses and structures permitted by this instrument. It is of primary intent that the privacy and views of each Lot in the Subdivision shall be protected insofar as is possible.

ARTICLE II
DEFINITIONS

1. Lot or Lots shall mean and refer to one or more of the 10 individually numbered lots shown on the plat of the Murano Estates Subdivision.
2. Subdivision shall mean and refer to the Murano Estates Subdivision.
3. Common Areas shall mean and refer to all of the land within the Subdivision with the exception of the Lots. The Common Areas are identified on the plat of the Subdivision as Tract A and Tract B and include the private Right-of-Way, the entry gates, the entry area, and the ponding areas, all of which exist for the mutual benefit of the Owners of Lots in the Subdivision.
4. Right-of-Way shall mean and refer to both the paved and the unpaved portions of the private drive and utility easement located in the front of each Lot.
5. Committee shall mean and refer to the Design Control Committee of the Murano Estates Subdivision.
6. Owners shall mean and refer to all persons or other parties who own or acquire any of the Lots in the Murano Estates Subdivision.

ARTICLE III

THE MURANO ESTATES NEIGHBORHOOD ASSOCIATION

1. Membership in the Murano Estates Neighborhood Association. All persons or other parties who own or acquire any of the Lots in the Murano Estates Subdivision, by whatever means acquired, shall be considered to be Owners and shall automatically become Members of the Murano Estates Neighborhood Association in accordance with the Articles of Incorporation and the By-Laws of the Association, and as the same may be duly amended from time to time and filed or recorded in the Doña Ana County records.

Until the conveyance by the Declarant of seventy-five percent of the total of the Lots in the Subdivision, the responsibility to maintain and repair the Common Areas shall reside with

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the Declarant. Upon the conveyance by the Declarant of seventy-five percent of the total of the Lots in the Subdivision, the responsibility to maintain and repair the Common Areas shall reside with the Murano Estates Neighborhood Association, in accordance with the provisions of the Articles of Incorporation and the By-Laws of the Murano Estates Neighborhood Association and these Covenants. Such responsibility shall include but not be limited to the setting of standards governing the maintenance of the Common Areas, as well as the levying of any assessments necessary for their maintenance and repair. The term "conveyance" as herein above used shall not be construed to include a conveyance by the Declarant to any corporation or partnership of which the Declarant or its stockholder(s) is the owner of at least a fifty-percent interest.

2. Membership. The Murano Estates Neighborhood Association shall have two classes of membership: Class A -- Each of the Owners as defined in Paragraph 1 of this Article, with the exception of the Declarant; Class B -- The Declarant.

Voting rights shall be in accordance with the following:

Class A Member. Class A Members holding an interest in any one Lot shall collectively be entitled to one vote for each Lot. The vote for each Lot shall be exercised by the Owners thereof as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B Member. The Class B Member shall be entitled to three votes for each Lot in which it holds the interest required for membership by Paragraph 1 of this Article.

3. Covenant for Maintenance Assessments. The Declarant, for each Lot that it owns within the Subdivision, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Murano Estates Neighborhood Association annual assessments or charges as shall be established at the Inaugural Association Meeting of the Murano Estates Neighborhood Association in accordance with Paragraph 4 of this Article. The assessments levied by the Association upon the Lots shall be used exclusively for the purpose

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of maintaining and repairing the Common Areas referred to in Paragraph 1 of this Article and shall include but not be limited to the cost of labor, equipment, materials, utilities, and supervision necessary for the task.

4. Annual Assessments. Each Lot shall, as provided hereinafter and in the By-Laws of the Association, be subject to an annual assessment of a minimum of \$200.00 and a maximum of \$400.00. The Board of Directors of the Murano Estates Neighborhood Association shall fix the annual assessment within said range as it deems necessary at its discretion. From and after January 1, 2004, the minimum or maximum annual assessment may be decreased or increased by up to ten percent annually by the assent of two-thirds of the voting Members who are voting in person or by proxy at a Association Meeting.

ARTICLE IV

DESIGN CONTROL

1. Design Guidelines. Design Controls for the Murano Estates Subdivision are appended to, and are a part of, these Covenants; and the Design Controls shall be followed by all Owners of Lots within the Subdivision. In order to achieve a harmony of design within the Subdivision so that the reasonable expectations of Owners regarding improvement and beautification of all property can be fulfilled for the benefit of all Owners, the design of all houses, walls, fences, and landscaping, as well as additions and alterations thereto, within the Subdivision, shall be performed by a builder, designer, or architect approved by the Design Control Committee, which approval shall not be unreasonably withheld, and such design shall be in accordance with the Design Controls for the Subdivision.

