

RETURN RECORDED DOCUMENT TO:

Attention: Records Clerk
CITY OF PORT ORANGE
1000 City Center Circle
Port Orange, FL 32129-4144

This Document Prepared By:
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**STATE OF FLORIDA
COUNTY OF VOLUSIA**

**COLONY IN THE WOOD
A PLANNED UNIT DEVELOPMENT
AMENDED AND RESTATED
MASTER DEVELOPMENT AGREEMENT**

This **AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT** (“**Agreement**”), is made and entered into by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation (the “City”), and **SHADDIX COMMUNITIES, LTD.**, a Florida Limited Partnership, authorized to do business in the State of Florida, (the “Owner”), hereby covenant and agree, and bind their successors and assigns as follows:

RECITALS:

“Colony in the Wood PUD”, is a "Planned Unit Development" which consists of approximately 83.1+/- acres of real property more particularly described on Exhibit “A” attached hereto and made a part hereof (the "Property"). This Property is under the control of the owner. The Property was initially developed in accordance with the requirements of, and permits issued by, Volusia County approximately 39 years ago.

The Owner and the City entered into, and the Property is subject to, the **MASTER DEVELOPMENT AGREEMENT**, recorded August 30, 2010, at Book 6510, Page 1433, Volusia

County ("Master Development Agreement"). The Master Development Agreement sets forth restrictions on the development of the Property and provides, among other things, for the development of a portion of the Property for commercial use.

The Owner sought an amendment to the Comprehensive Plan Future Land Use to eliminate the commercial use designation with respect to the Property, to provide for the construction of a maximum of 19 additional manufactured home units on the Property and, to change the designation "Office/Residential Transition" to "Urban Medium Density Residential" with respect to the Property ("FLU Amendment"). The FLU Amendment was enacted by the City when it adopted Ordinance No. 2018-29.

The Owner and the City wish to enter into this Agreement to amend and restate the Master Development Agreement to eliminate the commercial land use, to provide for the construction of a maximum of 19 additional manufactured home units on the Property and to otherwise provide for the development of the Property in a manner consistent with existing ordinances and regulations, including without limit, the FLU Amendment.

Now, Therefore, the City and Owner agree, that the Master Development Agreement is hereby amended and restated and replaced in its entirety, and that the Property is subject to this AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT ("Agreement").

1. DEVELOPMENT AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN

Development of the Property shall be controlled by the terms and provisions of this Agreement and the Conceptual Development Plan ("CDP"), which is attached hereto and incorporated herein as Exhibit "B". The CDP generally depicts the layout of existing streets, residential areas and other features on the Property as set forth in this Agreement, and outlines the

primary areas to be used for the construction of a maximum of 19 additional manufactured homes at the Property subject to approval of a site development plan. Collectively, this Agreement and the CDP may be referred to as the “Plan”. In the event of a conflict between the terms and provisions of this Agreement and the graphic illustrations of the CDP, this Agreement shall control. For avoidance of doubt, the commercial development which was provided for under the 2010 Master Development Agreement is eliminated. Instead, a maximum of nineteen (19) additional manufactured home sites may be developed on the Property, as set forth herein.

If this Agreement is silent regarding a particular subject or requirement, such silence shall not be construed as a conflict with the CDP. Except as otherwise provided in this Agreement, in the event of a conflict between the terms and provisions of the CDP and the City’s Ordinances, the requirements of the CDP shall control. If the CDP fails to address a particular subject or requirements, the requirements of the applicable City Ordinance(s) in effect at the time of development, as defined by the Port Orange Land Development Code (“LDC”), shall control.

Modifications of the CDP which are not in conflict with the textual provisions of this Agreement and City Ordinances which are not superseded by this Agreement shall be deemed “minor” and may be approved without formal amendment of this Agreement but shall require the City Administrative Official’s written approval. If the Owner is not satisfied with the suggested resolution of any problem or the decision by the Administrative Official categorizing the modification as minor or major, the Owner may appeal the decision to the Planning Commission. Appeals from the Planning Commission may be made to the City Council. Otherwise, any changes in use not consistent with the CDP shall require a modification of this Agreement, consent of the City and compliance with the then current zoning, planning and building ordinances and regulations.

