

**POTABLE WATER  
ADVANCED INFRASTRUCTURE AGREEMENT (AIA)**

**THIS AGREEMENT** made and entered into as of the Effective Date, as defined below, by and between the Town of Jupiter Island, Florida, a municipal corporation established under the laws of the State of Florida (the "**Utility**"), with an office located at 2 Bridge Road, Hobe Sound, Florida 33455, and Hobe Sound Townhouse II, LLC, with an office located at 9508 Windy Ridge Road, Windermere, FL 34786, (the "**Property Owner**").

**W I T N E S S E T H**

**WHEREAS**, Property Owner owns property located in Martin County, Florida, and as more fully described in **Exhibit "A"**, attached hereto and made a part hereof and hereinafter referred to as "Property", whereupon Property Owner plans to develop the Property by erecting thereon residential and/or non-residential improvements. Property Owner desires to provide for the advance design, construction of Off-Site Facilities (as defined below) necessary to eventually provide water utility service to the Property in advance of such time as Property Owner determines to reserve water and wastewater utility service to the Property from Utility; and

**WHEREAS**, Property Owner acknowledges that execution of this Agreement by Utility does not reserve any water and/or wastewater utility service to the Property, nor confer nor grant any land use, zoning or site plan approvals for the Property, nor does it assure or guarantee Property Owner that Property Owner has or will be able to obtain land use, zoning or site plan approvals for or be able to construct residential and/or non-residential improvements on the Property with the completion of the Off-Site Facilities under this Agreement.

**NOW THEREFORE**, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, Property Owner and Utility hereby covenant and agree as follows:

1. The foregoing statements are true and correct.
2. Terms not defined in this Agreement shall have the meaning set forth in the South Martin Regional Utility ("**SMRU**") Regulations, Policies and Procedures, as may be amended from time to time (the "**RPPs**"), which is incorporated herein by reference.
3. Property Owner hereby acknowledges that Utility has exclusive right and privilege to construct, own, maintain, operate, replace, add to and expand the SMRU Facilities in, under, upon, over and across the present and future streets, roads, easements, reserved utility sites and public places as provided and dedicated to public use in the record plats, or as provided for in agreement, dedications or grants made otherwise and independent of said record plats. Utility covenants that it will attempt to ascertain easement locations; however, should Utility install any of its Utility Facilities outside a dedicated easement area, Property Owner covenants and agrees that Utility will not be required to move or relocate any facilities lying outside a dedicated easement area as long as the facilities do not unreasonably interfere with the then or proposed use of the area in which the facilities have been installed. Property Owner hereby further acknowledges that the foregoing grants include the necessary rights of

ingress and egress to any part of the Property which Utility requests for the maintenance, operation, repair, replacement, addition to or expansion of the Utility Facilities; that in the event Utility is required or desires to install any of its Utility Facilities in lands within the Property lying outside the streets and easement areas described above, then Property Owner or the successor owner(s), as applicable, shall grant to Utility, without cost or expense to Utility, the necessary easement or easements for such installation; provided, all such installations by Utility shall be made in such a manner as not to unreasonably interfere with the then primary use of such Property.

4. Property Owner is required to pay for the design, permitting, and construction of the Off-Site Facilities, and transfer such completed Off-Site Facilities to Utility at no cost to Utility. In addition, Property Owner shall pay to Utility the fees and charges listed in **Exhibit "B"** to this Agreement.
5. Utility agrees to allow the Property Owner to design, with review and approval by the Utility, permit, construct and turn-over ownership of the required Off-Site Facilities to Owner within the time frame in the FDEP construction permit, but no later than \_\_\_\_, 2020.
6. Property Owner will construct the Off-Site Facilities, as depicted in **Exhibit "C"**. Upon completion of the Off-Site Utility Facilities in accordance with the requirements of this Agreement and the RPPs for turnover of Off-Site Facilities to Utility, Utility agrees to accept ownership of the Off-Site Facilities for operation. Utility has advised Property Owner's engineer of any facility and sizing requirements as mandated by the RPPs and as set forth in **Exhibit "C"**. No construction of the Off-Site Facilities shall commence until Utility has approved the plans and specifications in writing, and Property Owner has obtained all required permits. After approval, Property Owner shall cause the Off-Site Facilities to be constructed as shown on the approved and permitted plans and specifications. Fees, as set forth in the RPPs and **Exhibit "B"**, shall be levied by Utility to cover the cost of plan review, administration, and inspection.

