

AGREEMENT FOR THE DELIVERY OF RE-USE WATER

between
INDIAN RIVER COUNTY, FLORIDA
and
THE INDIAN RIVER CLUB, LTD.

THIS AGREEMENT, made this 5 day of November 1996, by and between

INDIAN RIVER COUNTY, a political subdivision of the State of Florida, the address of which is 1840 25th Street, Vero Beach, FL 32960 (hereafter County),

and

THE INDIAN RIVER CLUB, LTD., a Florida limited partnership, the address of which is 2055 U.S. #1 S., Vero Beach, FL 32961 (hereafter Owner),

W I T N E S S E T H:

WHEREAS, County operates and maintains publicly-owned regional wastewater treatment plants producing re-use water which may be used to irrigate citrus groves, pastures, golf courses, urban residential lawns and other properties;

WHEREAS, Owner presently owns a golf course that is known as Indian River Club Golf Course, which is more particularly described on Exhibit "A" attached hereto and which can use the re-use water for irrigation;

WHEREAS, in compliance with the conditions of issuance of the St. Johns River Water Management District Permit (Consumptive Use Permit), the Owner understands that using re-use water for irrigation and other purposes before using a higher-quality water source is required in water Conservation Rule 40C-2.301(f) and (g), Florida Administrative Code;

WHEREAS, the County has other alternatives available for disposition of re-use water, including but not limited to spray distribution on wetlands owned by the County; and

WHEREAS, the County will make available to Owner re-use water and the Owner will utilize the re-use water in accordance with the terms of this Agreement and the Consumptive Use Permit.

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration including the mutual covenants herein contained, the receipt of which is hereby acknowledged, County and Owner agree as follows:

1. County shall deliver and Owner agrees to receive re-use water at Owner's property at a mutually agreeable point. Owner, at its expense, will install a transmission line from the boundary of the subdivision being developed by Owner to storage ponds located within or adjacent to the golf course. Any such construction shall be in accordance with plans subject to the reasonable approval of the County. Owner and County have entered into an Agreement dated January 19, 1995, pursuant to which Owner, at the County's cost, will construct a re-use water transmission line. The County shall be responsible for acquiring any easements necessary for Owner to construct the transmission line and to connect such transmission line to the boundary of the subdivision being developed by Owner.

2. Owner shall utilize re-use water for golf course irrigation purposes. Notwithstanding anything to the contrary, Owner shall, subject to the terms of the Consumptive Use Permit, have the right to use ground water to irrigate the golf course to the extent there is insufficient re-use water available to Owner. Owner shall have the right to permit Indian River Club Community Association, Inc. (the "Association") to utilize the re-use water for irrigation. The Owner may require the Association to pay a portion of the costs incurred by Owner for the acquisition and use of re-use water.

3. The term of this Agreement is ten years. This Agreement shall be renewed automatically for successive ten-year terms at the expiration of any preceding term, unless any party notifies the others of cancellation by written notice not less than 90 calendar days in advance of the expiration date of the preceding term.

4. County shall install a re-use water meter at a mutually agreeable point of delivery on Owner's property to monitor the volume of re-use water delivered to Owner and shall allow County access to meter for maintenance reasons. County shall install, at the site of the meter, water flow control facilities which can be utilized by Owner in controlling the acceptance of re-use water to be stored in Owner on-site storage pond. The cost of the re-use water meter and water control facilities will be paid by Owner.

5. County will allocate a volume of 300,000 gallons of re-use water per day for Owner. Owner shall control the volume of re-use water accepted, stored and utilized by Owner. Notwithstanding anything to the contrary, Owner shall not be obligated to accept re-use water which does not meet the standards set forth in section 7 below, or at any time the Owner's storage ponds are at or nearing capacity. In such event the County shall use other disposal alternatives reasonably available to the County. If the County determines in its sole discretion that it does not have sufficient quantities of re-use water to service all of its re-use water customers, then the County shall make available to the Owner the first Three Hundred Thousand (300,000) gpd.