2. USAGE OF THE PROPERTY

A. Permitted Uses

The Property shall be used for a manufactured or modular home residential community and may include allowable uses under the Urban Medium Density Residential Future Land Use designation within the Property as depicted on the CDP with not more than 404 manufactured home sites with ancillary improvements including a community clubhouse, management and sales office; storage, utility, and maintenance buildings; community gardens, and recreational amenities associated directly with the residential uses.

The existing clubhouse of approximately 5000 square feet in area is approved for club house purposes including a public assembly area for park residents. At Owner's option, up to 1,000 square feet in the Clubhouse may be dedicated as a sales, business and administrative office for the Property.

The Owner may also operate its sales, business and administrative office within a manufactured home on the Property if it so elects. Permitted sales, business and administrative activities include leasing manufactured home sites and leasing, selling and reselling manufactured homes. At Owner's option, the sales office may also be used as an association or management office area.

The Owner is permitted to place manufactured home models on the Property to facilitate the sale and upgrading of manufactured homes. No more than five (5) model homes shall be operated on the Property at any given time.

B. Dimensional Requirements

Building dimensions, setbacks, and configurations within the Property and the location of the roadways and driveway entrances to the Property are generally depicted on the CDP. New or

upgraded manufactured homes shall be permitted within the Property, subject to the typical manufactured home setbacks provided on the CDP and Section 2(B)(1) and (2) of this Agreement.

1. Current Site Development Standards

The Property is described and depicted on the Colony in the Wood Prospectus, as approved by the State of Florida, which, together with currently filed, but not yet approved amendments, is attached hereto and incorporated herein as Exhibit “C”. The Property currently contains 385 sites (referred to as lots in the Colony in the Wood Prospectus). The site sizes, setbacks, and minimum separation distance requirements are as set forth in the Lot Sizes/Setback and Minimum Separation Distance Requirements as Noted in the Prospectus and Section 2(B)(2) of this Agreement. The Prospectus provides for a maximum of 19 additional sites to be added to the Property by the Owner. The open space and common areas provided were set based on the existing development conditions that were accepted and adopted in the 2010 Master Development Agreement and Exhibit B of the 2010 Prospectus. The total open space is approximately 60% and the common space is approximately 18%.

Owner represents and warrants to the City that the Property has been developed as a manufactured home park in accordance with the applicable regulations, ordinances, and zoning requirements of the County of Volusia and all other applicable governmental entities from which approvals were required. The City authorizes the Owner to complete and maintain improvements on the Property in accordance with permits, written consents, or approved site plan documents previously obtained from the County of Volusia, the City of Port Orange, or other applicable governmental entity, notwithstanding codes and ordinances of the City which may be in conflict therewith.

PUD Dimensional Requirements:

Maximum community building height:	45 ft
Maximum building coverage:	40%
Minimum open space:	Shall conform to the existing percentages of Minimum Total Open Space 60% Minimum Common Areas 18%
Rear perimeter setback:	15 ft.
Side perimeter setback:	15 ft.
Front perimeter setback:	Equal to or greater than the required 20 ft. landscape buffer along Clyde Morris Boulevard

2. Manufactured Home Unit Requirements

The replacement manufactured homes on the existing 385 manufactured home sites shall comply with the following minimum dimensional standards as previously approved and accepted when the Property was annexed into the City and adopted in the 2010 Master Development Agreement and Exhibit B of the 2010 Prospectus, based on the National Fire Protection Association (NFPA). No setback encroachment shall be permitted for accessory structures such as screen rooms, porches, carports, sheds, or other improvements attached to the mobile home. The NFPA separation distance standards are as follows:

Side to side: 10 ft.

End to side: 8 ft.

End to end: 6 ft.

Maximum Building Height: 15 ft.

All new manufactured homes sites installed on the Property shall comply with the following minimum dimensional requirements:

Maximum Building Height:	15 ft
Setback from Any Property Lot Line:	15 ft.
Setback from Edge of Road	20ft.
Manufactured Home/Building Separation	15 ft.
Side Separation from Storage Building	10 ft.

