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Cross-References:	Declaration:	Book 4149
		Page 3797
	Amendment	Book 4271
		Page 4575

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND  
 RESTRICTIONS FOR SANDOVAL  
 SOMERVILLE (Parcel 100) NEIGHBORHOOD**

a

THIS SUPPLEMENTAL DECLARATION is made this 16<sup>th</sup> day of Dec., 2004, by Cape Coral Development Associates, LLC, a Florida limited liability company (the "Declarant");

WITNESSETH

WHEREAS, on December 17, 2003 Declarant filed that certain Declaration of Covenants, Conditions, and Restrictions for Sandoval Community, recorded in O.R. Book 4149, Page 3797, *et seq.*, and Amendment recorded in O.R. Book 4271, Page 4575, *et. seq.* of the Public Records of Lee County, Florida (the "Declaration"); and

WHEREAS, pursuant to the terms of Section 9.3 of the Declaration, the Declarant may unilaterally impose additional covenants and easements on any portion of the Properties by recording a Supplemental Declaration describing such property to be encumbered and the additional covenants and easements governing such areas; and

WHEREAS, Declarant is the owner of the real property described in Exhibit "A," attached hereto ("Property").

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby subjects the real property described on Exhibit "A" hereof to the provisions of this Supplemental Declaration, which shall apply to such property in addition to the provisions of the Declaration. Such property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of this Supplemental Declaration, which shall run with the title to such property and shall be binding upon all persons having any right, title or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title and assigns. The provisions of this Supplemental Declaration shall be binding upon Sandoval Community Association, Inc., in accordance with the terms of the Declaration.

**Article I**  
**Definitions**

The definitions provided in the Declaration are incorporated by reference.

**Article II**  
**Duration**

This Supplemental Declaration shall be enforceable by the Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of years equal to the term of the Declaration and any extension of such term. This Supplemental Declaration may only be terminated if the Declaration is terminated, according to the procedures for termination specified in the Declaration. If the Declaration is terminated, this Declaration may be terminated by an instrument signed by not less than 67% of the then Owners of Units in the Neighborhood and recorded in the Public Records agreeing to terminate this Revised Supplemental Declaration, in which case this Supplemental Declaration shall be terminated as specified in such instrument. Notwithstanding this, if any provision of this Supplemental Declaration would be unlawful, void, or voidable by reason of applicability of the rule against perpetuities, such provision shall expire 90 years after the date this Supplemental Declaration is recorded in the Public Records. Nothing in this Article shall be construed to permit termination of any easement created in this Supplemental Declaration without the consent of the holder of such easement.

**Article III**  
**Neighborhood Designation**

The Property is designated as "Somerville" Neighborhood.

**Article IV**  
**Additional Covenants, Restrictions & Easements**

A. **Use Restrictions.**

1. **Dwellings.** Units within the Property shall be used only for attached, single family residential purposes, except as allowed pursuant to paragraph IV.A.2. below.
2. **Commercial or Business Activity.** No commercial or business activity shall be permitted on any Unit except incidental business activity conducted within the parameters of Section 1 of the Initial Restrictions attached to the Declaration as Exhibit "F", as the same may be amended from time to time.
3. **Leasing of Dwellings.** A minimum lease term of 30 days is required to lease a Dwelling in this Neighborhood. No Dwelling shall be leased more than four (4) times per calendar year.

B. Building and Site Restrictions.

1. Number of Units. The Neighborhood shall contain no more than 172 Units.

2. Setbacks.

a. Minimums: No building or other structure shall be erected within the following minimum setback lines:

- i. 20 feet from the edge of any body of water within the Property;
- ii. 20 feet from any outer boundary of the property;
- iii. in the case of a principal structure, 20 feet from any other principal structure; and

Principal structures shall be set back 20 feet from the back of the curb adjacent to or comprising a part of any right-of-way or accessory within the Property.

b. Measurement. All setbacks shall be measured in accordance with City of Cape Coral Land Development Code regulations. Roof overhangs may encroach upon setback requirements by three feet. Minor encroachments may also be made into required setbacks by light fixtures attached to the dwelling, decorative treatments, window and door sills, and other similar structural features, so long as such encroachments do not violate City of Cape Coral Land Development Code regulations.

c. Location of Dwellings and Improvements. Pursuant to Article IV of the Declaration, the Design Reviewer reserves the right to control and decide the precise location of any Dwelling or other structure or improvement upon all Units for aesthetic, ecological, topographical, energy, and other considerations.

3. Minimum and Maximum Square Footage. All Dwellings within the Property shall contain a minimum of 1200 square feet but not more than 2200 square feet of enclosed living area. Enclosed living area shall include the total enclosed floor area within the horizontal dimensions of each level of a dwelling, excluding garages, terraces, non-air conditioned storage areas, decks and porches.

4. Garages. Each Dwelling must have an enclosed garage of a size sufficient to house not less than one and not more than two automobiles. All garage doors must be equipped with automatic enclosures. No garage constructed on any Unit shall be converted to living space without the prior written approval of the Association. A minimum of two parking spaces per Unit shall be provided, one of which shall be located in such garage and one of which

may be an unenclosed space located between the garage and the back of curb adjacent to the right of way.