6. There shall be no charge to Owner for the re-use water during the initial term of this Agreement. Thereafter, any re-use water provided to Owner shall be the then current rate for re-use water as established and approved by the Board of County Commissioners. The rate charged shall be reasonable and nondiscriminatory. The rate shall be no greater than the approximate cost to County of producing and providing re-use water to users thereof. Such costs shall be fairly allocated to the provision of re-use water and wastewater treatment.

7. County warrants that the re-use water has been treated by a method sufficient to remove harmful levels of bacteria, viruses, and other constituents which would pose a danger to human health or cause it to be unsuitable for purposes of irrigating said golf course and meets EPA and FDER standards. When the County determines that the re-use water has dropped below the applicable governmental standards it shall not thereafter deliver the re-use water to the Owner until it has retested the re-use water and determines the re-use water meets the applicable governmental standards. County shall, immediately after it determines the re-use water fails to meet the standards set forth in this section, use its best efforts to repair the wastewater system to permit the County to deliver re-use water that meets the applicable governmental standards.

8. Owner covenants that it shall not directly discharge re-use water into any body of water in the State of Florida other than the ponds and lakes owned by Owner. Owner will take all reasonable precautions to prevent the use of re-use water received as potable water. "Re-Use Water in Use" warning signs shall be erected in strategic places to prevent consumption of the water.

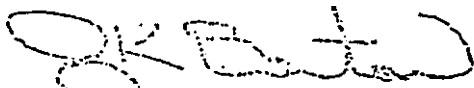
9. If, through no fault of the party involved, any federal, state, or local government or agency (excluding County) fails to issue necessary permits, grant necessary approvals, or requires a material change in the system, then to the extent necessary and if possible, the parties agree to negotiate an amendment to this Agreement to reflect the change in condition. If it becomes impossible or impracticable to perform under the terms of this Agreement because of the above, then this Agreement shall terminate and the parties shall have no further obligations to the other.

10. This Agreement may be recorded in the official public records. The obligation to accept re-use water shall be condition which shall run with the land and shall bind subsequent owners of the property for the term of this Agreement.

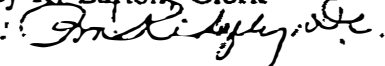
IN WITNESS WHEREOF, County and Owner have entered into this Agreement on the date first above written.

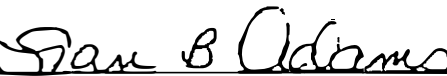
INDIAN RIVER COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

Attest:

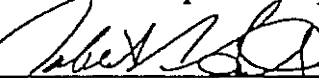


Jeffrey K. Barton, Clerk

By: 

By: 
Fran B. Adams, Chairman

THE INDIAN RIVER CLUB, LTD.
a Florida limited partnership

By:  VICE PRESIDENT
Indian River General Partner,
Inc., a Florida corporation,
general partner

Witness

Print Name

Witness

Print Name

STATE OF FLORIDA
 COUNTY OF INDIAN RIVER

BEFORE ME, the undersigned authority, personally appeared Fran B. Adams and J.K. Barton respectively as Chairman and Clerk to the Indian River County Board of County Commissioners, on behalf of said Board.

* PATRICIA M. RIDGELY as Deputy Clerk For

WITNESS my hand and official seal in the County and State last aforesaid this 7 day of November, 1996.

Patricia M. Ridgely
 Notary Public



PATRICIA L. JONES
 MY COMMISSION # CC436812 EXPIRES
 February 25, 1999
 BONDED THROUGH TRUDY FARM INSURANCE, INC.

