

**RECLAIMED WATER AGREEMENT  
BETWEEN  
INDIAN RIVER COUNTY, FLORIDA  
AND  
INDIAN RIVER CLUB**

THIS RECLAIMED WATER AGREEMENT (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2022, (the “Effective Date”) by and between **INDIAN RIVER COUNTY**, a political subdivision of the State of Florida, the address of which is 1801 27<sup>th</sup> Street, Vero Beach, Florida 32960 (hereinafter the COUNTY) and **NEW INDIAN RIVER CLUB, INC.**, a Florida Not-For-Profit Corporation, the address of which is 800 Carolina Circle SW, Vero Beach, FL 32962 (hereinafter INDIAN RIVER CLUB).

**WITNESSETH:**

WHEREAS, the COUNTY operates and maintains publicly owned wastewater treatment facilities which are capable of producing irrigation quality wastewater effluent (hereinafter referred to as “Reclaimed Water”, “Reuse Water” or “IQ Water”) as that term is defined by the Florida Department of Environmental Protection (FDEP) for use on grass, woodlands, landscape, pastures, golf courses and other types of approved vegetation; and;

WHEREAS, INDIAN RIVER CLUB is a golf club located within a residential subdivision operated by Indian River Club Community Association, Inc. The golf course is located at 800 Carolina Circle SW, Vero Beach, FL 32962, in the unincorporated area of Indian River County described in Exhibit “A”. The golf course and the residential subdivision shall collectively be referred to as the “Property”; and

WHEREAS, COUNTY and INDIAN RIVER CLUB desire to enter into this Agreement for Reclaimed Water; and

**NOW THEREFORE**, in consideration of the mutual undertakings herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree, as follows:

Section 1. Delivery and Acceptance:

(a) COUNTY will deliver and INDIAN RIVER CLUB agrees to receive up to 1,000,000 gallons per day from October 1 to May 31 of non-pressurized reclaimed water and 700,000 gallons per day from June 1 to September 30 of non-pressurized reclaimed water at the Property.

(b) INDIAN RIVER CLUB covenants that it shall not directly discharge reclaimed water into any water body of the State of Florida other than to any impoundments owned and maintained by INDIAN RIVER CLUB. INDIAN RIVER CLUB shall take reasonable precaution to prevent the use of reclaimed water received as potable water. Signs shall be strategically posted in accordance with Florida Department of Environmental Protection (FDEP) requirements. INDIAN RIVER CLUB’s reclaimed water facilities shall be operated, maintained, and administered in a manner which adheres to the codes, standards, and guidelines established by the COUNTY and the respective regulatory agencies.

(c) INDIAN RIVER CLUB shall use the reclaimed water to irrigate the Property in a manner consistent with all Federal, State and local laws and regulations.

Section 2. COUNTY's Liability for Failure to Deliver Reclaimed Water:

(a) INDIAN RIVER CLUB understands and acknowledges that the COUNTY will not guarantee the delivery of a set amount of reclaimed water. However, any potential interruption of service, that may or may not be caused through no fault of COUNTY or if caused by others that affects the ability of COUNTY to provide irrigation quality water to INDIAN RIVER CLUB shall be repaired expeditiously by the COUNTY

(b) INDIAN RIVER CLUB further agrees that the COUNTY shall not be held liable to INDIAN RIVER CLUB for any damages or expenses incurred by INDIAN RIVER CLUB because of the COUNTY's failure to deliver reclaimed water.

Section 3. INDIAN RIVER CLUB's Obligations:

(a) INDIAN RIVER CLUB shall comply with reasonable requests by the COUNTY concerning on-site operations and maintenance including but not limited to all FDEP and St. Johns River Water Management District (SJRWMD) regulations relating to reporting requirements, signs, spraying, and color-coding of reclaimed water equipment. Sign location and color of the posted signs shall be in conformance with FDEP regulations. In addition, exposed reclaimed water piping shall be painted 'Pantone Purple 522C'.

