

**Sewer Main Construction Agreement
(Construction)**

THIS SEWER MAIN CONSTRUCTION AGREEMENT (“Agreement”) is made and entered into on this 27 day of Aug, 2024 (“Effective Date”) by and between WAREHOMES AT TRADITION, LLC, a Florida limited liability company (“OWNER”), the PORT ST. LUCIE GOVERNMENTAL FINANCE CORPORATION, a not-for-profit corporation (“GFC”), and the City of Port St. Lucie, a Florida municipal corporation (“CITY”). OWNER, CITY and GFC are each sometimes referred to as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, the OWNER owns a parcel of land legally described as Lot 2 of Southern Grove Plat 26 as recorded in the Public Records of St. Lucie County Plat Book 84, Page 35. (hereinafter the “Owner Parcel”); and

WHEREAS, the GFC owns property adjacent to the Owner Parcel, described as Lot 1 of Southern Grove Plat 46 as recorded in the Public Records of St. Lucie County Plat Book 125, Page 17 (“GFC Parcel”); and

WHEREAS, the Owner Parcel is intended to be developed as a warehouse and distribution facility consisting of four buildings, which shall include a sewer main (“Sewer Main”) to service the GFC Parcel;

WHEREAS, Owner Parcel project shall be referred to as (“Warehomes Project”); and

WHEREAS, in conjunction with the design and construction of the Warehomes Project, GFC requests that OWNER designs and constructs the Sewer Main and related improvements, including but not limited to 8-inch gravity sewer pipe and concrete manholes (“Sewer Main Construction”), will be installed in the location more particularly set forth on **Exhibit “A”** attached hereto, and such general description shall be referred to as the “Plans”; and

WHEREAS, GFC and the CITY desire for the OWNER to complete the Sewer Main Construction, with GFC reimbursing the OWNER for the cost of the Sewer Main Construction, as described below in more detail; and

WHEREAS, the CITY, GFC and the OWNER desire to establish their respective rights and obligations regarding the Sewer Main and the Sewer Main Construction.

NOW THEREFORE, in consideration of ten dollars (\$10.00), the foregoing premises, the undertakings and mutual agreements herein contained and assumed, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby covenant and agree as follows:

1. Recitals: The foregoing recitations are true and correct and are incorporated herein by

this reference.

2. Sewer Main Construction:

A. OWNER agrees to perform the Sewer Main Construction in accordance with the Plans. OWNER shall commence the Sewer Main Construction within ninety (90) days of issuance of a wastewater system construction permit for the Warehomes Project (“Sewer Main Construction Commencement”). OWNER shall complete the Sewer Main Construction prior to issuance of the certificate of occupancy for the Warehomes Project, but no later than five-hundred forty (540) days from the Effective Date.

B. OWNER will construct the Sewer Main Construction and advance the cost of the Sewer Main Construction on behalf of GFC. GFC shall reimburse OWNER for the total costs advanced for the Sewer Main Construction. However, OWNER shall not be required to advance more than \$240,000 toward the Sewer Main Construction. In the event the actual cost of the Sewer Main Construction exceeds \$240,000, GFC agrees to pay such excess amounts directly to the relevant party in a timely manner.

C. Reimbursement to the OWNER will be made upon the receipt of a final invoice, within forty-five (45) days of Final Completion (as defined below), and following the OWNER’S conveyance of the Utility Easement (as defined below), whichever occurs last.

D. OWNER shall be responsible for obtaining all necessary permits and approvals to complete the Sewer Main Construction. OWNER shall receive the consent of GFC prior to entering contracts for the Sewer Main Construction, GFC’s consent shall not be unreasonably withheld.

3. Conditions to Commencement of Sewer Main Construction. Prior to the Sewer Main Construction Commencement, OWNER shall provide the CITY with: (a) a bond in a form and content acceptable to the CITY, in an amount equal to 120% of the total estimated cost of the Sewer Main Construction (the “Bond”); (b) evidence that all necessary permits and approvals have been obtained; and (c) a copy of the construction and design contracts for the Sewer Main Construction.

4. Compliance with Applicable Laws, Codes and Regulations: OWNER shall abide by and follow any and all rules and requirements of the regulatory agencies that have jurisdiction over the subject matter of this Agreement as well as all applicable federal and state laws, regulations, and ordinances, as amended from time to time.

