

This Instrument Prepared By:  
W. LEE DOBBINS, ESQ.  
Dean Mead Minton & Zwemer  
1903 S. 25th Street  
Suite 200  
Fort Pierce FL 34947  
(772) 464 - 7700

## AMENDED AND RESTATED DEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT (“Agreement”) is entered into this 5 day of SEPTEMBER, 2018 (the “Effective Date”), by CARRIAGE POINTE LAND INVESTORS, LLC, a Colorado limited liability company (henceforth referred to as the “Developer”), whose mailing address is 5460 South Quebec Street, Suite 110, Greenwood Village, CO 80111, and the CITY OF FORT PIERCE, a Florida municipal corporation (hereafter referred to as the “City”), whose mailing address is City Hall, 100 North U.S. 1, Fort Pierce, FL 34950.

### WITNESSETH:

**WHEREAS**, the Developer is the owner in fee simple title to certain real property located in Fort Pierce, Florida, as more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (hereafter referred to as the “Property”); and

**WHEREAS**, a previous owner of the Property obtained final site plan approval from the St. Lucie County Board of County Commissioners on December 21, 2004, pursuant to County Resolution 04-228, for a residential development on the Property, then known as Ten Mile Estates and now known as Carriage Pointe (the “Project”); and

**WHEREAS**, the City Commission of the City of Fort Pierce approved the annexation of the Project into the City on December 31, 2004, pursuant to City Ordinance No. K-308; and

**WHEREAS**, the City and Pierce 131, LLC entered into a Development Agreement dated September 15, 2014, and recorded in Official Records Book 3673, Page 668, of the Public Records of St. Lucie County, Florida (the “Development Agreement”) setting forth various terms and conditions relating to the development of the Property; and

**WHEREAS**, on September 17, 2014, the plat of Carriage Pointe Estates was recorded in Plat Book 70, Page 3 of the Public Records of St. Lucie County, Florida, subdividing the Property into a single family subdivision; and

**WHEREAS**, pursuant to a Warranty Deed dated November 17, 2014 and recorded in Official Records Book 3698, Page 202 of the Public Records of St. Lucie County, Florida, Pierce 131, LLC conveyed the Property to the Developer; and

**WHEREAS**, pursuant to an application by the Developer or its agents, the City Commission of the City of Fort Pierce approved certain amendments to the final site plan for the Property on \_\_\_\_\_, 2018.

**WHEREAS**, the City and the Developer desire to enter into this Amended and Restated Development Agreement in order to update and amend the terms and conditions set forth in the Development Agreement, so that the Developer may proceed to develop the Property in accordance with the amended final site plan and pursuant to the amended terms and conditions set forth herein; and

**NOW, THEREFORE**, in consideration of the premises contained herein and other good and valuable consideration exchanged by and between the City and the Developer, the receipt and sufficiency of such is hereby acknowledged, Developer agrees and covenants as follows:

1. **Recitals.** The above recitals are true and correct, and are incorporated herein by reference.
2. **Consideration and Conditions.** In further consideration of the forgoing and of the terms and covenants set forth herein, the parties hereto agree as follows:
  - a. **Landscaping.** The landscaping for the common areas within the Project will be installed in three (3) phases in accordance with the approved site plan and landscaping plan for the Project (such common area landscaping as identified in the site plan and landscaping plan shall be referred to herein as the “Landscaping”). With respect to each phase, the Developer shall provide the City with a letter of credit to secure the Developer’s obligation install the Landscaping associated with that phase. The Developer shall deliver such letter of credit for each phase to the City prior to the City issuing the first building permit for a home in such phase. For example, a building permit for a home in Phase 2 of the Project will not be issued until the City has received a letter of credit for the Landscaping required for Phase 2, in accordance with this Agreement. At the Developer’s option, the Developer may build homes in the phases in any order (for example, the Developer may build homes in Phase 3, before building homes in Phase 1) or the Developer may build homes in two or more phases simultaneously (for example, the Developer may build homes in Phases 2 and 3 simultaneously), provided however, that the Developer shall not receive a building permit for a home in any phase (and may not build any homes in such phase), unless the Developer first delivers to the City a letter of credit for the Landscaping for such phase, in accordance with this Agreement. Prior to recording of the plat for the Project, the Developer shall provide the City with a letter of credit (in accordance with Paragraph 3 hereinbelow) to secure the Developer’s obligation to complete the installation of the Landscaping for Phase 1 of the Project. The Developer shall complete the installation of all Landscaping at the entrance to the Project before the issuance of the first certificate of occupancy (C.O.) issued for the Project, but no later than two (2) years after the Effective