(Official Seal)

Indian River Co	Approved	Date
Admin.	<i>JSC</i>	10/26/96
Legal	<i>RSI</i>	10/24
Board	<i>(S)</i>	12/29/96
Comm.	<i>(S)</i>	10/23/96
Finance		

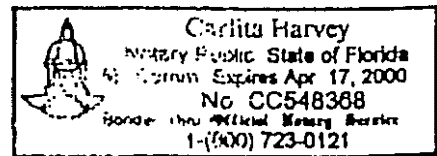
STATE OF FLORIDA
 COUNTY OF INDIAN RIVER

BEFORE ME, the undersigned authority, personally appeared ROBERT B. SWIFT, known to me and known by me to be the VICE PRESIDENT of Indian River General Partner, a Florida corporation, as general partner of The Indian River Club, Ltd., a Florida limited partnership, and acknowledged before me that he executed the foregoing as such officer for and on behalf of said limited partnership. He has produced a Florida Driver's as identification or is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 15th day of Oct, 1996.

Carita Harvey
 Notary Public

(Official Seal)



August 5, 1996
 indian/water.agt

EXHIBIT "A"
LEGAL DESCRIPTION

All those certain Tracts or Parcels of land lying in Section 31, Township 33 South, Range 40 East and Section 36, Township 33 South, Range 39 East, Indian River County, Florida, more particularly described as follows:

PARCEL 1

PARCEL "A"

Begin at an iron rod and cap stamped L.B. 4644 located at the intersection of the North right-of-way line of Lateral Canal B-10 and the Easterly right-of-way line of 12th Avenue S.W. as shown on the Plat of Vero Beach Highlands Unit 5 as recorded in Plat Book 8, Page 36A, Public Records of Indian River County, Florida; thence North $00^{\circ} 09' 27''$ East, along said East right-of-way line, a distance of 304.98 feet to a found iron rod and cap stamped P.L.S. 3438 and a point of curvature; thence along a curve to the right having a delta of $90^{\circ} 08' 18''$, a radius of 25 feet an arc length of 28.33 feet to a found iron rod and cap stamped P.L.S. 3435 and the point of tangency and also being the South right-of-way line of 19th Place S.W. according to said Plat of Vero Beach Highlands Unit 5; thence South $89^{\circ} 42' 13''$ East along said South right-of-way line, a distance of 2,550.60 feet to a set iron rod and cap stamped L.B. 4644 located 70.00 feet West of the East right-of-way line of 8th Avenue S.W. as shown on Plat of Vero Beach Highlands Unit 2, as recorded in Plat Book 5, Page 77, Public Records of Indian River County, Florida; thence South $00^{\circ} 11' 59''$ West along a line 70.00 feet West and parallel to said East right-of-way line of 8th Avenue S.W., a distance of 530.21 feet to a set iron rod and cap stamped L.B. 4644 and the North right-of-way line of Lateral Canal B-10; thence North $89^{\circ} 42' 00''$ West along said North right-of-way line of Lateral Canal B-10, a distance of 2,176.97 feet back to the Point of Beginning. Containing a net area of 56.99 acres more or less. (All acreage referred to herein is for informational purposes only)

TOGETHER WITH

PARCEL "B"

