

# **ATTACHMENT # 15 - CONTRACTOR PRE-CONSTRUCTION AGREEMENT**

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**Tidelands Estates Homeowners' Association, Inc.**  
**P.O. Box 351465 Palm Coast, FL 32135**  
**Telephone (386)446-6333 FAX (386) 446-1830**

Property Address: \_\_\_\_\_

Owner's Name: \_\_\_\_\_

Lot Number: \_\_\_\_\_

Builder/Contractor: \_\_\_\_\_

Site Supervisors Name: \_\_\_\_\_

Day Time Telephone: \_\_\_\_\_ Night Time Phone: \_\_\_\_\_

The undersigned Builder/Contractor requests approval to build for the Property Owner at the aforementioned property. As the final step of the Pre-Construction meeting, Tidelands Estates requires acceptance and endorsement of this agreement, in its entirety. The undersigned Builder/Contractor confirms receipt of this Pre-Construction Agreement and agrees to all conditions herein:

- Acceptance of 3 Gate Passes (Entrance Credentials), and confirmation that Builder/Contractor will return passes at the Final Construction Meeting. Passes lost or damaged will be charged at \$25 apiece and will be deducted from the construction deposit.
- Agreement to the Code of Conduct and acknowledgment of fines to be levied against the construction deposit in the event of non-compliance. The contractor subset of fines (from ATTACHMENT # 1) is included
- Agreement to replenish the construction deposit within 7 days for deducted fines/fees.
- Understanding that construction deposit, less any additional fines or remediation fees, will be refunded after completion of the construction and ARC final site approval.
- Understanding that in the event of any legal disputes regarding violation of this agreement, the prevailing party in any proceeding at law or in equity shall be entitled to recover in said suit the cost of the action, including reasonable attorneys' fees to be fixed by the Court, including attorneys' fees in connection with appeal of any such action.

Builder/Contractor Representative Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Introduction** —There are two road entrances to the Tidelands and they are known as the Main Gate and South Gate areas. Both gates are set up with access security provided by Envera. Only the main Gate has a kiosk to talk to a virtual guard from the "Visitors" lane. The Envera system includes access control barriers as well as cameras that are connected to Envera's offsite monitoring operation. Construction vehicles, including deliveries, are to primarily use the South Gate entrance to prevent damage to the Main Gate and its roadways. This is to include both deliveries of materials and well as manpower for the labor portion. At no time shall heavy or oversized vehicles be allowed access via the Main Gate (see below definitions of oversized vehicles). **ALL gates and arms are designed to only allow one vehicle at a time. Attempts to "piggyback" on another vehicle may cause damage to the following vehicle and/or the gate/arm system. All damages to the gate/arm system and/or vehicles caused by piggybacking will be the responsibility of the driver/vehicle owner.**

**Entrance Credentials** —The General Contractor (GC) or Builder for each project (new build or major renovation) shall be issued 3 access cards (gate passes) upon receipt of the construction deposit by the HOA or its representative. These credentials will allow access at the Main and South Gate locations during hours of construction-controlled access (see below).

The General Contractor shall be responsible for the distribution, use and return of the credentials at the end of their project. The credentials shall be issued with an 18-month expiration date from the beginning of the project. Credentials not returned at closeout of the project shall be charged against the Contractor deposit on file with the HOA at the rate of \$25 per card.

**Hours of Construction Controlled Access** — The following is intended to follow the ARC Guidelines for working hours of construction personnel. Any changes involving the construction permitted hours in that document will be carried forth to this document which includes an additional 1/2 hour prior to any starting time listed for actual construction to allow manpower and material vehicular access getting to the site for their normal starting time.

- Monday to Friday — From 6:30 AM to 7:00 PM
- Saturday — From 7:30 AM to 5:00 PM
- No work is allowed on Sundays or any of the following holidays: New Year's Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving, Christmas Day.

