

WHEN RECORDED RETURN TO:

FENNEMORE CRAIG, P.C.
2394 East Camelback Road
Suite 600
Phoenix, AZ 85016-3429
Attn. Roger T. Hargrove

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chagollaj

**ACCESS AND UTILITY EASEMENT AGREEMENT
AND DEED RESTRICTION**

THIS ACCESS AND UTILITY EASEMENT AGREEMENT AND DEED RESTRICTION (the "Agreement") is entered into as of April 21, 2014 ("Effective Date") by and between BELLASERA COMMUNITY ASSOCIATION, INC., an Arizona non-profit corporation ("Grantor"), and LABADI FAMILY LIMITED PARTNERSHIP, a Nevada limited partnership, and OSUJI FAMLY LIMITED PARTNERSHIP, a Nevada limited partnership (collectively, "Grantee"). Grantor and Grantee are referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. Grantor owns that certain real property located in Maricopa County, Arizona, more particularly described on Exhibit A attached hereto and incorporated herein (the "Easement Area"). The Easement Area is used as roadways serving the Bellasera master planned community ("Bellasera").

B. Grantee owns that certain real property located adjacent to Bellasera, as more particularly described on Exhibit B attached hereto and incorporated herein ("Grantee Property").

C. Grantee can, by accessing the Easement Area, access the publicly-dedicated rights-of-way of North Scottsdale Road and East Lone Mountain Road.

D. The Parties desire that Grantee shall have a non-exclusive access and utility easement over the Easement Area to provide access, ingress and egress to and from the Grantee Property, on the terms set out below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

1. Grant of Easement. Grantor hereby grants, bargains and conveys to Grantee and including, but not limited to, its employees, contractors, subcontractors, visitors, customers, invitees, lessees, licensees, successors and assigns (collectively, "Permittees") a perpetual, non-exclusive easement on, over, under and across the Easement Area for the purposes of: (a) all access, ingress and egress to and from the Grantee Property, including but not limited to access, ingress and egress for any and all motor vehicles (including, without limitation automobiles, trucks, equipment, buses, and earth moving equipment), non-motorized vehicles, and pedestrians; (b) installing, operating, inspecting, maintaining, improving, repairing, replacing, and/or removing any utilities to serve Plaintiffs' 12-acre parcel (including, but not limited to, serving wireless communications infrastructure and related improvements located on Plaintiffs' 12-acre parcel); and (c) constructing and maintaining roadway improvements and utility infrastructure upon and beneath the Existing Easement ("Easement Improvements") ((a), (b) and (c) are, collectively, the "Access and Utility Easement"). For purposes of this Agreement, the "Existing Easement" shall be that portion of the Easement Area described on Exhibit C attached hereto and incorporated herein. Nothing herein shall be construed as to permit Grantee or Permittees to use Grantor's property, including the Easement Area, for parking or storage, except that Grantor will cooperate with Grantee regarding temporary storage and parking on Grantor's Property, as is reasonably necessary, for the purposes of individuals viewing the Existing Easement and Grantee's Property in preparation for any site work or contractual negotiations with any facilities carrier prior to the construction of improvements on the Existing Easement and during the period in which Grantee will construct improvements on the Existing Easement to provide access to Grantee's property.

Grantor and Grantee will cooperate with each other to determine the method and manner of access through the gates for Grantee; the owners, residents, and tenants of the residences constructed on Plaintiffs' 12-acre parcel; their representatives, officers, employees, agents, insurers, contractors, subcontractors, visitors, customers, invitees, lessees, licensees, successors, and assigns, and construction people or equipment employed for the purposes of constructing the single family residences or any site work or utility installation or extension. Construction people and equipment employed for the purposes of constructing the single family residences or any site work or utility installation or extension will be limited to access through the gate located off of Lone Mountain Road, with reasonable means for access as needed for such construction activities.

2. Easement Improvements. Grantee may construct the Easement Improvements to the Existing Easement and, if so constructed, shall be constructed at Grantee's sole cost and expense. All construction shall be in accordance with all applicable laws, codes, permits and regulations and in a good and workmanlike manner. Grantee may also construct or improve utility improvements within all areas of the Easement Area consistent with the purposes of this Agreement. When a permit is issued for any purpose related to the construction of a single family residence including, but not limited to any site work preparation or utility installation on, or extension to, Plaintiffs' 12-acre parcel, Plaintiffs will post a bond in the amount of

\$250,000.00 for repair of any damage to the streets and gates at Defendant's property that is subject to the Agreement.

3. Maintenance of the Easement Improvements. Grantee shall maintain, repair, replace and otherwise care for the Easement Improvements to the Existing Easement.

