

# Shared Water Agreement

**THIS SHARED WATER AGREEMENT** ("Agreement") is made by and between the Indian Ridge PUD Homeowners Association ("Association") and Indian Ridge Country Club ("Club"). The parties hereto may sometimes be collectively referred to as the "Parties."

**WHEREAS**, Association is a California non-profit mutual benefit corporation whose general purpose is to manage and operate the subdivision commonly referred to as Indian Ridge PUD (hereinafter "Subdivision"), located in the City of Palm Desert, Riverside County, California.

**WHEREAS**, Club is a California non-profit mutual benefit corporation whose general purpose includes ownership and operation of Indian Ridge Country Club.

**WHEREAS**, the Association and the Club wish to enter into this Agreement whereby:

- (i) The Club will connect the Association's irrigation system to its irrigation system and provide the Association with access to reclaimed irrigation water for use by the Association to water the Association-controlled and maintained medians along Indian Ridge Drive;
- (ii) The Association agrees to provide payment to the Club for the costs of such reclaimed irrigation water that is used for the medians; and
- (iii) The exchange of benefits and services between the parties shall be considered good and valuable consideration with payments to be made by the Association to the Club based upon the actual cost of the water used by the Association as calculated by the use of a water submeter that will be installed for such purpose.

**NOW THEREFORE**, the parties hereto covenant and agree as follows:

## 1) Scope of Services.

### a. Association Services. The Association shall provide:

- i. Ongoing landscaping of the Association owned medians along Indian Ridge Drive, including maintenance of the existing natural turf contained within each median;
- ii. Payment to the Club for all actual costs of the reclaimed water used by the Association through its connection to the Club's irrigation system, including all prorated reasonable cost for fertigation or chemigation based on water usage.
- iii. Reimbursement for the costs related to the connection of the Club's irrigation system to the Association's irrigation system, which shall include any ongoing maintenance and repair costs of such connection in order to deliver water to the Association. If and when this Agreement is terminated, the Association shall also reimburse the Club for the costs associated with disconnecting the Association from the club's reclaimed water and reconnecting the Association system back to CVWD potable water for irrigation purposes.

### b. Club Services. The Club shall provide:

- i. A connection of the Club's irrigation system to the Association's irrigation system to provide access to the Association for Club's reclaimed irrigation water; and
- ii. An amount of water necessary to sufficiently irrigate the Association-owned and maintained medians along Indian Ridge Drive.

## 2) **Term/Termination**

**a. Condition Precedent.** As a condition precedent to any performance whatsoever by either Party under this Agreement, the Club and/or Association shall obtain the prior written consent of CVWD for the Association to have access to and use the Club's reclaimed water via a separate submeter measuring the Association's usage.

**b. Initial Term.** This Agreement is for a one (1) year term commencing June 1, 2023, and terminating on May 31, 2024, unless sooner terminated as provided for in this paragraph 2. After the initial term of this Agreement, this Agreement shall continue to automatically renew for successive one-year terms unless terminated as provided for in this paragraph 2.

**c. Termination.** Either party to this Agreement may elect to cancel and terminate this Agreement, with or without cause at any time, by giving ninety (90) days written notice to the other party of the decision to terminate this Agreement, but obligations of payment and services called for hereunder shall continue during the ninety (90) days prior to the effective date of termination. The Club shall have the right to stop performance under this Agreement upon seven (7) days written notice, should its allocation of reclaimed water by CVWD be reduced by CVWD or some other governmental actor or law. If after ninety days from stopping performance, the Club is still unable to supply the Association with water due to reduced allocations, the Club may then terminate the Agreement and further performance by either party will be excused.

## 3) **Indemnification.**

The Association shall indemnify hold harmless and defend the Club and its employees, officers, directors, and agents, from any liabilities related to only the Association's usage of the reclaimed water supplied to the Association through the Club's irrigation system, as well as any and all claims, demands, liability and/or expense (including without limitation reasonable attorney's fees) arising out of or encountered in connection with the Association's usage of the reclaimed water, excepting only such injury or harm as may be caused solely and exclusively by the Club's negligence or wilful misconduct.

## 4) **Consideration.**

**a.** The exchange of benefits and services between the parties shall be considered good and valuable consideration, in addition to which the Association shall provide payment each month for the amount of water actually used by the Association which is provided by the Club's irrigation system as determined by the water submeter installed for such express purpose. The Club shall bill the Association each month for its share of the reclaimed water utilized and the Association shall remit payment to the Club within ten (10) days of receipt of the bill. The Club shall bill the water to the Association at its same cost and shall be entitled to additional compensation for any elements

that the Club adds to the water, e.g., fertilizer. In the event of termination of this Agreement, such payment will be pro-rated to the date of termination.