Date of this Agreement. The Developer shall complete the installation of all Landscaping for Phase 1 (excluding Street Trees) no later than two (2) years after the Effective Date of this Agreement, and shall complete the installation of all Landscaping for Phases 2 and 3 (excluding Street Trees) no later than two (2) years after delivering the letter of credit for each such phase to the City. As each home is built within the Project, the Developer shall install the required street trees in front of such home (“Street Trees”), and no home shall be issued a C.O. unless the required Street Trees have been installed in front of it.

b. **Amenities.** The approved final site plan for the Project includes the construction or installation of certain community amenities in the community Recreation Area (Tract R-1) and walking trails in the Preserve Area (Tract C-1) and Open Space Area (Tract OS-1) as more specifically shown on the approved final site plan for the project (collectively referred to herein as the “Amenities”). Prior to recording of the plat for the Project, the Developer shall provide the City with a letter of credit to secure the Developer’s obligation to complete the installation of the Amenities. The Developer shall complete the installation of all Amenities no later than two (2) years after the Effective Date of this Agreement.

c. **Sidewalks.** Prior to recording of the plat for the Project, the Developer shall provide the City with a letter of credit to secure the Developer’s obligation to complete the installation of all sidewalks along the roads within the Project (the “Sidewalks”). As each home is built within the Project, the Developer shall install the Sidewalks in front of each home, and no home shall be issued a C.O. unless the required Sidewalks have been installed in front of it.

d. **Infrastructure Improvements.** Prior to recording of the plat for the Project, the Developer shall provide the City with a letter of credit to secure the Developer’s obligation to complete the installation of all infrastructure improvements within the Project (the “Infrastructure Improvements”). The Developer shall complete the installation of all Infrastructure Improvements (which shall not include Sidewalks, Landscaping or Street Trees), no later than two (2) years after the Effective Date of this Agreement.

e. **Installation by Builder.** The Developer may enter into a contract with a home builder or other third party contractor to install all, or part, of the Landscaping (including Street Trees), Amenities, Sidewalks and any Infrastructure Improvements required herein, provided however, that Developer shall not thereby be released from its obligations set forth in this Agreement.

3. **Surety.** In order to secure Developer’s obligations set forth in Paragraph 2 above, Developer shall deliver to the City irrevocable letters of credit, in an amount equal to 110% of the estimated cost of constructing or installing the above-referenced improvements or landscaping. For the purpose of determining the amount of such letters of credit, the cost of any Landscaping shall be determined by a landscape architect and approved by City staff, and the cost of any other improvements, including the Amenities,

Sidewalks and any Infrastructure Improvements, shall be determined by an engineer's certified cost estimate approved by the City Engineer. Each letter of credit shall be in a form with conditions as approved by the City Attorney. Developer, at Developer's option, and subject to approval by the City Attorney, may provide a bond or other form of surety in lieu of a letter of credit. The engineer's cost estimate for the Amenities, Sidewalks and Infrastructure Improvements is attached hereto as **Exhibit "B"**. The landscape architect's cost estimate for the Landscaping for Phase I is attached hereto as **Exhibit "C"**. After completion of the construction of the Amenities, the amount of the letter of credit set forth in **Exhibit "B"** may be reduced at Developer's request to an amount equal to 110% of the cost to complete the installation of all then remaining uncompleted Sidewalks and Infrastructure Improvements, as determined by an engineer's certified cost estimate and approved by the City Engineer. Upon representation by the Developer that the Amenities, Sidewalks and Infrastructure Improvements are completed, a final inspection shall be made by the City, and upon satisfactory completion of all such required improvements, the City shall release the letter of credit for such improvements. One year after completion of the installation of the Landscaping for any phase (including all Street Trees), the amount of the letter of credit for such Landscaping may be reduced in accordance with the requirements of the City Code, and 24 months after the completion of the installation of such Landscaping (including Street Trees) the letter of credit may be released, in accordance with the requirements of the City Code.