5. Permitted Structures. The Property may be improved by the construction thereon of attached, multi-family dwellings and recreational amenities approved by the Declarant, including pools, decks, cabanas, and other amenities.

6. Roofs. Roofs of all structures located on any Unit within the Property shall have a minimum of 4:12 slope and shall be constructed of flat concrete tile, as defined by the common usage of such terms in Lee County, Florida. The Design Reviewer may, in its sole discretion, approve the use of additional materials for roofing surfaces in the event that a new and attractive roofing material is discovered or invented. A roof having less than the above minimum slope may be approved in special circumstances in accordance with Article IV of the Declaration, provided such roof is not used as a major structural element.

7. Landscaping. The landscape plans for all the Property, including any plans for removal or alteration of the natural vegetation on any part of the Property, shall require prior approval pursuant to Article IV of the Declaration.

8. Mailboxes. The design, construction materials, and location of all mailboxes within the Property shall be consistent as specified by Sandoval Design Review Guidelines for multi-family communities.

9. Entry Features. The Declarant shall install, or cause to be installed, signage, and other related improvements at the main right-of-way to the Neighborhood. The Neighborhood Association shall assume the maintenance responsibilities for such entry features pursuant to Article V of the Declaration.

10. Tract "1-J" of Sandoval Phase 1 Plat Tract 1-I of the Sandoval Phase 1 Plat shall always be designated as a lake tract. Per the plat of Sandoval Phase 1, Cape Coral Development Associates LLC is responsible for the maintenance of this lake tract.

C. Maintenance of Neighborhood Common Area and Landscape Buffer Area. If the Neighborhood Association fails to maintain the common areas within the Neighborhood, or any landscape buffer areas immediately outside of the Neighborhood boundaries, in accordance with the Community Wide Standard, then the Sandoval Community Association shall have the right but not the obligation to conduct such maintenance and assess the cost of such maintenance as a Neighborhood Assessment. In such event, the Board of the Association may levy such assessment and the voting requirements of Section 8.4 of the Declaration shall not apply.

1. Uniform Architectural Style. All structures and driveways within the Property shall be constructed and maintained using materials, colors, and designs consistent with the architectural style defined for the Neighborhood pursuant to Article IV of the Declaration.

D. Easements:

1. Easements in Roadways. Declarant reserves for itself and grants to the Association and their invitees, successors, and assigns, a perpetual, non-exclusive easement for ingress and egress over the access drives and roadways located within the Property which is designated as a part of the Common Element of a condominium developed by a Builder within the Property (the term "Common Element" shall be defined as provided in the recorded documents creating such condominium). The easement shall be used by the Association and its designated agents, including employees and independent contractors, for the sole purpose of maintaining the lake located within the Property which has been platted as Tract 1.I. The areas burdened by the foregoing easement shall be more particularly shown on the site plan(s) for the condominium(s) developed within the Property by a Builder.

2. Easements Reserved. Declarant hereby reserves in favor of itself, its successors and assigns, the following appurtenant, non-exclusive easements (collectively, the "Reserved Easements"):

(a) An easement to use, construct, tie into, repair, maintain, reconstruct and replace all private roadways serving the Property to ingress and egress to, from and within the Property ("Roadway Easement");

(b) An easement to use, construct, tie into, repair, maintain, reconstruct and replace lakes, lines, pipes, swales and other drainage and water retention facilities and improvements on, over, and across the Property ("Drainage Easement"); and

(c) An easement to use, construct, tie into, repair, maintain, reconstruct and replace utilities (including, without limitation, electricity, gas, water, sewer, irrigation, telecommunications, cable television signals, and/or security services of any public or private utility provider) on, under, over, and across the Property ("Utility Easement").

The Reserved Easements shall attach to and be blanket easements over all of the Property which Declarant transfers and conveys to a Builder until such time as the Property, or any portion thereof, is submitted to the condominium form of ownership. Thereafter, upon the filing of record of Condominium Instruments (as defined by and in accordance with the requirements of the Condominium Act, Chapter 718, Florida Statutes, Section 718.101 *et seq.*, as may be amended, hereinafter "Condominium Instruments"), the Reserved Easements, as to the Property or any portion thereof which is submitted to the condominium form of ownership, shall be limited to the roadways, drainage areas, and utility service areas which are a part of the condominium's Common Elements and more particularly described by the site plan contained in the Condominium Instruments. Notwithstanding anything herein to the contrary, upon the filing of record of the Condominium Instruments, the Reserved Easements shall not encumber the Units or Limited Common Elements appurtenant to a Unit (the term "Limited Common Elements" shall be defined as provided in the Condominium Instruments). Nothing herein shall be construed to preclude the Builder from building structures within the footprint of the Units or other structures approved in accordance with Article IV of the Declaration.

The Reserved Easements shall be perpetual; provided, however, if the Property is committed to a single condominium and the Owners of all Units are all members of the condominium association created under the Condominium Instruments, the Reserved Easements shall terminate and merge with the easements contained in the Condominium Instruments.