It is planned that development of a maximum of 19 additional sites shall occur as soon as possible following entry into this Agreement and receipt of all applicable approvals for construction. The development of the additional sites may occur in either one or two phases. If done in two phases the phasing will be differentiated by location with the sites near the entrance being in one phase and the sites near the former sewer treatment facility being the other.

C. Roads, Sidewalks and Access

Access and transportation system improvements are provided as illustrated on the CDP. Roadways and drives within the development are and shall be private. Any new roads provided for the additional sites shall be built in conformity with the CDP and with Chapter 12 - Roads and Vehicular Use Areas of the City of Port Orange Land Development Code. New Roads shall be a minimum paved width of 24 feet. Sidewalks in front of individual residential sites shall not be required. The Owner shall continue to maintain existing access (pathway, bike paths or walkways) to all common open space areas as presently exists. Access to the site is provided via the primary driveway entry located with access to Clyde Morris Boulevard as shown on the CDP.

D. Parking

For the new additional sites, there shall be at least two paved, off-street parking spaces for each manufactured home site, which shall be on the same site as the manufactured home served and may be located in the rear or side yard of the manufactured home unit. Existing parking may remain, and new spaces placed adjacent or in a secondary location as the specific site may dictate as long as they fall within conformity with overall setbacks. Existing common area parking shall remain as shown in the CDP and modification to common area parking may be accomplished with a minor amendment to the CDP.

E. Signage

The Colony In the Wood PUD has one existing monument sign on Clyde Morris Blvd. This sign serves as the primary community identification sign and will be maintained in its current condition and location. If the sign sustains substantial (more than 50%) damage in the future it will be re-built in the same location but shall comply with the City signage regulations.

3. SANITARY WASTE, UTILITIES, STORMWATER, POTABLE WATER, AND RECLAIMED WATER

A. Site sewage was formerly processed through an on-site sewage treatment plant and ponds which were permitted by the Florida Department of Environmental Protection, Permit No. FLA011224. Beginning in 2017 the sewerage services for all of the existing facilities were transferred to the City of Port Orange public sewer system via a lift station and a new meter. The Owner is responsible for all public sewerage charges for the development, repair expenses, and maintenance of the on site portion of the system. All future development will utilize the public sewer system and the existing treatment plant and ponds will be decommissioned, remediated, and removed.

Further, the existing on site sewerage network has been inspected and found to have “inflow and infiltration” (I&I) in the form of storm water penetrating the system's network of pipes. To eliminate the I&I and reduce future sewer costs, the property owner/developer will investigate the existing condition of the sanitary sewer system and make reasonable repairs to assist in alleviating the problems.

B. Owner has a central cable television system with a network of cables, all of which are located within the Property. The system as presently installed is operated by Bright House Networks, a City of Port Orange cable operator licensee, and may in the future be operated by any cable operator licenses. The Owner agrees to comply with applicable telecommunication fees under State law.

C. The Owner has granted the City access, maintenance and drainage easements to and over the existing drainage ditches to enable the City to inspect and if necessary, take corrective action pursuant to Land Development Code (LDC) Chapter 10 Sections 13 and 14(b). The Owner is responsible for the maintenance of the ditches including the removal of vegetation and pests on a periodic basis as needed. If the City determines it is necessary, the Owner will grant such additional access, maintenance and drainage easements as the City may reasonably request. Expansion of the existing development for additional manufactured home site shall be designed to meet the LDC stormwater and compensating storage requirements.

4. IMPACT FEES/CREDIT

Impact fees paid represent a permanent entitlement to the land such that any future development on the Property will be credited for the number of Equivalent Living Units for which impact fees have been paid, except as provided by City ordinances. Nothing in this Agreement

shall be construed as a waiver by the Owner of its right to pursue impact fee credits for any and all work performed by the Owner for which impact fee credits can be awarded.

5. PROJECT BUFFERS AND LANDSCAPING

External boundaries shall be buffered by a solid wall, fence, or evergreen hedge not less than six feet in height as presently exist. Development of new sites or redeveloped sites will be in substantial conformity with the City of Port Orange Chapter 13, Landscaping and Buffer requirements. New manufactured home sites will require one shade tree per 2,500 square feet of site area, and 8 shrubs. Where gravel or crushed stone is used as a finished ground cover, the number of required shrubs shall be 12.