4. **Right to Draw Upon Surety.** In the event the Developer fails to timely complete any required improvements as set forth herein, the City shall be entitled to draw, utilize and apply to its account the security provided by the Developer for the purposes as herein described. In the event the Developer fails to timely make or complete the improvements, and the City chooses to make or complete the required improvements, the Developer grants the City and/or its designated agent(s) right of entry in order to complete the improvements, and the Developer hereby agrees to indemnify and hold harmless the City, its employees, officers and agent(s) from an against any claims related to such entry. In no event shall the City have any obligation to complete the improvements.

5. **Amendment and Replacement of Development Agreement.** This Agreement is intended to amend, restate, supersede and replace the Development Agreement by and between Pierce 131, LLC and the City, dated September 15, 2014, and recorded in Official Records Book 3673, Page 668, of the Public Records of St. Lucie County, Florida.

6. **Notices.** Any notice, demand, consent, approval or other document or instrument required or permitted to be given to any party to this Agreement shall be in writing and shall be delivered in person or sent by registered or certified mail, postage prepaid, return receipt requested, to the following address (or such other address as any party may designate from time to time in writing):

City:

City Manager

100 North U.S. 1  
Fort Pierce, FL 34950

With a copy to:

City Attorney  
100 North U.S. 1  
Fort Pierce, FL 34950

Developer:

Carriage Pointe Land Investors, LLC  
Attn: Lenn Haffeman & Joseph Jundt  
5460 South Quebec Street, Suite 110  
Greenwood Village, CO 80111

With a copy to:

Dean, Mead, Minton & Zwemer  
Attn: Lee Dobbins, Esq.  
1903 S 25<sup>th</sup> Street, Suite 200  
Fort Pierce, FL 34947

This forgoing is not intended to require that notice of the approval or denial of development permits be given as provided for in this provision.

7. **Headings.** Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

8. **Counterparts.** This Agreement may be executed in any number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes and all such counterparts shall, collectively, constitute one agreement, but, in making proof of this Agreement, it shall not be necessary to produce or account for more of such counterparts than are required to show that each party hereto executed at least one such counterpart.

9. **Governing Law.** This Agreement and the construction and the enforcement thereof shall be interpreted under the laws of the State of Florida. The parties hereto agree without reservation of any rights under federal or state law, that in any litigation arising under this Agreement, the parties hereto waive the right to trial before a jury and all such litigation shall be litigated only in a non-jury hearing in the State Courts of Florida, St. Lucie County.

10. **Binding Effect.** This Agreement shall be deemed to be a covenant running with the land and shall be binding upon the heirs, legal representatives,

successors and assigns of the Developer and any person, firm, corporation or entity who or which may become the successor in interest to the Property. No subsequent transfer of the Property or any assignment of interest therein shall relieve or discharge the Developer from any term, condition, obligation, or duties set out in this Agreement.

11. **Laws, Ordinances and Codes.** The Developer shall comply with all federal, state and local, laws, codes, ordinances and regulations governing the permitting and construction of the Project.

12. **Covenant with Respect to Engineer's Certification.** The Developer hereby covenants and warrants that to the best of the Developer's knowledge and belief, the engineer's cost estimate, attached hereto and made a part hereof as **Exhibit "B"**, is an accurate and complete estimate of the cost to complete the installation of all uncompleted subdivision improvements the Developer is required to install in the Project (excluding Landscaping improvements) pursuant to this Agreement.

13. **Permits, Conditions, Terms or Restrictions.** The failure of this Agreement to address a particular permit, condition, term or restriction existing at the time of execution of this Agreement shall not relieve the Developer of the necessity of complying with the law governing permitting requirements, conditions, terms or restrictions.

14. **Amendments.** This Agreement shall not be changed, modified or amended except by an instrument in writing and executed by the parties, or their successors in the interest.

15. **Further Documentation.** The parties hereto agree that at any time following a request therefore by another party, each shall execute and deliver to the other party such other documents and instruments, in form and substance reasonably necessary to confirm and/or effectuate the obligations of any party hereunder and the consummation of the transactions contemplated hereby.