5. Construction and Design Plans: OWNER shall furnish to GFC a complete set of design and construction drawings, plans, specifications, and other necessary engineering data for the proposed Sewer Main Construction (“Design Plans”) within sixty (60) days of the Effective Date. After Sewer Main Construction Commencement, if there is either: (i) a cessation of construction activity where there have been no documented inspections by the CITY for a period of twelve (12) months; or (ii) an expiration of the associated permit(s), whichever occurs first, then GFC reserves the right to require the resubmittal of the Design Plans. However, OWNER

shall not be required to pay additional review fees upon resubmission of said documents for approval. Approval by the GFC or the CITY of the Design Plans for the Sewer Main Construction shall not act as a waiver of OWNER's responsibility to perform the Sewer Main Construction in accordance with all applicable state, county, federal or municipal laws, rules and regulations and such approval by the GFC or the CITY shall not relieve OWNER of such obligations.

6. Completion of Sewer Main Construction: OWNER shall provide written notice to the CITY and GFC of its completion of the Sewer Main Construction and within seven (7) business days after delivery of such notice, CITY shall make a final inspection to confirm that the Sewer Main Construction has been completed in substantial compliance with the Design Plans and any applicable building codes and regulations. Upon receipt of notice from the CITY that the Sewer Main Construction has passed the forgoing inspection, within 15 days after the inspection, OWNER shall deliver to the CITY a bill of sale (if applicable) and a signed assignment of warranties, in a form mutually acceptable to the Parties, assigning to the CITY all of OWNER's rights and interest in and to all third party warranties pertaining to the Sewer Main Construction, to the extent assignable (the "Assignment of Warranties"). Upon the foregoing occurrences, the CITY shall deliver to OWNER written acceptance of the Sewer Main Construction ("Certificate of Completion"). Upon issuance of the Certificate of Completion, the CITY shall be solely responsible for all ongoing regular maintenance, repair, operation and replacement of the Sewer Main and OWNER shall have no responsibility or obligation related to the same.

For purposes of this Agreement, the "Final Completion" of construction of the Sewer Main shall not be deemed to have occurred until such time as the CITY has issued the Certificate of Completion (as defined above).

7. Conveyance of Easement: Prior to Final Completion, OWNER shall convey a utility easement to the CITY in substantially the same form as attached hereto and incorporated herein as **Exhibit "B"** ("Utility Easement"). CITY shall obtain a sketch and legal description of the Easement Premises (as defined in the Utility Easement) which shall be attached to and incorporated into the Utility Easement. OWNER agrees to convey any other access and utility easements as may be necessary for the Sewer Main to serve the GFC Parcel and for the proper functioning of the Sewer Main, subject to the OWNER's approval, which shall not be unreasonably withheld.

8. Qualified Contractor: OWNER shall cause the work under this Agreement to be supervised and directed by a contractor licensed in the State of Florida, applying such skills and expertise as is necessary to perform the work in accordance with the applicable approved plans.

9. Default:

A. With respect to any event of default and/or breach under this Agreement ("Event of Default"), neither Party shall be deemed in default and/or breach unless:

i. the Party alleging such default and/or breach shall have provided written notice of the alleged default and/or breach to the other Party;

ii. the alleged defaulting and/or breaching Party shall have failed within a period of thirty (30) days after receipt of such notice to commence such action as is reasonably necessary to cure said default and/or breach and thereafter diligently pursue to cure such default within a reasonable time; and

iii. the alleging Party is in compliance with the provisions of this Agreement.

B. Subject to the right to cure set forth above, in the event of a default and/or breach by:

i. OWNER. If OWNER defaults/breaches by failing to comply with any of its obligations under this Agreement, the CITY and GFC may pursue the following (or both options): (a) call the Bond; (b) pursue all remedies in equity or law.

ii. GFC or CITY. If GFC or the CITY defaults/breaches under this Agreement, OWNER may pursue all remedies in equity or law.