2. Appointment Duties. The Declarant shall appoint from one to three persons to serve as the Design Control Committee for the Subdivision. The Design Control Committee shall have the duty and the power by the exercise of its best judgment to see that any construction on any Lot conforms to and harmonizes with the design theme of the Subdivision and abides by the Design Controls. At any time after the Inaugural Association Meeting, the Declarant may,

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at its sole discretion, transfer to the Murano Estates Neighborhood Association the responsibility to appoint the person(s) to serve as the Design Control Committee. Furthermore, if at any time the Declarant fails to appoint the person(s) to serve as the Design Control Committee, the Murano Estates Neighborhood Association shall, upon one week's written notice to the Declarant, assume the authority to appoint the persons to serve as the Design Control Committee.

3. Approval of Plans by the Design Control Committee. No improvements of any kind, including but not limited to houses, sheds, outbuildings, swimming pools, parking areas, fences, walls, garages, storage structures, patios, decks, carports, driveways, antennae, flagpoles, curbs, and walks, or additions or alterations thereto, shall be constructed or installed upon any lands within the Murano Estates Subdivision, nor may any landscaping be performed on any Lot, unless two complete sets of plans for such construction or landscaping are submitted to the Design Control Committee and unless the plans are approved in writing by the Design Control Committee prior to the commencement of such work. In the event that the Design Control Committee fails to take any action within fifteen days after complete plans for such work have been submitted to it and a signed receipt issued, then all of such submitted plans shall be deemed to be approved. All submissions, approvals, and/or rejections shall be submitted in writing, shall be dated, and shall be signed for as proof of receipt. In the event that the Design Control Committee rejects any plans, the Committee is required to state the reason(s) for rejection. Upon resubmittal of plans, the Committee must respond within ten days.

Application to Doña Ana County for a Building Permit shall not be made prior to approval of plans by the Design Control Committee. The Design Control Committee shall reject any plans submitted to it that are not sufficient for it to exercise the judgment required of it by these Covenants.

The Design Control Committee shall monitor all construction within the Subdivision to help see to it that trash and debris are disposed of properly and that no damage is done to the Common Areas or neighboring Lots during construction; and to this end the Committee shall, at the time of its approval of plans for construction on a Lot, collect a damage deposit of

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\$250.00 to be used by the Committee at its sole discretion for clean up and/or repair made necessary by any construction. This deposit shall be held by the Committee and returned to the Owner of the Lot upon completion of construction, less any sums expended by the Committee for the clean up and/or repair referenced herein. In the event that the deposit is not sufficient to cover the cost of the clean up and/or repair, the Committee can require an additional damage deposit; or the Murano Estates Neighborhood Association may charge the balance of the cost of the clean up and/or repair to the Owner of the Lot as a special assessment against the Lot, to be collected in the manner of other assessments as provided in the By-Laws of the Murano Estates Neighborhood Association and by any rules and regulations passed by the Association. The Design Control Committee urges each Lot Owner to require contractors working for the Owner to control trash and debris during periods of construction. Specifically, these Covenants require that a trash dumpster and a portable toilet be located on each Lot—and not in the Common Areas or Right-of-Way—during construction of a house on the Lot. Furthermore, these Covenants strictly forbid the following practices: unloading or storing construction materials, including plants or landscaping materials of any kind, within any part of the Common Areas, including the Right-of-Way, or on a neighboring Lot; rinsing of concrete trucks anywhere in the Subdivision except on the Lot to which the delivery has been made; and parking on any Lot without the permission of the Owner of the Lot.

4. Design Control Committee Not Liable. The Design Control Committee shall not be liable for damages to any person(s) or party submitting any plans for approval, or to any Owner(s) of a Lot within the Murano Estates Subdivision, by reason of any action, failure to act, approval, rejection, or failure to approve or reject, with regard to such plans. Any person(s) or party acquiring title to any Lot in the Murano Estates Subdivision, or any person(s) or party submitting plans to the Design Control Committee for approval, by so doing, does agree and covenant that he will not bring any action or suit to recover damages against the Design Control Committee, its members as individuals, or its advisors, employees, or agents.