Begin at an iron rod and cap stamped L.B. 4644 located on the South right-of-way line of Lateral Canal B-10 on the southerly projection of the centerline of 8th Avenue S.W. according to the Plat of Vero Beach Highlands Unit 2 as recorded in Plat Book 2, Page 77, Public Records of Indian River County, Florida; thence North $89^{\circ} 42' 00''$ West along said South right-of-way line of Lateral Canal B-10, a distance of 2,608.82 feet to a set iron rod and cap stamped L.B. 4644 and the intersection of the East right-of-way line of 12th Road S.W. according to the Plat of Vero Beach Highlands Unit 3, as recorded in Plat Book 8, Page 56C, Public Records of Indian River County, Florida; thence South $00^{\circ} 09' 27''$ West, along said East right-of-way line, a distance of 130.86 feet to a set iron rod and cap stamped L.B. 4644 and a point of curvature; thence along a curve to the left having a delta of $29^{\circ} 33' 15''$, a radius of 239.87 and arc length of 134.20 feet to a set iron rod and cap stamped L.B. 4644 and the point of tangency; thence continue along said Easterly right-of-way line of 12th Road S.W. South $89^{\circ} 25' 48''$ East, a distance of 928.25 feet to a set iron rod and cap stamped L.B. 4644 and a point of curvature; thence along a curve to the left having a delta of $60^{\circ} 17' 03''$, a radius of 260.30 feet an arc length of 273.88 feet to a set iron rod and cap stamped L.B. 4644 and the point of tangency; thence continue along the North right-of-way line of 23rd Street S.W. as shown on the Plat of Vero Beach Highlands Unit 5, as recorded in Plat Book 8, Page 56C, 56D and 56E, Public Records of Indian River County, Florida; thence South $89^{\circ} 42' 01''$ East, a distance of 3,271.20 feet to a set iron rod and cap stamped L.B. 4644 and a point of curvature; thence along a curve to the left having a delta of $29^{\circ} 37' 09''$, a radius of 538.25 feet an arc length of 278.25 feet to a set iron rod and cap stamped L.B. 4644 the point of tangency; thence continue along said North right-of-way line of 23rd Street S.W. North $60^{\circ} 59' 49''$ East, a distance of 1,040.80 feet to a set iron rod and cap stamped L.B. 4644 and the proposed Westerly right-of-way line (proposed 60 foot right-of-way) of 8th Avenue S.W. that lies North of 23rd Street S.W. and is located on the northerly extension of 8th Avenue S.W. as recorded in Official Record Book 657, Pages 1541, 1542 and 1543, Public Records of Indian River County, Florida; thence North $20^{\circ} 19' 59''$ West along said proposed Westerly right-of-way line, a distance of 702.07 feet to a set iron rod and cap stamped L.B. 4644 and the intersection of the South right-of-way line of Lateral Canal B-10; thence North $89^{\circ} 41' 36''$ West along said South right-of-way line of Lateral Canal B-10 2,203.44 feet back to the Point of Beginning. Containing a net area of 125.71 acres more or less. (All acreage referred to herein is for informational purposes only)

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(Page 1 of 3)

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LEGAL DESCRIPTION CONTINUED...

TOGETHER WITH

PARCEL "C"

Beginning at the intersection of Ranges 39 and 40 East with the South right-of-way line of Lateral Canal H-10; thence North 89° 41' 38" West along said South right-of-way line, a distance of 261.16 feet to a set iron rod and cap stamped L.B. 4644; thence South 00° 18' 22" West, a distance of 50.00 feet to a set iron rod and cap stamped L.B. 4644; thence South 60° 40' 10" West, a distance of 50.02 feet to a set iron rod and cap stamped L. B. 4644 and the proposed Easterly right-of-way line (proposed 80 foot right-of-way) of 6th Avenue S.W. that lies North of 23rd Street S.W. said proposed Easterly right-of-way line is located on the northerly extension of 6th Avenue S.W., as recorded in Official Record Book 667, Pages 1841, 1842 and 1843, Public Records of Indian River County, Florida; thence South 29° 18' 53" East, along the proposed Easterly right-of-way line of 6th Avenue S.W., a distance of 570.56 feet to a set iron rod and cap stamped L. B. 4644 and the intersection of the North right-of-way line of 23rd Street S.W. as shown on the Plat of Vero Beach Highlands Unit 3 as recorded in Plat Book 8, Page 18E, Public Records of Indian River County, Florida; and said proposed Easterly right-of-way line; thence North 80° 39' 49" East along said North right-of-way line of 23rd Street S.W., a distance of 1,150.37 feet to a set Parker Kilon Nail and the intersection of the South right-of-way line of Lateral Canal J-5; thence North 89° 35' 40" West along said South right-of-way line of Lateral Canal J-5, a distance of 373.35 feet to the Point of Beginning. Containing a net area of 8.58 acres more or less. (All acreage referred to herein is for informational purposes only)

Said parcel 1 containing a net area of 189.28 acres more or less.

