

HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT
107 Manns Harbor Drive - Apollo Beach, Florida 33572
ATTN: Club Director

UTILITIES CONNECTION APPLICATION

The undersigned (“Owner”) represent that they are the owners of record for the property (“Lot”) described below. The Owner desires to install and/or reconnect, and maintain, power and water lines through the canal retaining wall (a/k/a seawall) owned and maintained by the Harbor Bay Community Development District (“CDD”) and are submitting this application for that approval.

Owner(s) Name(s) _____

Lot Street Address _____

City, State and Zip Code _____

Phone Number _____

Lot Tax Folio Number _____

For new power and water lines being installed and/or reconnection of existing lines, please identify:

Contractor Name and License Number Earth Tech Enterprises, Inc., CGC016677

Contractor Phone Number (239) 774-1223

(Attach Certificate of Insurance from Contractor) (Already on file with CDD)

Expected Start Date: **(See Contract with CDD)** _____ Expected Completion Date: **(See Contract with CDD)** _____

This Utilities Connection Application, as well as the attached License Agreement, is to be signed by all parties named as Grantee in the Warranty Deed or Special Warranty Deed recorded in the Official Records of Hillsborough County for this property. **Owner agrees to abide by the terms of the License Agreement and ensure that any installation and/or reconnection of utilities is done using the CDD’s approved conduit and/or specifications.**

Owner Signature: _____ Date: _____

Co-Owner Signature: _____ Date: _____

Date: _____

Received by: _____

Harbor Bay Community Development District

For Office Use Only

APPROVED ___ DISAPPROVED ___

Explanation for Disapproval (if applicable): _____

PRIVACY NOTICE: Under Florida’s Public Records Law, Chapter 119, Florida Statutes, the information you submit on this form may become part of a public record. This means that, if a citizen makes a public records request, we may be required to disclose the information you submit to us. Under certain circumstances, we may only be required to disclose part of the information submitted to us. If you believe that your records may qualify for an exemption under Chapter 119, Florida Statutes, please notify the District Manager.

ATTACHMENTS: LICENSE AGREEMENT & CDD SPECIFICATIONS (IF APPLICABLE)

This instrument was prepared by and upon recording should be returned to:

(This space reserved for Clerk)

District Counsel, Harbor Bay CDD
HOPPING GREEN & SAMS P.A.
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301

Parcel ID for Property: _____

**LICENSE AGREEMENT
(UTILITIES CONNECTION)**

This License Agreement (Utilities Connection) (“**Agreement**”) is entered into as of this _____ day of _____, 2020, by and among:

The Harbor Bay Community Development District (“CDD”), a local unit of special purpose government created pursuant to Chapter 190, Florida Statutes; and

_____ and _____
(together, “**Owner**”), the fee simple owners of the “**Property**” identified as:

Lot __, Block __, as per the plat (“**Plat**”) identified as _____, and recorded in Plat Book __, Pages __ et seq., of the Public Records of Hillsborough County, Florida.

WITNESSETH:

WHEREAS, CDD is a special purpose unit of local government that provides community infrastructure for the Mirabay community, including the community’s master stormwater system and, as part of that, a canal retaining wall (a/k/a seawall) (“**Canal Wall**”); and

WHEREAS, Owner owns the Property within Mirabay; and

WHEREAS, as part of the Plat, among other things, CDD holds certain drainage and other easements (“**Easements**”) on the Property that allow CDD to install and maintain the Canal Wall and its related components; and

WHEREAS, Owner has requested authorization to install and/or reconnect and maintain power and water utility lines (“**Utility Lines**”) through the Canal Wall and to Owner’s dock; and

WHEREAS, in order to accommodate such requests, CDD has installed a conduit in the Canal Wall for certain lots, and/or established a specification for the placement of Utility Lines through the Canal Wall for other lots (together, “**Utility Pass-Throughs**”); and

WHEREAS, subject to the terms of this Agreement, CDD desires to grant Owner a license to install the Utility Lines using the Utility Pass-Throughs;

NOW, THEREFORE, in exchange for the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, it is understood and agreed as follows:

1. **Recitals.** The recitals set forth above are acknowledged as true and correct and are incorporated herein by reference.

2. **License for Installation & Maintenance of Utility Lines; Limitation.** Subject to the terms of this Agreement, CDD hereby grants Owner a non-exclusive license to use the CDD-authorized Utility Pass-Throughs for the sole purpose of installing and maintaining the Utility Lines through the Canal Wall and to the dock at the Property. Owner acknowledges that this Agreement authorizes only connection of power and water utilities through the Canal Wall, and does not authorize any other impact or other alteration to the Canal Wall.