5. Written Record. The Design Control Committee shall keep and safeguard for at

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least four years complete permanent written records of all applications for approval (including one set of all plans so submitted) and of all actions of approval or rejection and all other actions taken under the provisions of this instrument.

ARTICLE V
GENERAL RESTRICTIONS

1. Zoning Regulations. No lands within the Murano Estates Subdivision shall be occupied or used for any purpose or in any manner that is contrary to the applicable zoning regulations, validly in force from time to time, except as the same may be allowed under said regulations as a non-conforming use.

2. No Mining, Drilling, or Quarrying. No mining, quarrying, tunneling, excavating, or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock, and earth, shall ever be permitted within the limits of the Murano Estates Subdivision.

3. Model Home/Office. Notwithstanding other provisions in these Covenants, the Declarant and/or builders of homes in the Subdivision may, at their sole discretion, construct and occupy one or more houses for use as model homes/offices.

4. Signs. With the exception of Subdivision identification signs at the entry gate and two "For Sale" signs (not to be larger than 48 x 48 inches) per Lot, no advertising signs, billboards, unsightly objects, or nuisances shall be erected, altered, or permitted to remain on any Lot in the Murano Estates Subdivision. These restrictions regarding signs shall not apply to model homes/offices.

5. No Resubdivision. No Lot described on the recorded plat of the Murano Estates Subdivision shall ever be resubdivided into smaller tracts or lots nor conveyed or encumbered in any less than the full original dimensions as shown on the recorded plat of the Murano Estates Subdivision, except that conveyances or dedications of utilities may be made for less than all of one Lot.

6. Trash. Each Owner of any Lot shall have the responsibility to remove all weeds and

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trash from his Lot in the Murano Estates Subdivision and shall not be allowed to burn weeds or trash thereon. In the event that weeds or trash accumulates on any Lot, the Design Control Committee shall have the authority and responsibility to clean up the Lot and charge the Owner up to \$200 per clean-up. If said charge is not paid within thirty days, the Design Control Committee has the authority to file a lien against any Lot that has failed to pay said charge.

7. Public Nuisance. No obnoxious or offensive activity shall be carried on within the Subdivision, nor shall anything be permitted which shall constitute a public nuisance thereon.

8. Hunting. There shall be no hunting of any animals within the boundaries of the Murano Estates Subdivision, nor shall there be the discharge of any firearms.

9. Maintenance of Right-of-Way. Each Lot Owner shall be responsible for maintaining the unpaved portion of the Right-of-Way contiguous with the Owner's Lot. This area shall be maintained as if it were a part of the Owner's Lot, except that no walls, fences, boulders, signs, or large trees or shrubs shall be permitted within it. Upon failure of the Owner to maintain this area, the Board of Directors of the Murano Estates Neighborhood Association may, at its discretion, after giving the Owner thirty days written notice, have the area maintained. The cost of this maintenance may be charged to the Lot Owner as a special assessment against the property by the Murano Estates Neighborhood Association. An exception to this responsibility for maintenance shall be made with respect to that portion of the Right-of-Way that lies from 100 feet west of the entry gate to 100 feet east of the entry gate; this area shall be maintained by the Murano Estates Neighborhood Association.

10. Sidewalks. There shall be no sidewalks along the private drive within the Murano Estates Subdivision.

11. On-Street Parking. The combined area of the garage(s) and driveway of each house in the Subdivision shall be sufficient to accommodate at least four motor vehicles. There shall be no overnight on-street parking of any motor vehicle, trailer, or the like, nor shall any motor vehicle, trailer, or the like ever be parked with the Common Areas. Short-term (up to five-hour) on-street guest parking shall be allowed, but not on regular basis, and only if no other

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motor vehicle(s) is parked on the opposite side of the Right-of-Way within 200 feet. The purpose of this provision is to try to ensure safe and convenient passage of motor vehicle traffic and pedestrians on the Right-of-Way.

12. Animals. The keeping of ordinary household pets shall be permitted in the Subdivision. When off the Owner's Lot, such pets must be kept on a leash and shall not be permitted to run at large. In addition, dogs shall not be permitted to bark outside to the extent that an average person would find annoying. The Murano Estates Neighborhood Association may enforce this provision by whatever means may be legally available to it.