**South Gate Open Operations** — The South gate does not have a "Visitor" option as there is not a Kiosk at that location. Entry can be made only with a proper credential or by prearrangement with Artemis (the on-site Condo Association Management Company) for a scheduled opening due to an oversized vehicle. (See below for details)

**Definition of Oversized Vehicles** — Oversized vehicles not only take into account it's width and length but also involves their weight. The following types of vehicles are considered oversized and not permitted to enter via the Main Gate.

- All cement mixer trucks
- Vehicles over 25,000 lbs. Gross Vehicle Weight (GVW)
- All vehicles with more than 3 axles including trailer axles (if pulling a trailer)
- All truck exceeding 25' in length including trailer if being pulled

**Vehicle Access Without Credentials** —Small deliveries and personnel arriving without access credentials will be allowed access via the visitor's lane of the main gate providing they are not arriving in an oversized vehicle as defined above. All vehicles will be subject to the time limitations set forth above for the hours of Construction Control Access. Deliveries either before or after the posted hours above must be cleared by the HOA or its representative.

The driver of the vehicle must provide a valid driver's license to the virtual guard at the kiosk and provide the name of the GC or Builder and the address of the site he/she is going to. The virtual guard may require additional information. Once the driver has been verified, they will be allowed to enter the development. The property owner should add the name of the GC or building company to their Envera "Authorized Visitor" list limiting the days/hours of allowed access to what is spelled out above. It is not required to list subcontractors or any individual workers names to their "visitor" list.

**Oversized Vehicles Entering via the South Gate** As listed earlier, all oversized vehicles as defined above must enter via the South Gate. The supplier is to schedule the delivery with the GC or Builder so that a "Credential" can be used at the South Gate to allow access for that oversized vehicle.

As an alternate to the contractor/builder meeting the delivery at the South Gate, the delivery can be scheduled with Artemis Lifestyles for a 2-hour window but this must be scheduled a minimum of 24 hours (business days only) in advance of the deliverables. Artemis will then have the South Gate programmed for that 2-hour window to be opened. If several deliveries are expected (e.g. multiple cement trucks for a slab), the window time can be extended upon request. The contact for Artemis Lifestyles is Martin LaBrosse and he can be contacted at the clubhouse at (386) 597-5705, M - F or via email at [mlabrosse@artemislifestyles.com](mailto:mlabrosse@artemislifestyles.com) to schedule the delivery time(s).

**Parking of Vehicles within the Tidelands** — Parking rules for the Tidelands will follow all rules and regulations of the State of Florida, Flagler County and the City of Palm Coast. The following applies to all contractors, delivery vehicles, their employees and any subcontractors in addition to those rules and regulations:

- There is no parking allowed on roadways overnight of any vehicles or trailers used by contractors or subcontractors.
- There is no parking or usage of any vacant land, unimproved lots, common property or easements allowed at any time unless there is written permission from the owner of the unimproved lot or the Association. The appropriate form(s) must be completed and endorsed specifically for usage (attached). Craig Nisbett of Southern States Management Group is the ARC Community Association Manager and can assist in completing the forms and broker the agreement. Craig's contact info is [ARC\\_CAM@tidelandsestates.com](mailto:ARC_CAM@tidelandsestates.com) phone (386) 446-6333 ext 331.
- There is no parking allowed anytime on the roadway around cul-de-sacs, or any area identified with yellow markings.
- When a construction site has multiple vehicles, due to the number of workers and/or deliveries, they must all be parked in single file on one side of the street, not blocking any driveways, fire hydrants, mail box clusters, etc. or prevent work that must be performed by authorized maintenance contractors hired by the Association. There is no double parking allowed at any time.
- Parking on empty lots/HOA property is prohibited unless authorization has been provided in writing as evidenced by an endorsed copy of ATTACHMENT # 13 – ADJACENT/NEIGHBORING PROPERTY USE FORM or ATTACHMENT # 14– TIDELANDS COMMON PROPERTY USE FORM

Upon completion of construction, a builder shall give written notice to the ARC using the "Construction Completion Transmittal" form (ATTACHMENT #4). Attached to the notice shall be a final survey and a copy of the Certificate of Occupancy for the newly constructed improvement. The ARC will then conduct a final inspection and provide the results by letter. Provided the inspection determines that the improvements were constructed in substantial compliance with the plans and specifications submitted for final approval, the ARC will authorize the Tidelands Estates HOA—management company to return the construction deposit (less any amount withheld for reasons described above).