(b) INDIAN RIVER CLUB shall be deemed in possession of the reclaimed water on INDIAN RIVER CLUB's side of the reclaimed water meter, however INDIAN RIVER CLUB shall not be deemed to own the reclaimed water and may not transfer or sell the reclaimed water to any party for use offsite of the Property without written permission from the COUNTY.

(c) INDIAN RIVER CLUB may change the location of the site or sites where the reclaimed water is applied provided such change does not interrupt nor diminish INDIAN RIVER CLUB's ability to accept all of the reclaimed water and such change remains in compliance with all Federal, State and local regulations and the terms and conditions of this Agreement.

(d) INDIAN RIVER CLUB shall convey to the COUNTY a non-exclusive easement for the reclaimed water meter site and the reclaimed water system. In addition, INDIAN RIVER CLUB shall grant to the COUNTY a non-exclusive ingress-egress easement necessary for the COUNTY to install, maintain, operate, and monitor the reclaimed water meter and reclaimed water system.

(e) INDIAN RIVER CLUB shall be responsible for obtaining all construction and operating permits required for the construction, delivery, use, monitoring, and storage of the reclaimed water.

(f) INDIAN RIVER CLUB is not obligated to accept reclaimed water which does not meet FDEP Standards but will endeavor to accept as much wet weather reclaimed water discharge as is necessary for continued wastewater operation. Both parties also recognize that adverse weather conditions or unforeseen circumstances may result in a need for reclaimed water greater than the volume set forth in section 7(a).

Section 4. Quality of Reclaimed Water:

The COUNTY will provide reclaimed water meeting the standards set forth by FDEP as defined in the COUNTY's Wastewater Treatment Facility (WWTF) Operating Permits Reclaimed Water. Sampling for conformance with reclaimed water quality shall be performed at the location and frequency defined in the FDEP WWTF Operating Permits at no cost to INDIAN RIVER CLUB. Only reclaimed water meeting FDEP water quality standards will be delivered to the Property.

Section 5. Property to be Served:

INDIAN RIVER CLUB shall use the reclaimed water only on the Property described in Exhibit "B", attached hereto and incorporated by reference, referenced as Parcel 1 - Parcel "A", Parcel 1 – Parcel "B". Parcel 1 – Parcel "C" and Parcel 2.

Section 6. Prohibition on Use of Other Water Resources:

Notwithstanding anything to the contrary, herein INDIAN RIVER CLUB shall no longer use groundwater for irrigation except for wells already permitted by SJRWMD for use as backup. Otherwise, INDIAN RIVER CLUB shall relinquish any rights to such use and transfer such rights to be used as credits by COUNTY as permitted by law.

Section 7. Fees and Charges:

(a) INDIAN RIVER CLUB shall pay the current charged rate of \$0.15 per 1,000 gallons for reclaimed water delivered to the Property up to 200,000 gallons per day until December 31, 2022. From January 1, 2023, to December 31, 2023, INDIAN RIVER CLUB shall pay a rate of \$0.18 per 1,000 gallons for reclaimed water delivered to the Property up to 200,000 gallons per day. Beginning January 1, 2024, INDIAN RIVER CLUB shall pay the prevailing rate, which currently is \$0.22 per 1,000 gallons for reclaimed water delivered to the Property up to 200,000 gallons per day. Any additional acceptance per Section 1 in excess of 200,000 gallons per day of reclaimed water supplied by COUNTY shall not be charged to INDIAN RIVER CLUB. The Parties agree that beginning January 1, 2025, the Parties have the right to renegotiate the charged rate.

(b) Except as set forth in subsection (a) above, the COUNTY shall have the sole and exclusive right to set fair and reasonable fees and charges for reclaimed water (usually expressed in terms of dollar amount per thousand gallons). The reclaimed water fees and charges may be changed at any time at the sole discretion of the COUNTY and such charges shall apply to INDIAN RIVER CLUB and this Agreement at the time of such change.

(c) INDIAN RIVER CLUB shall be invoiced according to the COUNTY's normal billing practices for water customers. INDIAN RIVER CLUB shall pay interest at the rate in place at the time of any past due amounts from the date the amount came due until the date paid. Written or verbal notice of delinquency is not required for the interest to accrue.