6. MAINTENANCE OF PROPERTY

The Owner will be responsible for and will maintain all common areas of the property, including but not limited to the club house, pool, and surrounding common areas. In the event of sale of the property, the Owner will deed the common areas and any existing facilities to the new owner or to a properly established association with responsibility for maintaining the common areas. Transfer to an established association shall be considered a minor modification to this MDA and shall require review and approval by the City. Additional information regarding these facilities/common areas can be found in the Colony in the Wood Prospectus, Exhibit "C".

7. HOMEOWNERS' ASSOCIATION

Residents of the Development are members of a Homeowners' Association ("HOA") which was formed and is operating with respect to the property. The development of a maximum of 19 additional sites has been approved by the HOA.

8. ENVIRONMENTAL CONSIDERATIONS

Both during and after construction of the additional sites, the Owner will use reasonable efforts to preserve trees and natural vegetation within the Property and maximize protection of natural drainage pathways. The construction of additional sites shall be in compliance with the tree preservation requirements of the City's Landscape Development Code. Compliance with the City Land Development Code may necessitate modification of the CDP.

9. EFFECTIVE DATE

This Agreement shall become effective upon recording in the public records of Volusia County, Florida and the City of Port Orange, Florida. The City shall record this Agreement at the Owner's expense. The provisions of this Agreement shall constitute covenants running with the land applicable to the Property, and any portion thereof, which is the subject of this Agreement. This Agreement shall inure to the benefit of the parties hereto and shall be binding upon any person, firm, corporation, or other entity that may become a subsequent owner, successor in interest, or assign, directly or indirectly, of the "Colony in the Wood Residential Planned Unit Development" property, or any portion thereof.

10. EXPIRATION

Upon the Effective Date of this Agreement, the terms of this Agreement shall bind and inure to the burden and benefit of each party hereto until this Agreement is modified, amended or rescinded as the parties hereto may mutually agree. Completion of the additional sites shall occur within (2) years of the Effective Date of this Agreement.

11. AMENDMENTS

Amendments to this Agreement, other than minor modifications to the CDP as provided herein, shall not be effective unless in writing and signed by all record title property owners of the land for which the amendment is to be applied, and the City.

A. Minor Amendments. The request for a minor modification of this Agreement may be administratively approved. For the purposes of this Agreement, minor modifications include those referenced in Sections 3 and 4 and those which meet the following criteria:

1. The site alterations do not increase the building size by more than ten percent of the gross floor area of all buildings, up to a maximum of 1,000 square feet;
2. The site alterations do not adversely affect traffic circulation on or off site;
3. The site alterations do not have a significant impact upon the city's utility system;
4. The site alterations comply with all pertinent codes, rules, and regulations of the City and do not require variances except as previously authorized by the Agreement; and
5. As specifically provided for in this Agreement.

B. Major Amendments. All amendments that do not meet the minor amendment criteria, and are deemed major by the Administrative Official, shall be "Major Amendments" to this Agreement. Proposed modifications deemed Major Amendments as described above, shall be submitted for approval under the same procedure and with the same public notice as required for the approval of this Agreement.

12. CONFORMANCE WITH LAWS

The Owner agrees:

A. To maintain the Property according to all regulations of the City to the extent those regulations are not inconsistent with the CDP or the Prospectus for the Property.

B. To provide agreements, contracts, deed restrictions and sureties acceptable to the City Legal Department related to the existing development or approved redevelopment phases, and for the continuing operation and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at public expense, and that the Owner's successors in interest will be bound by the Owner's commitments made in this Agreement.

C. To be bound by all City codes and ordinances that are not in conflict with the provisions of this Agreement and the CDP.

D. That compliance with the environmental protection code may necessitate modification of the conceptual plan.

13. ENFORCEABILITY

If any provision of this Agreement or the CDP are held by a court of competent jurisdiction to be invalid or otherwise unenforceable, such holding shall not effect the validity or enforceability of any other provision of this Agreement unless the holding so states.

14. PRIOR AGREEMENTS

This Agreement represents the complete understandings by and between the parties with respect to the development and continued use of the subject Property. Any and all prior agreements between the parties, including without limit, the Master Development Agreement, with respect to any subject comprehended by this Agreement are hereby voided and superseded by this Agreement.