10. Force Majeure; Weather Days: The deadlines set forth herein, are subject to extensions by any Party for a Force Majeure Event (as herein defined). As used herein, a "Force Majeure Event" shall include governmental moratorium or unavailability of essential supplies or utilities (e.g., power or water) through no fault of the requesting Party, fire (including wildfires), explosion or similar casualty, sabotage, theft, vandalism, riot or civil commotion, pandemic, hurricane, tropical storm, tornado, or flooding. Any extension of any deadline set forth in this Agreement due to a Force Majeure Event shall be for a reasonable period of time that takes into account the actual delay in performance that results from such Force Majeure Event, as well as any additional time reasonably necessary for the Parties to resume their performance under this Agreement. In the event that any Party claims a delay for a Force Majeure Event, the requesting Party shall make a claim for an extension in writing to the other Party within fifteen (15) business days after the occurrence of a Force Majeure Event for which such claim is being made. The claim shall clearly state the reason, provide a detailed explanation given as to why the event is a Force Majeure Event and provide sufficient documentation to support such claim. If no written objection to such claim for extension is received from the other Party within fifteen (15) business days from the date of the written extension request, such extension shall be deemed given. If a written objection is made, the Parties shall meet and confer within fifteen (15) business days to address their differences and may not take legal action prior to such conferral taking place.

11. Notices: All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person (including by any over-night delivery service) or sent by certified mail, return receipt requested, and addressed as follows or to such other Party or address as may be designated by one Party to the other.

If to GFC:

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, Florida 34984

With copy to:

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, Florida 34984

Attention: City Manager

Attention: City Attorney

If to CITY:

With copy to:

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, Florida 34984
Attention: City Manager

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, Florida 34984
Attention: City Attorney

If to OWNER:

Warehomes at Tradition, LLC
19790 West Dixie Hwy, PH 1
Miami, Florida 33180
Attention: OWNER

With copy to:

Evan Marbin
19790 W Dixie Highway PH2
Aventura, Florida 33179

12. Indulgence Not Waiver: The indulgence of any Party with regard to any breach or failure to perform any provision of this Agreement shall not be deemed to constitute a waiver of the provision or any portion of this Agreement, either at the time of the breach or failure occurs, or at any time throughout the term of this Agreement.

13. Entire Agreement; Amendment: This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior oral or written agreements between the Parties. This Agreement may be amended only by written document executed by all Parties.

14. Interpretation; Venue: This Agreement shall be interpreted as a whole unit, and section headings are for convenience only. All interpretations shall be governed by the laws of the State of Florida. In the event it is necessary for any Party to initiate legal action regarding this Agreement, venue shall be in the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida, for claims under state law, and in the Southern District of Florida for claims justiciable in federal court. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, ALL PARTIES HEREBY WAIVE THEIR RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT. This clause shall survive the expiration or termination of this Agreement.

15. Time of the Essence: Time is of the essence with regard to this Agreement.

16. Counterparts: This Agreement may be executed in multiple counterparts, each of which individually shall be deemed an original, but when taken together shall be deemed to be one and the same Agreement.

17. Sovereign Immunity: Nothing in this Agreement shall be considered to increase or waive any limits of liability or waive any immunity afforded to the Parties by Florida Statutes, case law, or any other source of law.

18. Assignability: Except as otherwise permitted elsewhere in this Agreement, the rights and

obligations of the OWNER and GFC under this Agreement may not be assigned in whole or in part without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed or conditioned. GFC consent will not be required for an assignment to an Affiliate of OWNER, as long as GFC is provided with (i) a copy of the assignment document signed by both parties to the assignment, and (ii) evidence that the assignee is an Affiliate of the OWNER. No assignment of this Agreement shall release OWNER from its obligations under this Agreement.

For purposes hereof, "Affiliate" means a person or entity which (either directly or indirectly, through one or more intermediaries) controls, is in common control with or is controlled by, another person or entity, and any person or entity that is a director, trustee, officer, employee, agent, partner, shareholder, subsidiary or attorney of any of the foregoing. For the purposes of this definition, the term "control" means (a) legal or beneficial ownership of fifty one percent (51%) or more of the voting interests of an entity, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise.

19. Invalid Provisions: In the event any term or provision of this Agreement is held illegal, unenforceable, or inoperative as a matter of law, the remaining terms and provisions will not be affected thereby but will be valid and remain in full force and effect to fullest extent possible. If any provision of this Agreement may be construed in two or more ways, one of which would render the provision invalid or otherwise voidable or unenforceable and another of which would render the provision valid and enforceable, such provision shall have the meaning which renders it valid and enforceable.

20. Authority to Sign: Each individual signing this Agreement directly and expressly warrants that such individual has been given and received and accepted authority to sign and execute the documents on behalf of the Party for whom it is indicated such individual has signed, and further has been expressly given and received and accepted authority to enter into a binding agreement on behalf of such Party with respect to the matters concerned herein and stated herein.

