

MONTECITO TOWNHOMES OF BREVARD HOA, INC.

ARCHITECTURAL REVIEW BOARD (ARB) APPLICATION

MAIL APPLICATION TO: 6972 LAKE GLORIA BLVD. ORLANDO, FL 32809-3200

OFFICE: (407) 781-1406 EMAIL: arb@lelandmanagement.com

Name _____ Email _____

Property Address _____

Mailing Address _____ City _____ State _____ Zip _____

Phone (s) Home _____ Work _____ Fax _____

In accordance with the Declaration of Covenants, Conditions and Restrictions and the Association's Rules and Regulations, installation must conform to this approval and the Association's guidelines.

I hereby request your consent to make the following changes, alterations, renovations and/ or additions to my property.

- () Fence () Lawn Ornament () Patio () Screen enclosure
() Exterior Color () Landscaping () Lawn Replacement () Other _____

Description: _____

Attach two (2) copies of the property survey that shows the locations of the proposed change, alteration, renovation or addition. Attach two (2) drawings of your plan(s). Attach two (2) color samples, if applicable.

NOTE: APPLICATIONS SUBMITTED BY FAX OR WITHOUT TWO (2) COPIES OF THE SURVEY, DRAWING, OR COLOR SAMPLE WILL BE CONSIDERED INCOMPLETE. IF AN APPLICATION IS INCOMPLETE, IT WILL NOT BE PROCESSED AND WILL BE RETURNED TO YOU.

I HEREBY UNDERSTAND AND AGREE TO THE FOLLOWING CONDITIONS.

- 1. No work will begin until written approval is received from the Association. You have 60 days from the approval date to complete the work. If not, then you must reapply for ARB approval.
2. All work will be done expeditiously once commenced and will be done in a professional manner by a licensed contractor or myself.
3. All work will be performed timely and in a manner that will minimize interference and inconvenience to other residents.
4. I assume all liability and will be responsible for any and all damages to other lots and / or common area, which may result from performance of this work.
5. I will be responsible for the conduct of all persons, agents, contractors, subcontractors and employees who are connected with this work.
6. I am responsible for complying with all applicable federal, state and local laws, codes, regulations and requirements in connection with this work. I will obtain any necessary governmental permits and approval for the work.
7. Upon receipt Leland Management, Inc. will forward the ARB Application to the Association. A decision by the Association may take up to 45 days. I will be notified in writing when the application is either approved or denied.

ALL HOMEOWNERS ARE RESPONSIBLE FOR FOLLOWING THE RULES AND GUIDELINES OF THEIR ASSOCIATION WHEN MAKING ANY EXTERIOR MODIFICATIONS.

Signature of Owner(s): _____ Date: _____

Do Not Write Below This Line

This Application is hereby: () Approved () Disapproved

Date _____ Signature _____

Comments: _____

Date Received from Owner _____ Mailed to Assn _____ Mailed to Owner _____

TEMPORARY ACCESS EASEMENT AGREEMENT
BY AND BETWEEN THE MONTECITO COMMUNITY DEVELOPMENT DISTRICT AND

This **Temporary Access Easement Agreement** (“Easement Agreement”) is made and entered into this _____ day of _____, _____, by and between:

Montecito Community Development District, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes, being situated in Brevard, County, Florida, and whose mailing address is 2806 N. 5th Street, Unit 403, St. Augustine, Florida 32084 (the “District”); and

_____, an individual, whose address is _____ (the “Homeowner”).

WITNESSETH

WHEREAS, the District was established pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended (the “Act”), by an ordinance of the Brevard County, Florida, County Commission, (the “Ordinance”) and is validly existing under the Constitution and laws of the State of Florida; and

WHEREAS, the District is the owner of certain lands in Brevard County, Florida, more particularly identified in the map attached hereto as **Exhibit A** and by this reference incorporated herein (“Easement Property”); and

WHEREAS, Homeowner is the owner of the property with the District having the address of _____, Satellite Beach, Florida (Homeowner’s Property);

WHEREAS, Homeowner has requested that the District grant to it a temporary, non-exclusive easement over the Easement Property for purpose of gaining access to Homeowner’s Property for the construction of a _____ at Homeowner’s Property, and the District is agreeable to granting such an easement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration and the mutual covenants of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. RECITALS. The foregoing recitals are true and correct and by this reference are incorporated as a material part of this Easement Agreement.

2. GRANT OF EASEMENT. The District hereby grants to Homeowner a temporary, non-exclusive easement over, upon, under, through, and across the Easement Property for the purpose of Homeowner gaining access to his lot for the purpose of constructing a _____ (the “Easement”) at

Homeowner's Property. The Homeowner agrees and acknowledges that, while the District believes it is the owner of the Easement Property depicted on **Exhibit A**, the District has not verified such ownership and makes no representations or warranties regarding such ownership. It shall be the Homeowner's responsibility to confirm property-ownership to ensure that Homeowner is not using property over which it has not been granted legal access. Additionally, Homeowner agrees and acknowledges that the District makes no representations or warranties that the Easement Property is wide enough or suitable for the Homeowner's needs. To the extent there is any discrepancy in ownership or if the Easement Property is not wide enough or otherwise suitable for the Homeowner's needs, the Homeowner and its contractors assume any and all risk and liability associated with trespassing or any other unauthorized use of non-District-owned property.