Section 8. Reserved:

Section 9. Term:

The term of this Agreement is twenty (20) years beginning on the Effective Date, as provided above. This Agreement shall be renewed automatically for successive 10-year terms at the expiration of

any preceding term, unless any party notifies the other of cancellation by written notice not less than 180 consecutive calendar days in advance of the expiration date of the preceding term. The Term of this Agreement shall run concurrently with the COUNTY's Regional WWTF FDEP Operating Permit serving the area.

Section 10. No Direct Offsite Discharge:

Unless expressly authorized by a state or federal agency, INDIAN RIVER CLUB covenants that it shall not directly discharge reclaimed water into any body of water in the State of Florida other than the ponds or lakes (impoundment) owned by INDIAN RIVER CLUB. INDIAN RIVER CLUB will take all reasonable precautions to prevent the use of reclaimed water received as potable water. "Reclaimed Water in Use" warning signs shall be posted in strategic places to prevent consumption of the water.

Section 11. Amendment:

A written instrument executed by the party or parties to be bound thereby may only amend this Agreement.

Section 12. Authority:

Each party hereto represents and warrants to the other that the execution of this agreement and any other documents required or necessary to be executed pursuant to the provisions hereof are valid, binding obligations and are enforceable in accordance with their terms.

Section 13. Captions:

Captions, if included, in this Agreement are included for convenience only and are not to be considered in any construction or interpretation of this Agreement or any of its provisions.

Section 14. Definition:

All pronouns shall be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the identity of the party or parties may require.

Section 15. Entire Agreement:

This Agreement embodies the entire agreement between the parties relative to the subject matter hereof, and there are no oral or written agreements between the parties, nor any representations made by either party relative to the subject matter hereof, which are not expressly set forth herein.

Section 16. Governing Law & Jurisdiction:

This Agreement shall be governed by the laws of the State of Florida and the laws of the United States pertaining to transactions in such State and all actions arising out of this Agreement shall be brought in Indian River County. All of the parties to this agreement have participated freely in the negotiation and preparation hereof; accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

Section 17. Multiple Counterparts:

This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party to be charged.

Section 18. Recording of Agreement:

The Agreement shall be recorded in the public records of Indian River County. The obligations defined in this Agreement shall be a condition, which shall run with the land and shall bind subsequent owners of the Property for the term of this Agreement. INDIAN RIVER CLUB shall pay for the cost of recording.

Section 19. Severability/Invalid Provision:

If any provision of the Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid, or unenforceable provision or by its severance from this Agreement.

Section 20. Time of Essence:

Time is of the essence of this Agreement; however, if the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the laws of the United States or the State of Florida, then, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

IN WITNESS WHEREOF, the COUNTY and INDIAN RIVER CLUB have accepted, made and executed this Agreement upon the terms and conditions above stated on day and year first above written.

INDIAN RIVER CLUB:

\_\_\_\_\_  
\_\_\_\_\_, President

Date: \_\_\_\_\_

\_\_\_\_\_  
Witness (signature)

\_\_\_\_\_  
Witness (signature)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this \_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a (state) \_\_\_\_\_ corporation, on behalf of the corporation, who is  personally known or  produced identification in the form of \_\_\_\_\_.

NOTARY PUBLIC

NOTARIAL SEAL:

\_\_\_\_\_  
Printed Name:  
Commission No.:  
Commission Expiration:

BOARD OF COUNTY COMMISSIONERS OF  
INDIAN RIVER COUNTY, FLORIDA

By: \_\_\_\_\_  
Peter D. O'Bryan, CHAIRMAN

ATTEST: Jeffrey R. Smith,  
Clerk of Court and Comptroller

By: \_\_\_\_\_  
Deputy Clerk

Approved as to Form and Legal Sufficiency:

By: \_\_\_\_\_  
Dylan Reingold, County Attorney

Approved by:

By: \_\_\_\_\_  
Jason E. Brown, County Administrator