15. POLICE POWER

Nothing contained in this Agreement shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the City as it now or hereafter exists under applicable laws, rules and regulations. Further, nothing contained in this Agreement shall be

construed as a waiver of or attempted waiver by the City of its sovereign immunity under the Constitution and laws of the State of Florida.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto affix their signatures and seals on the dates set forth below.

WITNESSES:

CITY OF PORT ORANGE, a Florida
municipal corporation

Print Name: _____

By: _____
Donald O. Burnette, Mayor

Print Name: _____

Attest: _____
Robin Fenwick, City Clerk, CMC

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by Donald O. Burnette, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the City. He is personally known to me.

Type, Print or Stamp Here
My Commission Expires: _____

WITNESSES:

SHADDIX COMMUNITIES, LTD, a
Florida Limited Partnership
By: SUN COLONY IN THE WOOD GP LLC, a
Michigan limited liability company
Its: General Partner

Print Name: _____

By: _____

Its: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, _____ on behalf of Sun Colony In the Wood GP, LLC, a Michigan Limited Liability Company, General Partner on behalf of Shaddix Communities, Ltd., a Florida limited partnership. He/she is personally known to me or has produced _____ as identification and did not take an oath.

Type, Print or Stamp Here
My Commission Expires:_____

Any change in the use or development of the Property in the future for uses other than the current manufactured home park use, except for the additional nineteen (19) expansion sites and ancillary uses provided by this Agreement, shall require modification to this Agreement, consent of the City and compliance with the then current zoning, planning and building ordinances and regulations.

EXHIBIT A
LEGAL DESCRIPTION

THE FOLLOWING DESCRIBED LAND, SITUATE, LAYING AND BEING IN VOLUSIA COUNTY, FLORIDA SECTION 6, TOWNSHIP 16, RANGE 33 EAST: NORTH 130 FEET OF SOUTHWEST 1/4 OF SOUTHWEST 1/4 OF SOUTHEAST AND SOUTH 270 FEET OF NORTHWEST 1/4 OF SOUTHWEST 1/4, EXCEPT LAND TAKEN FOR CLYDE MORRIS BOULEVARD, RIGHT OF WAY, VOLUSA COUNTY, FLORIDA, CONTAINING 4 ACRES , MORE OR LESS; THE SAME ALSO BEING DESCRIBED AS: PORTION OF SOUTHWEST 1/4 OF SOUTH EAST 1/4 OF SECTION 6, TOWNSHIP 16 SOUTH, RANGE 33 EAST DESCRIBES AS FOLLOWS: BEGINNING AS THE SOUTHWEST CORNER OF THE ABOVE PARCEL AS A POINT OF REFERENCE, THENCE NORTH ALONG THE WESTERLY LINE OF SAID SOUTHWEST 1/4 OF SOUTHEAST 1/4 A DISTANCE OF 530 FEET TO THE PLACE OF BEGINNING; THENCE EAST 660 FEET, THENCE NORTH 400 FEET, THENCE WEST 660, THENCE SOUTH 400 FEET TO THE PLACE OF BEGINNING , EXCEPT THAT PORTION TAKEN FOR CLYDE MORRIS BOULEVARD RIGHT OF WAY AND EXCEPT THAT PORTION OF PROPERTY LYING EAST OF CLYDE MORRIS BOULEVARD RIGHT OF WAY, CONTAINING APPROXIMATELY 4 ACRES MORE OR LESS, AND THE SOUTH 1/2 OF THE SOUTHWEST QUARTER OF SECTION 6 TOWNSHIP 16 SOUTH, RANGE 33 EAST, AS PER PLAT OF PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, TOGETHER WITH AN EASEMENT OVER THAT PART OF THE EASTERLY 20 FEET OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 SOUTH, RANGE 33 EAST, EXTENDING FROM THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER IN A NORTHERLY DIRECTION 1200 FEET MORE OR LESS, TO THE PRESENT GATE OF THE ROLFE SOD FARM.

EXHIBIT B
CONCEPTUAL DEVELOPMENT PLAN

**EXHIBIT C
PROSPECTUS**