3. TERM. Homeowner shall be permitted to use the Easement until such time as construction of the _____ at Homeowner's Property is complete, at which time the Easement shall terminate.

4. INDEMNIFICATION.

a. Homeowner agrees to indemnify and hold the District harmless from and against any and all damages, losses or claims, including but not limited to legal fees and expenses, to the extent that such damages, losses or claims are attributable to actions, omissions or negligence in the use of the Easement Property by Homeowner, his agents, employees or independent contractors.

b. Homeowner agrees that nothing contained in this Easement Agreement shall constitute or be construed as a waiver of the District's limitations on liability set forth in Section 768.28, Florida Statutes, and other law.

5. DAMAGE. In the event that Homeowner, his respective employees, agents, assignees, or contractors (or their subcontractors, employees or materialmen) cause damage to the Easement Property or any of the improvements located within the Easement Property or causes damage to the District's other property or any improvements located thereon, in the exercise of the easement rights granted herein, Homeowner, at Homeowner's sole cost and expense, agrees to commence and diligently pursue the restoration of the same and the improvements so damaged to as nearly as practical to the original condition and grade, including, without limitation, repair and replacement of any landscaping, hardscaping, plantings, ground cover, irrigation systems, roadways, driveways, sidewalks, parking areas, fences, walks, utility lines, stormwater facilities, pumping facilities, pumps and other structures, within thirty (30) days after receiving written notice of the occurrence of any such damage, and Homeowner shall allow no lien to attach to the Easement Property or any improvements located on said property or District's other property arising out of work performed by, for, or on behalf of Homeowner.

6. DEFAULT. A default by any party under this Easement Agreement shall entitle any other to all remedies available at law or in equity, which may include but not be limited to the right of actual damages, injunctive relief and/or specific performance.

7. ENFORCEMENT OF AGREEMENT. In the event that either the District or Homeowner seeks to enforce this Easement Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution or appellate proceedings.

8. NOTICES. Any notice, demand, consent, authorization, request, approval or other communication that any party is required, or may desire, to give to or make upon the other party pursuant to this Agreement shall be effective and valid only if in writing, signed by the party giving notice and delivered personally to the other parties or sent by express 24-hour guaranteed courier or delivery service or by certified mail of the United States Postal Service, postage prepaid and return receipt requested, addressed to the other party as follows (or to such other place as any party may by notice to the others specify):

To Homeowner: _____

To the District: Montecito Community Development District
2806 North 5th Street, Unit 403
St. Augustine, Florida 32084
Attn: District Manager

With a copy to: Billing, Cochran, Lyles, Mauro and Ramsey, PA
515 East Las Olas Blvd., Sixth Floor
Ft. Lauderdale, FL 33301
Attn: Michael Pawelczyk

Notice shall be deemed given when received, except that if delivery is not accepted, notice shall be deemed given on the date of such non-acceptance. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day shall be deemed received on the next business day. If any time for giving notice would otherwise expire on a non-business day, the notice period shall be extended to the next succeeding business day. Saturdays, Sundays and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the District and counsel for Homeowner may deliver Notice on behalf of the District and Homeowner.

9. THIRD PARTIES. This Easement Agreement is solely for the benefit of the formal parties hereto, and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Easement Agreement. Nothing in this Easement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy, or claim under or by reason of this Easement Agreement or any of the provisions or conditions hereof. The District shall be solely responsible for enforcing its rights under this Easement Agreement against any interfering third party. Nothing contained in this Easement Agreement shall limit or impair the District's right to protect their rights from interference by a third party.

10. ASSIGNMENT. No party may assign, transfer or license all or any portion of its rights under this Easement Agreement without the prior written consent of the other parties.

11. CONTROLLING LAW. This Easement Agreement shall be construed, interpreted and controlled according to the laws of the State of Florida.

12. PUBLIC RECORDS. Homeowner understands and agrees that all documents of any kind provided to the District or to District Staff in connection with this Easement Agreement are public records and are to be treated as such in accordance with Florida law.

13. SEVERABILITY. The invalidity or unenforceability of any one or more provisions of this Easement Agreement shall not affect the validity or enforceability of the remaining portions of this Easement Agreement, or any part of this Easement Agreement not held to be invalid or unenforceable.

14. BINDING EFFECT. This Easement Agreement and all of the provisions, representations, covenants, and conditions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

15. AUTHORIZATION. By execution below, the undersigned represent that they have been duly authorized by the appropriate body or official of their respective entity to execute this Easement Agreement, and that each party has complied with all the requirements of law and has full power and authority to comply with the terms and provisions of this instrument.

16. AMENDMENTS. Amendments to and waivers of the provisions contained in this Easement Agreement may be made only by an instrument in writing which is executed by all parties hereto.

17. ENTIRE AGREEMENT. This instrument shall constitute the final and complete expression of the agreement between the parties relating to the subject matter of this Easement Agreement.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized officers effective as of the day and year first above written.

MONTECITO COMMUNITY
DEVELOPMENT DISTRICT

ATTEST:

Secretary/Assistant Secretary

Chairperson/Vice Chairman

ATTEST:

Signature

Homeowner

Exhibit A
The Easement Property