The areas burdened by the Reserved Easements shall be maintained by the condominium association(s) vested with maintenance responsibilities for such portion of the Property in accordance with the Community-Wide Standard, provided that cost of performing such maintenance shall be allocated among all Owners within the Property in accordance with the cost allocation formula set forth in Section 3 below.

3. Easements for Amenities. Declarant hereby reserves in favor of itself, its successors and assigns, an appurtenant, non-exclusive easement to use, construct, tie into, repair, maintain, reconstruct and replace any and all of the recreational amenities which are developed by a Builder and/or serving the owners of a condominium within the Property ("Amenity Easement"). The Amenity Easement shall attach to and be a blanket easement over all of the Property which Declarant transfers and conveys to a Builder until such time as the Property, or any portion thereof, is submitted to the condominium form of ownership. Thereafter, upon the filing of record of Condominium Instruments, the Amenity Easement, as to the Property or any portion thereof which is submitted to the condominium form of ownership, shall be limited to the amenities area which are a part of the condominium's Common Elements and are more specifically described by the site plan contained in the Condominium Instruments. Notwithstanding anything herein to the contrary, upon the filing of record of the Condominium Instruments, the Amenity Easement shall not encumber the Units or Limited Common Elements appurtenant to a Unit.

The Amenity Easement shall be perpetual; provided, however, if the Property is committed to a single condominium and the Owners of all Units are all members of the condominium association created under the Condominium Instruments, the Amenity Easement shall terminate and merge with the easements contained in the Condominium Instruments.

The area burdened by the Amenity Easement shall be maintained by the condominium association(s) vested with maintenance responsibilities for such portion of the Property in accordance with the Community-Wide Standard, provided that cost of performing such maintenance shall be allocated among all owners within the Property in accordance with the cost allocation formula.

#### **Article V** **Amendment**

A. By Declarant. Declarant shall have the unilateral right to amend this Supplemental Declaration so long as it has the unilateral right to amend the Declaration. However, if the Property is owned by someone other than Declarant, then the consent of the owner(s) shall be necessary and shall be evidenced by their execution of such amendment.

B. By Members. Except as otherwise specifically provided above and elsewhere in this Supplemental Declaration, this Supplemental Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of 67% of the total Class "A" votes in the Neighborhood, and the consent of the Declarant so long as the Declarant owns any portion of the Properties for sale in the ordinary course of business which are or may be subjected to the Declaration.

C. Joinder of the Association. The Association shall, not more than ten days after the request of the Declarant, join in any amendment to this Supplemental Declaration and execute such instruments to evidence such joinder and consent as Declarant shall from time to time request. Failure to so join and consent to an amendment, if any, by the Association shall not be cause to prevent such amendment from being made by Declarant or to affect the validity thereof.

D. Declarant's Rights. Notwithstanding anything to the contrary herein contained, no amendment to this Supplemental Declaration shall be effective which shall impair or prejudice the rights, priorities, or obligations of Declarant, the Association, or any Mortgagee under the Declaration or the Bylaws without the specific written approval of such Declarant, Association, or Mortgagee affected thereby.

E. FNMA/FHLMC Provision. Declarant may, in its sole discretion, with the approval of no other Person, including, without limitation, any Mortgagees being required, amend this Supplemental Declaration if necessary to do so for purposes of fulfilling the requirements of any governmental entity or quasi-governmental entity, including, but not limited to, the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA), and the Federal Housing Administration (FHA). Nothing contained herein shall require Declarant to make an amendment to the Declaration or this Supplemental Declaration for any purpose whatsoever.

#### **Article VI** **Conflict**

This Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of the Declaration as it applies to the Property in order to reflect the different character and intended use of the Property. In the event of a conflict between the provisions of this Supplemental Declaration and the provisions of the Declaration, this Supplemental Declaration shall control.

IN WITNESS WHEREOF, Cape Coral Development Associates, LLC, as the Declarant, hereby executes this Supplemental Declaration by and through its authorized representatives on the date and year first above written.

DECLARANT:

CAPE CORAL DEVELOPMENT  
ASSOCIATES, LLC, a Florida limited liability  
company

By: Resource Conservation Properties, Inc., a  
Florida corporation  
It's Managing Member

By: Katherine C. Green  
Its: Vice President  
Print Name: Katherine C. Green

[Signature]  
WITNESS Gina Jordan  
[Signature]  
WITNESS DAVE FERRANDO

(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of December, 2004, by Katherine C. Green, as Vice President of Resource Conservation Properties, Inc., a Florida corporation, on behalf of such entity. She is personally known to me or has produced \_\_\_\_\_ as identification and did (did not) take an oath.

Given under my hand and official seal this 16<sup>th</sup> day of December, 2004.

My term of office expires on 2/10/06.

[Signature] [SEAL]  
NOTARY PUBLIC





**EXHIBIT 'A'**

**Property Description**

Parcel 100 of Sandoval Phase 1 Plat as recorded in Plat Book  
79, Pages 15 – 31, Public Records of Lee County, Florida.