Builders and property owners are advised that the Tidelands Estates governing documents empower the ARC Committee members to monitor and ensure remedy of any non-complying construction within Tidelands Estates. In this regard, if the ARC finds that any improvement was not performed or constructed in substantial compliance with the submittals receiving Final Approval, the ARC, having served notice, will give the builder five business days to remedy or remove the non-complying improvement. If a builder fails to remedy or remove the non-compliance, the ARC will obtain mitigation costs by another company and will present the proposal to the Board of Directors. The Board of Directors will review the scope and bids and will contract to have the work performed by an outside company. The BOD will charge the related costs to the original contractor's construction deposit and/or Property owner.

**Conduct**

All builders shall be held responsible for the acts of their employees, subcontractors, vendors, suppliers and any other persons or parties involved in construction or alteration of the home site. The ARC will impose violation fines per the violation fine schedule listed as Contractor Fines (which is a subset of ATTACHMENT #1). In this regard, a builder shall be responsible for the following:

- Q. Ensuring that the construction site is kept clean and free of all debris and waste materials, and that stockpiles of unused materials are kept in a neat and orderly fashion. Placement of dumpster(s) on the site is required upon the start of foundation. Dumpster(s) may be placed on an adjoining Lot with written permission of the owner of the adjoining Lot;
- R. Ensuring there is no burning;
- S. Installing and maintaining silt fencing on sites that prevent the possibility of sand/soil eroding off the home site; this includes all Lots adjoining the lake, buffer and common areas. Ensuring roadways are clear and storm drains are protected from sand erosion, construction materials and debris at the end of each work day;
- T. Maintaining portable toilets at the construction site from the completion of site clearing. Portable Toilets are to be kept on the construction site (Property Owner's Lot) and not in the roadway or on any other adjacent properties;
- U. Prohibiting the consumption of alcoholic beverages, illegal drugs or other intoxicants that could hamper the safety or wellbeing of other personnel on the site or affect the quality of workmanship. Violators will be removed and repeat offenders will not be allowed into Tidelands Estates for six months;
- V. Ensuring that all persons for whom the builder is responsible are properly insured;
- W. Ensuring that all persons for whom the builder is responsible do not commit any violations of the rules and regulations of the ARC.
- X. Limiting working hours for construction personnel from 7:00 a.m. to 7:00 p.m. (or sunset when earlier) Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays. No construction work will be allowed on Sundays or the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day. The ARC may allow exceptions to this rule under special circumstances and with prior written authorization;
- Y. Prohibiting construction personnel from having children or pets in Tidelands Estates;
- Z. Prohibiting the playing of loud music or other sounds from non-construction activities;
- AA. Prohibiting use of adjacent property for access or storage of material or equipment unless written permission is obtained from the owner of the adjacent property;
- BB. Limiting all builders, employees, subcontractors and suppliers to construction related activities at the designated site only. (NO FISHING, TOURING, ETC.)
- CC. Ensuring all builders, employees, subcontractors and suppliers use only designated construction access routes. Builders are required to contact the Tidelands Estates HOA management company for security and access control guideline document;
- DD. Prohibiting the mixing of stucco, mortar or concrete on the street. This includes, but is not limited to, portable mixers and cement trucks; and
- EE. Prohibiting the dumping of construction materials/waste in street, drains, or waterways.