16. **Remedies.** The City and the Developer shall have the right to enforce the terms and conditions of this Agreement by an action for specific performance. However, nothing in this Agreement shall be construed to limit the right of either the Developer or the City to pursue any and all remedies available at law or in equity to enforce this agreement.

17. **Entire Agreement.** This Agreement constitutes the complete and entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior agreements, arrangements or understandings, whether oral or written, between the parties relating hereto.

18. **Disclaimer of Third Party Beneficiaries.** This Agreement is solely for the benefit of the formal parties to this Agreement and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a formal party hereto.

Nothing in this Agreement, express or implied, is intended nor shall be construed to confer upon nor give any person or entity any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, other than the parties hereto and their respective representatives, successors and assigns.

**IN WITNESS WHEREOF**, the Developer and the City have caused this Agreement to be duly executed by their respective authorized representatives on the day and year set forth above.

**ATTEST:**

**CITY:**

**CITY OF FORT PIERCE, FLORIDA**

\_\_\_\_\_  
Linda W. Cox, City Clerk

By: \_\_\_\_\_  
Linda Hudson, Mayor

**APPROVED AS TO FORM AND CORRECTNESS:**

By: \_\_\_\_\_  
\_\_\_\_\_, City Attorney

**DEVELOPER:**

CARRIAGE POINTE LAND INVESTORS,  
LLC, a Colorado limited liability company


By:   
Print Name: BRANDON JUNOT  
Its: MANAGER

EXHIBIT "A"

**Lots 1 through 131, inclusive, Tract A, Tract C-1, Tract D-1, Tract D-2, Tract L-1, Tract R-1, Tract OS-1, Tract LB-1, all of CARRIAGE POINTE ESTATES, according to the Plat thereof, recorded in Plat Book 70, Page 3, of the Public Records of St. Lucie County, Florida.**

EXHIBIT "B"

**SCHNARS ENGINEERING CORPORATION**

947 Clint Moore Road - Boca Raton, Florida 33487 Tel: (561) 241-6455 Fax: (561) 241-5182

Permit No. Schnars Job No.: 12193 Prepared by: Jeff Schnars, P.E.  
Control No.: Date: 22-Aug-18 Developer:

**Carriage Point Estates**

**Fort Pierce, Florida**

**Engineer's Cost Estimate of Remaining Required Improvements Per City Code Sec 18-12**

DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL
<b>I. Remaining Required Improvements</b>				
Remove and replace broken curb	30	LF	\$25.00	\$750.00
Asphalt 3/4" Type S-III	12,753	SY	\$6.00	\$76,518.00
Concrete sidewalk	42,155	SF	\$3.00	\$126,465.00
Detectable Warning	12	EA	\$350.00	\$4,200.00
Stop sign and street signs	5	EA	\$500.00	\$2,500.00
Thermoplastic pavement markings	1	LS	\$2,000.00	\$2,000.00
Adjust drainage manhole	1	EA	\$250.00	\$250.00
Replace MH 103 and 105 casting	2	EA	\$600.00	\$1,200.00
Replace CB I-22 grate	1	EA	\$500.00	\$500.00
Repair sewer cleanouts	12	EA	\$300.00	\$3,600.00
Clean drainage structure / outfall	10	EA	\$100.00	\$1,000.00
Control structure #2 baffle	1	EA	\$250.00	\$250.00
Repair dry detention area washouts	2	EA	\$250.00	\$500.00
Set Survey Lot Corners	1	LS	\$8,500.00	\$8,500.00
Set Survey Permanent Control Points	1	LS	\$2,500.00	\$2,500.00
Temporary Parking lot removal. Seed and mulch.	1	LS	\$2,500.00	\$2,500.00
Amenity items	1	LS	\$152,981.33	\$152,981.33
<b>TOTAL</b>				<b>\$386,214.33</b>
<b>SURETY AMOUNT (110%)</b>				<b>\$424,835.76</b>

This item has been electronically signed and sealed by Jeffrey T. Schnars, P.E. on the date indicated using a Digital Signature. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

\_\_\_\_\_  
Jeffrey T. Schnars, P.E.  
President  
Civil Engineer  
Florida Registration No. 46697  
For the Firm  
Certification of Authorization No. 6640