4. Maintenance of the Easement Area; Reimbursement. Other than with respect to the Existing Easement, Grantor shall maintain, repair, replace and otherwise care for the Easement Area. Commencing on the date the first building permit is obtained in order to build the first Residence (defined below) on the Grantee Property, Grantee shall reimburse Grantor the sum of \$1,500.00 per year ("Annual Reimbursement"). As building permits are obtained for subsequent Residences on the Grantee Property, Annual Reimbursements will similarly commence for each subsequent Residence. If the amount of dues charged to members of Bellasera increases or decreases at any time, the Annual Reimbursement shall be increased or decreased by an equal percentage. The Annual Reimbursement shall be due to Bellasera on the first day of each calendar year. If a building permit for a Residence is not obtained on the first day of the calendar year, the amount of the Annual Reimbursement for that year will be prorated based on the number of days remaining in the calendar year. Grantor shall not make any maintenance decisions or arrange for any maintenance on the Existing Easement without first notifying Grantee and obtaining Grantee's consent, which consent will not be unreasonably withheld, delayed, or conditioned.

5. Non-Exclusive Use of Easement Area. Except as provided below, nothing contained in this Agreement shall limit the rights of Grantor to grant other easements, rights, and privileges on, across, over or under the Easement Area, so long as such other easements, rights, and privileges do not interfere with or adversely affect the Grantee's and/or Permittees' use and enjoyment of the Access and Utility Easement and the rights granted by this Agreement. Grantor shall have the right, in its sole and absolute discretion, to dedicate to the public, at any time and from time to time, any portion of the Easement Area. To the extent any portion of the Easement Area is dedicated for use by the public, the Access and Utility Easement for such portion of the Easement Area shall automatically terminate and the Annual Reimbursement referenced in Paragraph 4 shall be adjusted accordingly.

6. Reasonable Use of the Easement Area. Grantee may construct a wall or fence along that portion of the Existing Easement that is immediately adjacent to the Grantor's Property. If and to the extent such wall or fence is constructed by or at the direction of Grantee, such wall or fence may include a gate that will permit access to and from the Easement Area by Grantee.

7. Run With The Land. The Access and Utility Easement, Deed Restriction, and the rights and the restrictions granted and imposed by this Agreement shall all (i) be easements, restrictions and covenants running with the land, and (ii) inure to the benefit and/or burden of, and be binding upon, the Parties and their respective successors-in-ownership, Permittees, and all persons and entities claiming under any of them.

8. Termination of Easement. This Agreement and the Access and Utility Easement granted and created herein shall be perpetual. Provided, however, if any portion of the Easement Area shall in the future become part of or partially constitute a publicly-dedicated right-of-way, then that portion of the Access and Utility Easement shall automatically terminate and be of no further force or effect.

9. Deed Restriction. Development and/or improvement of the Grantee Property is limited to a maximum of three (3) single family residences (each a "Residence"), including the development and improvement of all utilities serving those three (3) single family residences and any utilities facilities on Grantee Property. This restriction is not intended to prohibit Grantee from entering into an agreement with utilities carriers for the construction of utility facilities on the Grantee Property. However, no other construction, improvements, or development shall take place on the Grantee Property other than specifically set forth herein. For purposes of this Agreement, the term "Residence" shall include, along with the primary residential structure, guest houses, maids quarters, maintenance structures, garages, pools, pool houses, tennis courts, and other similar structures constructed ancillary to the primary residence.

10. Representations and Warranties. Each Party, for itself, represents, warrants and agrees as follows: (i) it is duly organized and validly existing; (ii) it has full authority to enter into this Agreement; (iii) the person who executes this Agreement on its behalf in a representative capacity is duly authorized to do so and possesses the requisite authority to sign on its behalf; and (iv) this Agreement is legal, valid, binding and enforceable against it in accordance with its terms.

11. Disputes. Should a dispute arise regarding the respective rights and obligations set forth in this Agreement, each party agrees to provide the other with written notice of the dispute within ten (10) business days of ascertaining that a dispute has arisen.

12. Controlling Law. This Agreement and all questions relating to its validity, interpretation, performance and inducement shall be governed by, construed, interpreted and enforced in accordance with the substantive laws of the state of Arizona (without reference to choice of law principles).

13. Survival. All representations, warranties and covenants contained in this Agreement shall continue and survive execution of this Agreement, and shall be binding upon the Party making the representation, warranty or covenant.

14. No Modification. No provision of this Agreement may be amended, modified, supplemented, changed, waived, discharged or terminated, except by an instrument in writing signed by the Party against whom enforcement of the amendment, modification, supplementation, change, waiver, discharge or termination is sought.

15. Counterparts. This Agreement may be executed in counterparts, each of which when so executed will be deemed an original document, but all of which will constitute a single document.

16. Headings. Section or other headings contained in this Agreement are for reference purposes only, and are not intended to affect in any way the meaning or interpretation of this Agreement.

17. Severability. The provisions of this Agreement are severable. As such, the invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. If any clause or provision of this Agreement is determined to be illegal, invalid, or unenforceable under any present or future law by the final judgment of a Court of competent jurisdiction, then such clause or provision shall be ineffective, but the remaining provisions of this Agreement will not be affected and shall be construed in the broadest manner to effectuate the purposes of this Agreement. Further, the Parties agree to replace any void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provision.

18. Binding Effect. This Agreement is binding upon and inures to the benefit of the Parties, Permittees and their respective successors, heirs, trustees, receivers, partners, members, agents and assigns.