## Appeal

If an application for Preliminary Review or Final Review has been denied, if an approval is subject to conditions which a builder or Property Owner believes are harsh or unwarranted, or if there are disputes of any other matter related to actions of the ARC, the builder or Property Owner may request a hearing before the Tideland Estates HOA Board of Directors. At the hearing, the builder and/or Property Owner will be allowed to present their position on the matter and make requests or recommendations as to an alternative action. After the hearing, the Tideland Estates HOA will review the information presented and notify the builder of its final decision on the hearing.

## Disclaimer

In connection with all reviews, acceptances, inspections, permissions, consents, or required approvals by or from the Tideland Estates HOA or the Tideland Estates ARC contemplated under these guidelines, neither the ARC, the Board of Directors, any member of the ARC, or the Board of Directors, nor the Tideland Estates HOA shall be liable to a Property Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against any owner or such other person and arising out of or in any way related to the subject matter of any such reviews, acceptances, inspections, consents or required approvals, whether given, granted or withheld by the Tideland Estates HOA or the Tideland Estates ARC. Approval of any plan by the ARC does not in any way warrant that the improvements are structurally sound or in compliance with St. Johns River Water Management District or other applicable city, county, state, and federal government agencies regulations and codes, nor does it eliminate the need for approval from the City of Palm Coast Building Department.

The ARC's approval of any plans or improvements is not an endorsement or guarantee of the structural integrity of any improvement constructed in accordance with those plans or of the methods of construction to be used in the construction

## Contractor Fines (subset of ATTACHMENT #1)

<b>Legend: Covenant &amp; Restriction Article and Section Number followed by p=Promulgated Rule #. Fines apply to all owners. Only items identified as such will be deducted from the Construction Deposit against a Contractor that has supplied a Deposit. The Builder will replenish the fines to the construction deposit account in 7 days. Administrative fees up to \$50 per violation may be added for administrative costs.</b>	<b><i>Deducted from Construction Deposit?</i></b>	<b><i>Remediation Note (In addition to fine)</i></b>	<b><i>Fine</i></b>
<b>IX/2Ap01</b> - Failure to remain within the designated 30-foot maximum height limitation of dwellings with a 7/12 minimum roof pitch. Dwelling heights shall be compatible with the Florida Residential Building Code, which defines the height of the building as being from grade to the average height of the highest roof.	Yes	Remediation Required	\$1,000 Week
<b>IX/2Ap02</b> - Failure to complete construction within 18 months of final ARC approval	Yes	Remediation Required	\$1,000 Week
<b>IX/3Ap01</b> -Starting construction before "ARC Final Approval"	Yes	Approval or Removal	\$100 Day
<b>IX/4Ap01</b> - Permit received prior to ARC approval	Yes	Approval or Revised Permit	\$100 Day