TOGETHER WITH

PARCEL 11

Being a portion of Section 31, Township 33 South, Range 40 East, according to the last General Plat of Lands of the Indian River Farm Company Subdivision as recorded in Plat Book 2, Page 28, of the Public Records of St. Lucie County, Florida. Said land now lying and being in Indian River County, Florida being more fully described as follows:

Beginning at the intersection of an extension of the North right-of-way line of 23rd Place S.W. as shown on the Plat of Vero Beach Highlands Unit Five as recorded in Plat Book 8, Page 56E, of the Public Records of Indian River County, Florida, and the Easterly right-of-way line of 6th Avenue S.W. as recorded in Official Record Book 667, Pages 1841, 1842 and 1843, Public Records of Indian River County, Florida. Said point being at a found concrete monument with brass disc and a point of curvature to the right; thence Northerly and Northeasterly along the arc of said curve having a radius of 260.00 feet and a central angle of 31° 13' 26" for an arc distance of 161.69 feet to a found concrete monument and a point of reverse curvature of a circular curve to the left; thence Northeasterly and Northerly along the arc of said curve having a radius of 640.00 feet and a central angle of 31° 31' 11" for an arc distance of 352.08 feet to a found concrete monument stamped 1889 and a point of compound curvature of a circular curve continuing to the left; thence Northerly and Northeasterly along the arc of said curve having a radius of 526.01 feet and a central angle of 29° 20' 01" for an arc distance of 269.39 feet to a found concrete monument stamped 1889 and a point of tangency; thence North 29° 19' 59" West, a distance of 181.12 feet to a found concrete monument stamped 1858; thence North 60° 39' 49" East, along a portion of the South right-of-way line of 23rd Street S.W. as shown on said Plat of Vero Beach Highlands Unit Five, for a distance of 1,290.36 feet to a set iron rod and cap stamped L.B. 4644 and a point on the South right-of-way line of Canal J-5, thence South 89° 35' 40" East, along a portion of the said South Canal right-of-way line, a distance of 214.81 feet to a set iron rod and cap stamped L.B. 4644 and a point on the Westerly right-of-way line of Lateral Canal J; thence South 14° 00' 00" East, along a portion of the said Westerly right-of-way line, a distance of 1570.58 feet to a found concrete monument stamped D.B.C.; thence North 89° 43' 00" West, a distance of 1696.24 feet to the Point of Beginning. Containing a net area of 42.39 acres more or less. (All acreage referred to herein is for informational purposes only)

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LEGAL DESCRIPTION CONTINUED...

Subject to a twenty (20) foot Easement lying 10 feet each side of an existing forcemain being more fully described as follows:

Begin at a set iron rod and cap stamped L.B. 4644 at the intersection of the South right-of-way line of Lateral Canal J-5 and the South right-of-way line of 23rd Street S.W. as shown on the Plat of Vero Beach Highlands Unit 5, as recorded in Plat Book 8, Page 24E, Public Records of Indian River County, Florida; thence South 89° 35' 40" East along said South right-of-way line, a distance of 16.70 feet; thence South 14° 31' 42" East, a distance of 372.33 feet; thence South 13° 35' 43" East, a distance of 219.83 feet; South 11° 58' 30" East, a distance of 308.20 feet; thence South 13° 49' 08" East, a distance of 347.06 feet; South 09° 55' 51" West, a distance of 69.39 feet; South 82° 00' 55" West, a distance of 173.34 feet; South 68° 30' 12" West, a distance of 18.24 feet; North 89° 43' 00" West, a distance of 83.80 feet; North 88° 30' 12" East, a distance of 68.66 feet; North 82° 00' 55" East, a distance of 181.38 feet; North 09° 35' 51" East, a distance of 50.83 feet; North 13° 49' 08" West, a distance of 382.83 feet; North 15° 38' 30" West, a distance of 309.24 feet; North 13° 35' 51" West, a distance of 219.74 feet; North 14° 31' 42" West, a distance of 373.45 feet to said South right-of-way line of said 23rd Street S.W.; thence North 60° 39' 49" East, a distance of 4.00 feet to the Point of Beginning. Containing a net area of 0.80 acres more or less. (All acreage referred to herein is for informational purposes only)

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