UTILITY SERVICE AGREEMENT

THIS UTILITY SERVICE AGREEMENT made and entered into this _____ day of _____, 2020, by and between Ioanna Las, LLC., a limited liability company, its successors and assigns, hereinafter referred to as "***Developer***" and City of Stuart, a municipal corporation of the State of Florida, hereinafter referred to as "***City***".

WHEREAS, ***Developer*** has a 19-unit apartment complex located at 603 SW Federal Highway located in Martin County, Florida described on Exhibit "A" attached hereto and thereby made a part hereof as if fully set out in this paragraph and hereinafter referred to as "Property", and

WHEREAS, ***Developer,*** has developed the "Property" by erecting thereon improvements which currently have water service but will now require sewer service; and

WHEREAS, ***City*** is willing to provide, in accordance with the provisions and stipulations hereinafter set out, water service, and to operate such facilities that the "Property" will receive adequate water and sewer service; and

NOW, THEREFORE, for and in consideration of the mutual undertakings and agreements herein contained and assumed, ***Developer*** and ***City*** hereby covenant and agree as follows:

1. The following definitions and references are given for the purpose of interpreting the terms as used in the Agreement and apply unless the context indicates a different meaning:

   (a) "Service" means ***City*** water and sewer service to the "Property."

   (b) "Point of Delivery" means the point were the pipes of ***City*** are connected with the pipes which are owned, operated and maintained by ***Developer***.

2. The ***City*** has advised ***Developer*** will be obligated to pay ***City*** connection fees for connection to the system as a "sewer availability fee" to defray capital facilities costs in the amount of $12,970.40 for 6.2 per equivalent residential units.

3. The ***City*** has advised the ***Developer*** will be required to install and connect a private sewage lift station to serve the 19 apartment units.

4. Payment must be made prior to a Certificate of Occupancy by the City's Building Official.

5. The ***City*** and the ***Developer*** agree that the calculated values for water and sewer usage and corresponding availability fees, representing 6.2 equivalent residential units, are reasonable estimates. Accordingly, both the ***City*** and the ***Developer*** agree that the actual water and sewer usage will be reviewed to confirm the estimates were reasonable. The review period will begin on the day water and sewer service were activated and end 365 days thereafter. Should availability fee adjustments be required, the ***Developer*** will be obligated to pay the additional availability fees in accordance with fee schedule identified in City of Stuart Ordinance 2167-08. Payment for any additional availability fees will be paid to the ***City*** by the ***Developer*** within 30 calendar days of the ***City's*** notification.

6. ***Developer*** under City of Stuart Ordinance No. 1315-93, will be obligated to pay ***City*** monthly water and sewer service and associated fees as required in City of Stuart Resolution 119-17, as the same may be amended from time to time.

7. Said water and sewer service fees to be based on the current rates as applied to the actual volume of water used from the City water system as measured by a water meter installed by ***Developer*** at the point of connection.

8. Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by the ***Developer***, ***City*** covenants and agrees that it will allow the connection of the water distribution and sewage collection facilities installed by ***Developer*** to the central water and sewer facilities of ***City*** in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with rules and regulations of the Department of Health and Rehabilitative Services. ***City*** agrees that once it provides water and sewer service to the "Property" and ***Developer*** or others have connected consumer installations to system, that thereafter, ***City*** will continuously provide, in accordance with the other provisions of this Agreement, including rules and regulations and rate schedules, water service to the "Property" in a manner which conforms with all requirements of the Department of Health and Rehabilitative Services and other governmental agencies having jurisdiction over the water supply operation of ***City***.

9. Notwithstanding any provision in this Agreement, ***City*** may establish, revise, modify and enforce rules, regulations and rates covering the provision of water and sewer services to the "Property" so long as such modifications or revisions apply to all water and sewer service customers. Such rules, regulations and rates are subject to the approval of the ***City***. Such rules and regulations shall at all times be reasonable and subject to regulation as may be provided by law or contract. Rates charged to ***Developer,*** or consumers located upon the "Property" shall be identical to rates charged for the same classification of service in the particular service area. All rules, regulations and rates in effect, or placed in effect in accordance with the preceding, shall be binding upon ***Developer***, upon any other entity holding by, through or under ***Developer;*** and upon any consumer of the water and sewer service provided to the "Property" by ***City***.

10. ***Developer,*** or any owner of any parcel of the "Property," or any occupancy of any residence or building located thereon, shall not have the right to and shall not connect any consumer installation to the water facilities of ***City*** until approval for such connection has been granted by the ***City***. The parties hereto further agree that the expense of constructing all consumer installation and all costs of operating and maintaining any consumer installation shall be that of ***Developer***, or other than ***City***.

11. This Agreement shall be binding upon and shall inure to the benefit of ***Developer, City*** and their respective assigns and successors by merger, consolidation or conveyance. This Agreement shall not be sold, conveyed, assigned or otherwise disposed of by ***Developer,*** without the written consent of ***City*** first having been obtained. ***City*** agrees not to unreasonably withhold such consent. The capacity reserved herein may only be applied to the "Property" described in Exhibit "A", and no portion of the capacity can be transferred to any other "Property."

12. Until further written notice by either party to the other, all notices provided for herein shall be in writing and transmitted by mail or hand delivery to ***Developer,*** 1177 NE Kubin Avenue, Jensen Beach, Florida 34957 and to ***City***, City of Stuart, Public Works Department, 121 S.W. Flagler Avenue, Stuart, Florida 34994.

13. The rights, privileges, obligations and covenants of ***Developer*** and ***City*** shall survive the completion of the work of ***Developer*** with respect to completing the water and sewer facilities and services to any phased area and to the "Property" as a whole.

14. This Agreement shall supersede all previous agreements or representations, either verbal or written, heretofore in effect between ***Developer,*** and ***City***, made with respect to the matter herein contained, and when duly executed, constitutes the agreement between the ***Developer*** and ***City***. No additions, alterations or variations of terms of the 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.

15. In the event of litigation between the parties regarding any provision of the Agreement, each side shall pay its own attorney fees and court costs regardless of the outcome of the litigation.

FOR THE CITY OF STUART, FLORIDA

_____

Mayor, Mike Meier

ATTEST:

_____

City Clerk Mary Kindel

IOANNA LAS, LLC.

BY_____

_____

Witness

APPROVED AS TO FORM AND CORRECTNESS

_____

City Attorney Mike Mortell

_____

Witness

EXHIBIT "A"

LEGAL DESCRIPTION

FRAZIER CRESCENT LOTS 1 TO 4, LOTS 8 TO 13 INC & N 12.5' OF LOTS 20 & 21 BLK 1