**b. Materials.** Each party agrees to provide as part of this Agreement all materials which are necessary to provide the services set forth herein, and to the extent that the Club provides any materials or labor on behalf of the Association, the Association shall reimburse the Club for all such materials and/or labor received.

**5) Authorized Agents.**

The parties hereby designate the incumbents in the following positions who shall be authorized to deal with and provide instructions to any applicable staff, contractors, or other parties on any matter pertaining to this Agreement.

**For the Association:** Association General Manager, Ms. Jeri Mupo

**For the Club:** Club General Manager/COO, Mr. Hall Wade

**6) Notice.**

Notice which either party desires to give or is required to give the other under this Agreement shall be provided by personal delivery or by certified mail, return receipt requested, and it shall be deemed given upon receipt or forty-eight (48) hours after it has been deposited in the United States Mail, whichever is earlier, addressed to the party for whom it is intended as follows:

**Association:** Board of Directors  
INDIAN RIDGE PUD HOMEOWNERS ASSOCIATION  
Attention: General Manager, Ms. Jeri Mupo  
173 Rainbird Circle  
Palm Desert, CA 92211

With copy to: Jeffrey French  
  
Green Bryant & French,  
  
402 West Broadway, Ste. 1950,  
  
San Diego, CA 92101

**Club:** INDIAN RIDGE COUNTRY CLUB  
Attention: General Manager/COO, Mr. Hall Wade  
76375 Country Club Dr  
Palm Desert, CA 92211

**7) California Law.**

California Law shall apply to the interpretation and performance under this Agreement.

**8) Successors and Assigns.**

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

**9) Nonwaiver.**

The waiver of either party of any provision of this Agreement shall not constitute a waiver by that party of any other provision of this Agreement.

**10) Attorneys' Fees.**

In the event that any action, arbitration, suit, or other proceeding is instituted to remedy, prevent, or obtain relief from a breach of this Agreement, or arising out of a breach of this Agreement, the prevailing party shall recover all of such party's attorneys' fees reasonably incurred in each and every such action, suit or other proceeding, including any and all appeals or petitions. As used in this Agreement, attorneys' fees shall be deemed to mean the full and actual cost of any legal services actually performed in connection with the matters involved, calculated on the basis of the usual fees charged by the attorneys performing such services and shall be limited to "reasonable attorneys' fees" as defined in any statute or rule of court. Any legal action concerning this Agreement shall only be brought in Riverside County, California.

**11) Entire Agreement.**

This Agreement contains the entire agreement and understanding between the parties and supersedes and replaces all prior negotiations, proposed agreement, or agreements, written or oral. Each of the parties acknowledges that no other party has made any promise, representation, or warranty whatever, express or implied, written, or oral, not contained herein concerning the subject matter hereof, to induce and execute this instrument in reliance on any promise, representation or warranty not contained herein. This Agreement can only be amended by a written document signed by the Parties hereto.

**12) Construction of Agreement.**

This Agreement shall be treated as if it was jointly drafted by the parties and no part of this Agreement shall be construed against any single party on the basis that they drafted it.

**13) Paragraph Titles.**

The titles of the various paragraphs of this Agreement are used for convenience of reference only and are not intended to, and shall not in any way, enlarge or diminish the rights or obligations of the parties, or affect the meaning or construction of this document.

**14) Counterparts.**

This Agreement may be executed in one or more identical counterparts, each of which shall be deemed to be an original hereof.

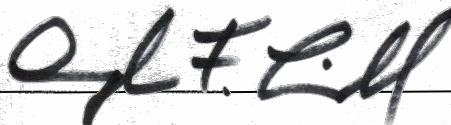
**15) Rights and Obligations Remain the Same.**

This Agreement shall not modify or alter any of the current and ongoing maintenance, repair and replacement obligations or duties that the Parties respectively have and shall continue to have following the execution of this Agreement.

**In Witness Whereof**, the Parties hereto have executed this Agreement the day and year set forth below.

**Indian Ridge PUD Homeowners Association**

Date 05/31, 2023

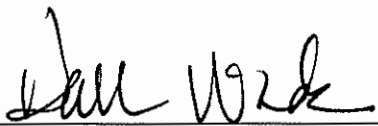
By 

Printed Name Douglas Lindal

Title President

**Indian Ridge Country Club**

Date 6/31, 2023

By 

Printed Name DALE WADE

Title gm/coo