13. No Garage Sales. There shall be no sales commonly known as garage sales anywhere in the Subdivision.

14. Easements Reserved. The Declarant hereby reserves to itself and to other applicable parties and its successors in interest perpetual easements on the Common Areas, as well as for constructing, maintaining, operating, replacing, enlarging, and repairing electric, telephone, cable TV, water, irrigation, sewer, gas, and similar lines, pipes, wires, poles, ditches, and conduits. The Declarant may convey or grant by license, lease, deed, lien, deed of trust, mortgage, or otherwise any right, title, or interest in or to any and all easements and reservations contained within documents of conveyance, these Covenants, or the plat of the Murano Estates Subdivision to public utilities and governmental entities as may be reasonably necessary to effect the developmental and residential intentions as set forth in the plat and these Covenants.

ARTICLE VI

RESTRICTIONS ON RESIDENTIAL LOTS

1. Number of Buildings. No buildings or structures shall be placed, erected, altered, or permitted to remain on any residential Lot other than one single-family dwelling house with attached guest quarters and attached garage.

2. Parking and Storage of Vehicles. No campers, recreational vehicles, boats, trailers,

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commercial-type vehicles, or trucks shall be stored or parked on any Lot except in a closed garage, nor parked anywhere in the Common Areas, except while engaged in transport to or from a dwelling. For the purposes of this restriction, a truck having a three-quarter-ton manufacturer's rated capacity, commonly known as a pick-up truck, shall not be deemed to be a commercial vehicle or a truck. In addition, personal-type vehicles, including cars, vans, pick-up trucks, SUVs, motorcycles, and the like, shall not be parked or stored on a regular basis on any Lot (except in a closed garage) or in the Common Areas.

ARTICLE VII ENFORCEMENT

1. Enforcement Actions. The Declarant or the Design Control Committee shall have the right to prosecute any action to enforce the provisions of these Covenants by injunctive relief, on behalf of itself and all or part of the Owners of Lots within the Murano Estates Subdivision. In addition, each Owner of a Lot within the Murano Estates Subdivision, as well as the Murano Estates Neighborhood Association, shall have the right to prosecute any action for injunctive relief and for damages by reason of any violation of these Covenants. Any Owner of a Lot determined to be in violation of these Covenants by a court of appropriate jurisdiction agrees to pay the reasonable attorneys' fees incurred by the person(s) or entity bringing such successful action.

ARTICLE VIII GENERAL PROVISIONS

1. Covenants to Run. All of the Covenants contained in this instrument shall be a burden on the title to all of the lands in the Murano Estates Subdivision, and the benefits thereof shall inure to all Lot Owners in the Murano Estates Subdivision, and the benefits and burdens of all said Covenants shall run with the title to all of the lands in the Murano Estates Subdivision.

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2. Termination of Covenants. The Covenants contained in this instrument shall remain in full force and effect for thirty years after the date of execution of this instrument and shall thereafter automatically be renewed for successive ten-year periods without limitation. Except for the provisions dealing with the Design Controls, the annual assessments, and the maintenance and repair of the Common Areas, all of which provisions shall not be altered, these Covenants may be amended by a vote of two-thirds of the votes cast by the members of the Murano Estates Neighborhood Association at annual or special meetings thereof, said vote to be cast at any meeting of the members duly held in accordance with the Articles of Incorporation and the By-Laws of the Neighborhood Association, provided a properly certified copy of the resolution of amendment be placed on record in Doña Ana County upon adoption.

3. Severability. Should any part or parts of these Covenants or the Design Controls attached hereto be declared invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining Covenants.

4. Paragraph Headings. The paragraph headings in this instrument are for convenience only and shall not be construed to be a part of the Covenants contained herein.

IN WITNESS WHEREOF, the Declarant, the owner of all of the lands described and subdivided as the Murano Estates Subdivision, has executed this instrument this 4th day of October, 2002.

CF Investments, LLC

by 
G. Thomas Collins, Jr., Managing Member

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STATE OF NEW MEXICO)
) ss.
DOÑA ANA COUNTY)

Subscribed and sworn to before me this 4th day of October, 2002, by G. Thomas Collins, Jr., Managing Member of CF Investments, LLC, a New Mexico limited liability corporation.

Witness my hand and official seal.

My commission expires:



By _____
Notary Public

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