21. Further Assurances: In addition to the acts recited herein and contemplated to be performed, executed and/or delivered by all Parties, all Parties agree to execute and deliver, but without any obligation to incur any additional liability, responsibility, charge or expense, such additional documentation as may be reasonably necessary to consummate the transactions contemplated hereby.

22. Waiver of Consequential Damages: Notwithstanding anything contained in this Agreement to the contrary, each Party hereby waives the right to pursue any other Party, and such other Party shall not be liable, for any special, indirect, consequential, incidental, or punitive damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement.

[Signatures and acknowledgments appear on the following page(s)]

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of the day and year first above written.

GFC:

PORT ST. LUCIE GOVERNMENTAL FINANCE CORPORATION, a not-for-profit corporation

Witnesses:

Printed Name: _____
Address: _____

By: _____
Printed Name: _____
Title: _____

Printed Name: _____
Address: _____

STATE OF FLORIDA)
) ss
COUNTY OF ST. LUCIE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ___ day of _____, 202_, by _____, as _____ of the Port St. Luce Governmental Finance Corporation, a not for profit corporation, and on behalf of the Port St. Lucie Governmental Finance Corporation, who is [X] personally known to me, or who has [] produced the following identification _____.

Signature of Notary Public

Name: _____

Notary Public, State of Florida
My Commission expires _____

CITY:

CITY OF PORT ST. LUCIE, a Florida municipal corporation

Witnesses:

Printed Name: _____
Address: _____

By: _____
Printed Name: _____
Title: _____

Printed Name: _____
Address: _____

STATE OF FLORIDA)
) ss
COUNTY OF ST. LUCIE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ___ day of _____ 202_, by _____, as _____ of the City of Port St. Luce, a Florida municipal corporation, and on behalf of the City of Port St. Lucie, who is [X] personally known to me, or who has [] produced the following identification _____.

Signature of Notary Public

Name: _____

Notary Public, State of Florida
My Commission expires _____

OWNER:

WAREHOMES AT TRADITION, LLC, a Florida limited liability company

Witnesses:

[Signature]
Printed Name: Andrea Grimaldi
Address: 14637 SW 139th
Miami FL 33186

[Signature]
Printed Name: JARED ROK
Address: 1100 Biscayne Blvd
apt 5303 Miami FL 33132

By: [Signature]
Printed Name: WAREHOMES AT TRADITION, LLC
Its: MANAGER - JASON MOKSAIN

STATE OF FLORIDA
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 27 day of August 2024 by Jason Moksaian, as Manager of the warehomes at tradition LLC, who is [] personally known to me, or who has [] produced the following identification _____.

[Signature]
Signature of Notary Public

Name: Andrea Grimaldi

Notary Public, State of Florida
My Commission expires 1/5/28



Exhibit "A" – Sewer Main Location

Exhibit “B” – Sample City Utility Easement

EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF LOT 2, SOUTHERN GROVE PLAT NO. 26, AS RECORDED IN PLAT BOOK 84, PAGE 35, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL I

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2, THENCE ALONG THE WEST LINE OF SAID LOT 2, NORTH 20°26'09" WEST, A DISTANCE OF 312.11 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL:

THENCE CONTINUE ALONG SAID WEST LINE, NORTH 20°26'09" WEST, A DISTANCE OF 20.06 FEET; THENCE NORTH 73°53'16" EAST, A DISTANCE OF 772.96 FEET; THENCE SOUTH 12°58'46" EAST, A DISTANCE OF 20.03 FEET; THENCE SOUTH 73°53'16" WEST, A DISTANCE OF 770.35 FEET TO THE PLACE AND POINT OF BEGINNING.

TOGETHER WITH:

PARCEL II

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2, THENCE ALONG THE WEST LINE OF SAID LOT 2, NORTH 20°26'09" WEST, A DISTANCE OF 350.59 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL:

THENCE CONTINUE ALONG SAID WEST LINE, NORTH 20°26'09" WEST, A DISTANCE OF 20.06 FEET; THENCE NORTH 73°53'16" EAST, A DISTANCE OF 29.59 FEET; THENCE SOUTH 16°12'22" EAST, A DISTANCE OF 20.00 FEET; THENCE SOUTH 73°53'16" WEST, A DISTANCE OF 28.11 FEET TO THE PLACE AND POINT OF BEGINNING.