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<b>IX/5p01</b> – Failure of members and their family, invitees, guests and tenants to follow all published rules of the Association which includes the Design and Development Guidelines as approved by the Board of Directors	Yes	Remediation Required	\$100 Day
<b>IX/7p04</b> - Owner/Contractor/Sub-Contractor using empty lot, common area/path without written authorization from owner and approval by ARC. This includes driving on, parking, materials storage, etc.	Yes	Approval or Remediation	\$100 per incident
<b>IX/8p02</b> - Unapproved (not prohibited) temporary signage installed on property without ARC approval such as Builder Box, Open House or Parade of Homes	Yes	Approval or Remediation	\$100 day
<b>IX/10p01</b> - No Noxious, Offensive, Nuisance activity	Yes	Remediation Required	\$100 per incident
<b>IX/10p02</b> - Causing damage to/failure to correct damage to adjoining Lots	Yes	Remediation Required	\$100 per incident
<b>IX/10p03</b> - Failure to correct damage to common property	Yes	Remediation Required	\$100 per incident
<b>IX/10p04</b> - No Loud noise and music	Yes	Remediation Required	\$100 per incident
<b>IX/10p05</b> - No children, or pets on the job site	Yes	Remediation Required	\$100 per incident
<b>IX/10p06</b> - Construction work outside of approved hours M-F 7a-7p (or sunset when earlier), Sat 8a-5p	Yes	Remediation Required	\$100 per incident
<b>IX/10p07</b> - Construction work on Sundays or Holidays without prior approval of ARC	Yes	Remediation Required	\$100 per incident
<b>IX/10p08</b> - Failure to follow authorized access routes or speeding in the community by contractor/subcontractor	Yes	Remediation Required	\$100 per incident
<b>IX/10p09</b> -Mixing of stucco, mortar or concrete on the street. (This includes, but is not limited to, portable mixers and cement trucks.)	Yes	Remediation Required	\$100 per incident
<b>IX/10p10</b> - Builders, employees, subcontractors and suppliers engaging in non-construction activities - Fishing, Touring, etc.	Yes	Remediation Required	\$100 per incident
<b>IX/10p11</b> -The consumption of alcoholic beverages, illegal drugs or other intoxicants that could hamper the safety or wellbeing of other personnel on the construction site or affect the quality of workmanship. Violators will be removed and repeat offenders will not be allowed into Tidelands Estates for six months.	Yes	Remediation Required	\$100 per incident
<b>IX/10p12</b> - Dumping of construction materials/waste in street, drains or waterways	Yes	Remediation Required	\$1000 per incident
<b>IX/12p01</b> - Changed exterior paint/finish without ARC approval	Yes	Approval or Remediation	\$100 day

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<b>IX/12p02</b> - Failure to properly place a porta-potty when lot is completely cleared	Yes	Remediation Required	\$100 day
<b>IX/12p03</b> - Failure to properly place a silt/barrier fence when lot is completely cleared	Yes	Remediation Required	\$100 day
<b>IX/12p04</b> - Failure to properly place a barrier on a nearby street grate when a lot is completely cleared	Yes	Remediation Required	\$100 day
<b>IX/12p05</b> - Failure to keep job site neat and clean	Yes	Remediation Required	\$100 Incident
<b>IX/12p06</b> - Failure to properly clean the street	Yes	Remediation Required	\$100 Incident
<b>IX/13p01</b> - No removal of trees with a diameter of more than 4" w/o ARC approval	Yes	Approval or Remediation	up to \$1,000 tree
<b>IX/13p02</b> - Removing Trees without ARC approval/failure to replace tree as prescribed by ARC	Yes	Approval or Remediation	up to \$1,000 tree
<b>IX/13p03</b> - Failure to have a member of the ARC Present during removal of approved trees to ensure only approved trees are removed	Yes	Fine and Remediation	up to \$1,000 tree
<b>IX/14p01</b> - No changing of grades or elevations without ARC approval	Yes	Remediation Required	\$1,000 per incident
<b>IX/15p01</b> - No construction and/or use of wells on lot	Yes	Remediation Required	\$1,000 per incident
<b>IX/16p01</b> - Only biodegradable fertilizers and pesticides approved by the U.S. Environmental Protection Agency and the Florida Department of Environmental Regulation shall be used.	Yes	Fine Only	\$100 per incident
<b>IX/20p02</b> - Failure to properly place a dumpster before ground rough/plumbing installation by Contractor	Yes	Remediation Required	\$100 day
<b>IX/32</b> – All Dwelling Units constructed on Lots 44 through 63 (adjacent to the Custer Waterway) shall maintain a minimum rear yard setback of ten (10) feet between the waterward edge of the seawall and any screened enclosure or pool. (Amendment 2)	Yes	Remediation Required	\$100 day

The administrative costs associated with imposing these fines will also be passed on to the builder; this will be up to \$50 per fine, unless circumstances warrant more. When imposed, the above fines and administrative costs will be deducted from the construction deposit held by the ARC.