3. **Owner Responsibilities.** Owner has the following responsibilities:

- a. Owner shall be fully responsible for the installation and maintenance of the Utility Lines, including all costs, and shall conduct such work in accordance with any CDD-approved specifications, as amended from time to time.
- b. Owner shall ensure that any connection of Utility Lines through the Canal Wall is done using the CDD-authorized Utility Pass-Throughs.
- c. Owner shall use a licensed and insured contractor to perform any installation and maintenance work.
- d. Owner shall ensure that the installation and maintenance of the Utility Lines does not interfere with the CDD's rights in the Easements, and does not damage any property of CDD or any third party's property. Among other things, Owner shall be responsible for restoring any impact to the grass swale behind the Canal Wall, and shall further ensure that any installation and/or maintenance does not damage the Canal Wall or other related improvements (e.g., tie-back anchors, cap, etc.). In the event of any such damage, Owner shall immediately notify CDD, in which case CDD, at CDD's option, shall either direct Owner to repair the damage at Owner's expense, or shall conduct such repairs at Owner's expense.
- e. Owner shall be responsible for ensuring that the installation and maintenance of the Utility Lines are conducted in compliance with all applicable laws (including but not limited to building codes, set back requirements, etc.).
- f. Owner shall keep CDD's Easements free from any materialmen's or mechanic's liens and claims or notices in respect to such liens and claims, which arise by reason of the Owner's exercise of rights under this Agreement, and Owner shall immediately discharge any such claim or lien.
- g. CDD, by entering into this Agreement, does not represent that CDD has authority to provide all necessary approvals for connection of the Utility Lines. Instead, the Owner shall be responsible for obtaining any and all applicable permits and approvals relating to the work (including but not limited to any approvals (if any) of the Mirabay Homeowner's Association, Inc. ("**Association**"), as well as any other necessary legal interests and approvals).
- h. Upon completion of the installation, the Utility Lines will be owned by the Owner. Owner shall be responsible for the maintenance and repair of any such Utility Lines, and agrees to maintain the Utility Lines in good condition and consistent with any CDD-approved specifications, as amended from time to time.

4. **Existing Rights.** Nothing herein is intended to limit or diminish in any way the CDD's existing rights in the Easements. The permission granted herein is given to Owner as an accommodation

and is revocable at any time. Owner acknowledges the legal interest of the CDD in the Easements described above and agrees never to deny such interest or to interfere in any way with CDD's use. Owner will exercise the privilege granted herein at Owner's own risk, and agrees that Owner will never claim any damages against CDD for any injuries or damages suffered on account of the exercise of such privilege, regardless of the fault or negligence of the CDD. Owner further acknowledges that, without notice, and without recourse against the CDD, the CDD may revoke this Agreement and remove the Utility Lines at Owner's expense, and that the CDD is not obligated to re-install the Utility Lines as a result of the removal.

5. **Indemnification.** Owner agrees to indemnify, defend and hold harmless the CDD, the Association, Hillsborough County, Southwest Florida Water Management District, and any property management companies of the CDD and Association, as well as any officers, supervisors, staff, agents and representatives of the foregoing, against all liability for damages and expenses resulting from, arising out of, or in any way connected with, this Agreement or the exercise of the privileges granted hereunder.

6. **Covenants Run with the Land.** This Agreement, and all rights and obligations contained herein, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, including, but without limitation, all subsequent owners of any portions of the property described herein and all persons claiming under them. Whenever the word "Owner" is used herein, it shall be deemed to mean the current owner of the Property and its successors and assigns. Upon the sale of the Property, Owner shall advise the subsequent owner of the terms and conditions of this Agreement. The CDD may at its option record this Agreement in the public records of Hillsborough County.

7. **Sovereign Immunity.** Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the CDD beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

8. **Attorney's Fees & Costs.** The prevailing party in any litigation to enforce the terms of this Agreement shall be entitled to reasonable attorney's fees and costs.

9. **Counterparts.** This Agreement may be executed in counterparts. Any party hereto may join into this Agreement by executing any one counterpart. All counterparts when taken together shall constitute one agreement.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have caused this License Agreement (Utilities Connection) to be executed the day and date first above written.

Witnesses:

Owner

By: _____

By: _____

Print Name

Print Name

By: _____

Print Name

STATE OF FLORIDA)

COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 20__, by _____. He/she [] is personally known to me or [] produced _____ as identification.

NOTARY PUBLIC

(Print, Type or Stamp Commissioned Name of Notary Public)

[signatures continue on following page]

[SIGNATURE PAGE TO LICENSE AGREEMENT (UTILITIES CONNECTION)]

Witnesses:

Owner

By: _____

By: _____

Print Name

Print Name

By: _____

Print Name

STATE OF FLORIDA)

COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 20____, by _____. He/she [] is personally known to me or [] produced _____ as identification.

NOTARY PUBLIC

(Print, Type or Stamp Commissioned Name of Notary Public)

[signatures continue on following page]

Witnesses:

**Harbor Bay
Community Development District**

By: _____

By: _____

Print Name

Its: _____

By: _____

Print Name

STATE OF FLORIDA)

COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 20__, by _____, as _____ of the Harbor Bay Community Development District, on behalf of said District. He/she [] is personally known to me or [] produced _____ as identification.

NOTARY PUBLIC

(Print, Type or Stamp Commissioned Name of Notary Public)

[end of signature pages]