19. Remedies Cumulative. All rights and remedies of any Party under this Agreement shall be cumulative and non-exclusive, and may be exercised singularly or concurrently.

20. Notices. All notices required under this Agreement shall be deemed to be properly served if reduced to writing and sent by email or other electronic transmission, certified mail or personal delivery and the date of such notice will be deemed to have been the date on which such notice is emailed or transmitted electronically, personally delivered, or attempted to be delivered as reflected on the facsimile confirmation sheet, certified mail return receipt or a commercial delivery service of record. Notices shall be sent to the following addresses:

Bellasera Community Association, Inc.
c/o AAM, LLC
Attn: Viola Lanam
1600 West Broadway Road, Suite 200
Tempe, Arizona 85282
vlanam@aam.az.com

With copy mailed to:
Carpenter, Hazlewood, Delgado & Bolen, PLC
1400 East Southern Avenue, Suite 400

Tempe, Arizona 85282

Labadi Family Limited Partnership
Osuji Family Limited Partnership
P.O. Box 4013
Scottsdale, Arizona 85261
fredsmithjr@mac.com

The Parties and/or their successors and assigns shall provide written notice of any changes to contact information by following the notice requirements set forth above.

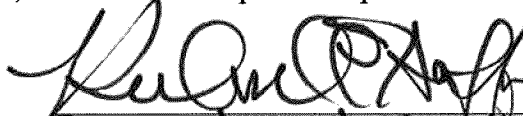
21. Time Is of the Essence. Time is of the essence in the performance of each and every part of this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.


GRANTOR:

BELLASERA COMMUNITY ASSOCIATION, INC., an Arizona non-profit corporation

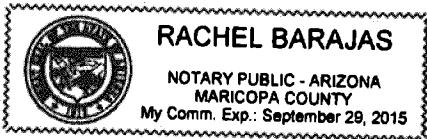
By: 
Name: RICHARD C. HOFFMAN (Print)
Its: PRESIDENT

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on April 21, 2014 by Richard C. Hoffman as the Grantor of BELLASERA COMMUNITY ASSOCIATION, INC., an Arizona non-profit corporation, for and on behalf of the corporation.


Notary Public

My Commission Expires: 9-29-15



GRANTEE:

LABADI FAMILY LIMITED PARTNERSHIP, a Nevada limited partnership

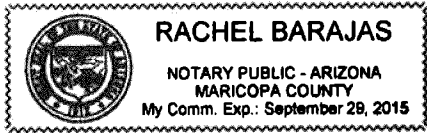
By: Fred C. Smith
Name: MANAGING MEMBER (Print)
Its: FRED C. SMITH

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on April 21, 2014 by Fred C. Smith, as the Grantee of LABADI FAMILY LIMITED PARTNERSHIP, a Nevada limited partnership, for and on behalf of the limited partnership.

Rachel Barajas
Notary Public

My Commission Expires: 9-29-15



GRANTEE:

OSUJI FAMLY LIMITED PARTNERSHIP, a Nevada limited partnership

By: [Signature]
Name: FRED C. SMITH (Print)
Its: MANAGING MEMBER

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on 4-21-14, 2014 by Fred C. Smith, as the Grantee of OSUJI FAMLY LIMITED PARTNERSHIP, a Nevada limited partnership, for and on behalf of the limited partnership.

[Signature]
Notary Public

My Commission Expires: 9-29-15

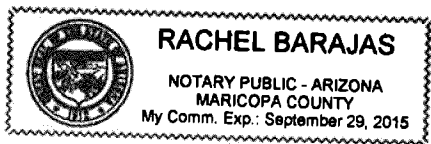


Exhibit AEasement Area

Tract A of Parcel "A" at Bellasera, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 443 of Maps, Page 11;

Tract A of Parcel "B" at Bellasera, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 443 of Maps, Page 12;

Tract A of Parcel "C" at Bellasera, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 444 of Maps, Page 23;

Tract A of Parcel "D" at Bellasera, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 444 of Maps, Page 24;

Tract A of Parcel "E" at Bellasera, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 444 of Maps, Page 42; and

THAT PORTION of Tract B identified on the plat as a "20' Access and Utility Easement" of Parcel "E" at Bellasera, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 444 of Maps, Page 42.

Exhibit BGrantee Property

A 12.00 acre parcel of land lying within the Northeast 1/4 of Section 23, Township 5 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona and particularly described as follows:

BEGINNING at the East 1/4 corner of said Section 23;

THENCE South 89° 57' 19" West along the East-West mid-section line of said Section 23 a distance of 723.00 feet to a point;

THENCE North 00° 00' 50" East a distance of 723.00 feet to a point;

THENCE North 89° 57' 19" East a distance of 723.00 feet to a point on the East line of said Section 23;

THENCE South 00° 00' 50" West along the East line of said Section 23 a distance of 723.00 feet to the point of beginning.

Exhibit C

Existing Easement

THAT PORTION of Tract B identified on the plat as a "20' Access and Utility Easement" of Parcel "E" at Bellasera, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 444 of Maps, Page 42.