During the construction of the Off-Site Facilities, Utility may from time to time inspect such installations to determine compliance with the permits and plans and specifications, adequacy of the quality of the installation, and further, shall be entitled to direct the Property Owner, at the Property Owner's expense, to perform standard tests for pressure, infiltration, line and grade, and all other normal engineering tests to determine that the Off-Site Facilities have been installed in accordance with the permits, approved plans and specifications, and the RPPs. Inspection by Utility shall in no way relieve the Property Owner of his responsibility to install the Off-Site Facilities in accordance with the permits, approved plans and specifications, and the RPPs. Complete as-built plans, including hard copy and electronic media, shall be submitted to Utility upon completion of construction as required by the RPPs. Property Owner shall be required to re-install any Off-Site Utility Facilities which do not meet the requirements of the RPPs, permits or approved plans and specifications.

Property Owner hereby agrees to transfer, or cause the transfer to Utility, title to all Off-Site Facilities. Such conveyance is to take effect without further action upon the written acceptance by Utility of the said installation. As further evidence of said transfer of title, upon the completion of the installation and prior to the rendering of service by Utility, Property Owner shall convey or cause to be conveyed to Utility by Bill of Sale in a form provided in the RPPs. the completed Off-Site Facilities, along with documentation of Property Owner's costs of construction and Property Owner's No Lien Affidavit, in form

provided in the RPPs. The Off-Site Facilities shall be constructed within existing public easements or public rights-of-way. Property Owner shall be responsible for acquiring any other required private easements or rights of way, if not existing at the time of commencement of construction.

Utility's acceptance of the Off-Site Facilities from Property Owner shall be in accordance with the provisions as set forth in the RPPs, provided acceptance by Utility shall not relieve Property Owner from its obligations under this Agreement. All installations by Property Owner or its contractor shall be warranted for one (1) year (or five (5) years in the case of lift station pumps and motor assemblies) from the date of final acceptance by Utility of the FDEP permit to place the Off-Site Facilities into service. Mortgagees holding liens on the Off-Site Facilities or the property underlying the Off-Site Facilities shall be required to release such liens, subordinate their position, or join in the granting of any required easements or rights-of-way.

The timely and continued payment by Property Owner of all fees in accordance with the terms set forth herein shall be considered essential to the continued performance by Utility of the terms and conditions of this Agreement. The construction and transfer of ownership of the Off-Site Facilities does not and will not result in the Utility waiving or offsetting any of its fees, rules or regulations. Property Owner shall not have any present or future right, title, claim, or interest in and to the Off-Site Facilities transferred to or owned by Utility, regardless of whether Property Owner constructs residential and/or non-residential improvements on the Property.

7. Property Owner acknowledges that all Off-Site Facilities conveyed to Utility shall at all times remain in the complete and exclusive ownership of Utility, and no entity owning any part of the Property or any residence or building constructed or located thereon, will have any right, title, claim or interest in and to such facilities, or any part of them, for any purpose.
8. This Agreement may not be assigned without the prior written consent of Utility, and may only be assigned to a successor in interest of Property Owner to the Property. As a consequence of the unique nature of providing for utility service to the Property, no part of this Agreement may be assigned separately from the whole of the Agreement.
9. All notices provided for herein shall be in writing and transmitted by mail or by courier and, if to Property Owner shall be mailed or delivered to Property Owner at:

Jeffrey Gelman, Manager  
Hobe Sound Townhouse II, LLC  
9508 Windy Ridge Road  
Windermere, FL 34786

and if to Utility, shall be mailed to Utility at:

Town Manager  
SMRU / Town of Jupiter Island  
P.O. Box 395  
Hobe Sound, FL 33475  
grauth@tji.martin.fl.us

10. This Agreement shall supersede, null and void, all previous agreements or representations, either verbal or written, heretofore in effect between Property Owner and Utility, made with respect to the matter herein contained, and when duly executed, constitutes the entire agreement between the Property Owner and Utility. No additions, alterations or variations of terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waiver are expressed in writing and duly signed by the parties hereto. Property Owner acknowledges that staff and employees of Utility have no authority to bind Utility or agree to any additions, alterations or variations of terms of this Agreement or the RPPs, which can only be added to, altered or varied by the Town Commission.
11. The titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and such captions in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.
12. If any provision of this Agreement or the application thereof to any person or circumstances shall be held by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remaining provisions of this Agreement and the validity, enforceability, and application of such provisions to other persons or circumstances shall not be impaired thereby, but such remaining provisions of this Agreement shall be interpreted, applied and enforced so as to achieve, as near as may be, the purposes and intent of this Agreement to the greatest extent permitted by applicable law.
13. Unless otherwise specifically provided herein, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver. In any representation, warranty, or covenant by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Agreement.
14. This Agreement shall be construed and interpreted under the laws of the State of Florida, without giving effect to principles of conflict of laws, except where specifically pre-empted by Federal law. Venue with respect to any state or federal litigation or dispute in connection with this Agreement shall lie exclusively in Martin County, Florida.
15. **IF PROPERTY OWNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PROPERTY OWNER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN CLERK, WHO IS OWNER'S CUSTODIAN OF PUBLIC RECORDS, AT:**

**Office of the Town Clerk  
Town of Jupiter Island  
2 S.E. Bridge Road  
Hobe Sound, Florida 33475  
772-545-0100  
[kkogos@tji.martin.fl.us](mailto:kkogos@tji.martin.fl.us)**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date executed by Owner ("**Effective Date**").

Authentication

\_\_\_\_\_  
Town Clerk  
(TOWN SEAL)

**THE TOWN OF JUPITER ISLAND**

By: \_\_\_\_\_

Its Mayor  
Effective Date: \_\_\_\_\_

**HOBE SOUND TOWNHOUSE II, LLC**

\_\_\_\_\_  
By:  
Its:

DRAFT

**Exhibit A**  
**PROPERTY DESCRIPTION**

**Exhibit B**  
**SCHEDULE OF FEES**

PLAN REVIEW FEE:

(\*MINIMUM OF 2% CONSTRUCTION COSTS  
DUE UPON EXECUTION OF AGREEMENT, WITH ACTUAL \$ \_\_\_\_\_  
ADDITIONAL COST PAYABLE PRIOR TO REGULATORY SIGN-OFF)

INSPECTION FEES:

(\*MINIMUM OF 1½% OF THE ENGINEER'S CERTIFIED \$ \_\_\_\_\_  
CONSTRUCTION COST ESTIMATE DUE UPON EXECUTION  
OF AGREEMENT WITH ACTUAL ADDITIONAL  
AMOUNT DUE PRIOR TO REGULATORY SIGN-OFF)

ADMINISTRATION FEE:

(\*MINIMUM OF \$\_\_\_\_\_ DUE UPON EXECUTION \$ \_\_\_\_\_  
OF AGREEMENT, WITH ACTUAL COST PAYABLE  
PRIOR TO ACCEPTANCE OF OFF-SITE UTILITY FACILITIES)

TOTAL DUE UPON EXECUTION OF AGREEMENT\* \$ \_\_\_\_\_

**Exhibit C**  
**POINT OF SERVICE**

**Exhibit D**  
**DESCRIPTION OF PROJECT**