Notes:

1. Amenity items price provided by Thomas Lucido & Associates - see attached cost estimates

# 17-770 Carriage Point Amenity

## Hardscape Cost Estimate

Area	Product	Page Number	Manufacturer	Sales Rep.	Model #	Cost per Unit	Quantity	Total
<b>Playground</b>								
Play Set	Kidscape-Metal	2-3	Planet Playground	Larry	PPG1013	\$ 14,555.00	1	\$ 14,555.00
Ground Material	Fibar Wood Chips	4	Miller Recreation	Susan Miller	Fibar	\$ 33.60	20 CU	\$ 672.00
Shade Structure	One Mariner Peak	5	USA-Shade	Haley Maitre		\$ 32,000.00	1	\$ 32,000.00
Bench	6' Tendertuff Bench	6-8	Landscape Structures	Tricia Thomas	#141683	\$ 740.00	3	\$ 2,220.00
Bike Rack	Arches Bike Rack-Single	9-10	Landscape Structures	Tricia Thomas	185654	\$ 140.00	3	\$ 420.00
<b>Picnic Area</b>								
Picnic Table	Tendertuff Picnic Table 6'	12-15	Landscape Structures	Tricia Thomas		\$ 1,145.00	5	\$ 5,725.00
Shade Structure	Canti Single Post	16	USA-Shade	Haley Maitre		\$ 7,000.00	5	\$ 35,000.00
Trash Receptacle	Litter Receptacle-Poly Slats	17-18	Landscape Structures	Tricia Thomas	100094	\$ 590.00	3	\$ 1,770.00
<b>Dog Park</b>								
Dog Park Fence	Standard Coated Black 6'	20-22	Infinite Fence	Larry		\$ 14.61	753 LF	\$ 11,001.33
Dog Waste Station	Dog Waste Station w/ Bags	23-24	Dog Waste Depot		DEPOT-404	\$ 199.00	2	\$ 398.00
<b>Mail Kiosk</b>								
Mail Boxes	21 Door Cluster Box	26-33	Mailboxes.com		#3916B-19	\$ 2,090.00	7	\$ 14,630.00
Shade Structure	Single Canti Hip	34	USA-Shade	Haley Maitre		\$ 34,000.00		\$ 34,000.00
Trash Receptacle	Litter Receptacle-Poly Slats	35-36	Landscape Structures	Tricia Thomas	100094	\$ 590.00	1	\$ 590.00
							<b>Total</b>	<b>\$ 152,981.33</b>



**Carriage Pointe - Installed Landscape & Irrigation Cost Estimate (Phase 1)**

8/20/2018

Common Name	Quantity	Unit Cost	Total
East Palatka Holly	16	\$400.00	\$6,400.00
Pygmy Date Palm Multi-Trunk	8	\$500.00	\$4,000.00
Southern Live Oak	9	\$600.00	\$5,400.00
Sabal Palm	21	\$180.00	\$3,780.00
Foxtail Palm	15	\$500.00	\$7,500.00
Foxtail Palm Triple	1	\$800.00	\$800.00
<b>Common Name</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total</b>
Red Tip Cocoplum	191	\$10.00	\$1,910.00
<b>Common Name</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total</b>
Gold Mound Duranta	32	\$10.00	\$320.00
<b>Common Name</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total</b>
Pink Muhly	196	\$10.00	\$1,960.00
<b>Common Name</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total</b>
Green Island Ficus	168	\$10.00	\$1,680.00

**\* Estimated Total Landscape Cost: \$33,750.00**

Items	Description	Quantity	Unit Cost	Total
Pump Station	Pump house, pump, and controller. * Assumes lake as water source*	LS	\$50,000.00	\$50,000.00
Irrigated Area	Entrance, street trees, and medians.	6,616 SF	\$1.50	\$9,924.00

**\* Estimated Total Irrigation Cost: \$59,924.00**

**\* Estimated Combined Landscape & Irrigation Cost (Phase 1): \$93,674.00**

**Surety Amount (110%): \$103,011.70**

**\*General Notes:**

1. Estimate does not include sod/turf and mulch estimate.
2. Consultant cannot guarantee the accuracy of the Estimate as compared to the actual bids or costs that may be incurred by the client.