CONTAINING 16,010.30sq.ft. MORE OR LESS.

NOTE: THIS IS NOT A SKETCH OF SURVEY, BUT ONLY A GRAPHIC DEPICTION OF THE DESCRIPTION SHOWN HEREON. THERE HAS BEEN NO FIELD WORK, VIEWING OF SUBJECT PROPERTY OR MONUMENTS SET IN CONNECTION WITH THE PREPARATION OF THE INFORMATION SHOWN HEREON.

NOTE: LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY AND /OR EASEMENTS OF RECORD

THOMAS P. KIERNAN
PROFESSIONAL SURVEYOR & MAPPER
FLORIDA CERTIFICATE NO. 6199

SIGNATURE DATE

Sheet 1 of 2



**CULPEPPER &
TERPENING INC**

2980 SOUTH 25th STREET • FORT PIERCE, FLORIDA 34981
PHONE 772-464-3537 • FAX 772-464-9497 • www.ct-eng.com
STATE OF FLORIDA BOARD OF PROFESSIONAL
ENGINEERS AUTHORIZATION NO. 4286

LEGAL DESCRIPTION

DRAGONFLY INDUSTRIAL

DATE: 12/29/23

DRAWN JDJ

SCALE: N/A

JOB No. 22-021

EXHIBIT "B"

Sketch of the Easement Premises

Prepared by and return to:
Port St. Lucie Utility Systems Dept.
1001 SE Prineville St.
Port St. Lucie, FL 34983

UTILITY EASEMENT

THIS INDENTURE made and entered into this 27 day of August, 2024, by and between WAREHOMES AT TRADITION, LLC ("Grantor"), owner of the property for which this document applies, whose mailing address is 19790 W Dixie Hwy, Miami FL 33180 and the **CITY OF PORT ST. LUCIE**, a Florida municipal corporation ("Grantee"), whose mailing address is 1001 SE Prinveville St, Port St. Lucie, Florida 34983:

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and their respective heirs, legal representatives, successors and assigns.)

WITNESSETH:

That Grantor is the owner in fee simple of that certain real property (the "Property") lying, located and being in St. Lucie County, Florida and more particularly described in Exhibit "A", attached hereto and made a part hereof; and

That Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants and warrants to the Grantee, its successors and assigns, an easement in perpetuity for utility purposes, more particularly described in Exhibit "B" (the "Easement Premises"), attached hereto and incorporated herein by reference, which shall run with and be a burden upon the Property.

Grantor and Grantee agree that there will be no improvement planted or constructed within the boundaries of the Easement Premises without written approval by the Grantee. Should the Grantor plant or construct such improvement, it is subject to removal or destruction by the Grantee, without liability or responsibility thereof on the part of the Grantee.

Grantor further grants to the Grantee, its agents, employees, contractors, designees and assigns, a general ingress/egress easement over and across its driveways, parking, common or open areas of the Property for the purpose of access to Easement Premises for, installation of, modification of, and/or maintenance of, any of the Grantee's utility pipelines, appurtenances, facilities and equipment.

Grantor hereby covenants and warrants that Grantor owns the said land described herein, or is an agent of Grantor, and has the right to grant this easement.

(Continued on next page)

IN WITNESS WHEREOF, the Grantor has duly authorized and caused this Indenture to be executed in its name as of the day and year first herein written.

AGaldi

WITNESS ONE

Andrea Grimaldi

Print Name

14057 SW 139 PL
Mailing Address Miami, FL 33186

[Signature]

WITNESS TWO

JARED ROLL

Print Name

(document requires two witnesses' signatures)

1100 Biscayne Blvd # 5303 Miami FL 33131

Mailing Address

[Signature]

GRANTOR (owner/agent of property)

JASON MORJAIN - MANAGER

Print Name/Title

WARE HOMES AT TRADITION, LLC

Company (if applicable)

STATE OF Florida

COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me by means of physical presence or Online notarization, this 27 day of August 2024, by Jason Morjain.

Notary Seal

AGaldi

Notary Public

Print Name: Andrea Grimaldi

My Commission Expires: 1/5/28

Please return this form and attached exhibits to



EXHIBIT "A"

Legal Description of the Property

Parcel ID # 4315-801-0003-000-9