

**207 Waiver**  
**Title**  
**Legal Description**  
**Policy or Appeals**  
**Correspondence Between Legal & Staff**  
**Letter of Authorization**



# COMMITMENT FOR TITLE INSURANCE

*Issued by*

## Commonwealth Land Title Insurance Company

Commonwealth Land Title Insurance Company, a Nebraska corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate 6 months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

IN WITNESS WHEREOF, Commonwealth Land Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

**Lawyers Title, A Division of Commonwealth  
Land Title Insurance Company**

By: *Natalie Bombardieri*  
Countersigned



**Commonwealth Land Title Insurance Company**

By: *[Signature]* President  
ATTEST *[Signature]* Secretary



Escrow Officer: **Brenda Tucson**  
**Lawyers Title of Arizona, Inc.**  
**3131 E. Camelback Road Suite 220**  
**Phoenix, AZ 85016**

**Lawyers Title of Arizona, Inc.**

**Representing Commonwealth Land Title Insurance Company**

**SCHEDULE A**

Commitment No.: **01850872-816-BT3**

1. Effective Date: **July 5, 2016** at 7:30 a.m.

2. Policy or Policies to be issued:

a. **ALTA Standard Owners Policy (6-17-06)**

Proposed Insured: **City of Scottsdale**

Liability: **\$750,000.00**

b. **None**

Proposed Insured:

Liability: **\$0.00**

c. **None**

Proposed Insured:

Liability: **\$0.00**

3. The estate or interest in the land described or referred to in this Commitment is:

**A FEE**

4. Title to the estate or interest in the land is at the Effective Date vested in:

**Rocky So Lun Yuan and Stephanie Yen Fen Yuan, as Trustee of The Rocky and Stephanie Yuan Family Trust, dated March 29, 2001**

5. The land referred to in this Commitment is described as follows:

**See Exhibit A attached hereto and made a part hereof.**

Title Officer: Bob Bice/MO0

Typist: mo0

Amended: No.

81C101 (6/06) ALTA Commitment - 2006

Page 1

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**EXHIBIT A**  
**LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MARICOPA, STATE OF ARIZONA, AND IS DESCRIBED AS FOLLOWS:

Lots 59, 60 and 61, CAMELBACK PARK PLAZA, according to Book 86 of Maps, Page 13, records of Maricopa County, Arizona.

APN: 173-41-175, 173-41-177, 173-41-176

**2-IP-2016**  
**08/01/16**



## SCHEDULE B – SECTION I REQUIREMENTS

1. Pay the agreed amounts for the interest in the Land and/or the mortgage to be insured.
2. Pay us the premiums, fees and charges for the policy.
3. Documents satisfactory to us creating the interest in the Land and/or the mortgage to be insured must be signed, delivered and recorded.
4. You must tell us in writing the name of anyone not referred to in this commitment who will get an interest in the Land or who will make a loan on the Land. We may then make additional requirements or exceptions.
5. Furnish for review a complete true copy of the executed Trust Agreement of The Rocky and Stephanie Yuan Family Trust, dated March 29, 2001, where Rocky So Lun Yuan and Stephanie Yen Fen Yuan is/are named as trustee(s), together with any amendments or restatements thereof.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

6. Recordation of a certified copy of the Ordinance of the City of Scottsdale authorizing the execution and delivery of all instruments necessary to consummate this transaction.
7. Please be advised that our search did not disclose any open Deeds of Trust of record. If you should have knowledge of any outstanding obligation, please contact the Title Department immediately for further review prior to closing.

Upon confirmation by the owner of no open Deeds of Trust or Mortgages encumbering the Land described herein, furnish the Company an owner's Affidavit of no open Deed of Trust(s).

8. Furnish for recordation a deed as set forth below:

Type of deed:	Warranty Deed
Grantor(s):	Rocky So Lun Yuan and Stephanie Yen Fen Yuan, as Trustee of The Rocky and Stephanie Yuan Family Trust, dated March 29, 2001
Grantee(s):	City of Scottsdale

Note: ARS 11:1133 may require the completion and filing of an Affidavit of Value.

Note: Said Deed must disclose the names and addresses of the Beneficiaries under said Trust Agreement in conformance with ARS 33-404 or make proper reference to a recorded Affidavit of Disclosure as to said Trust.

**Tax Note:**

Year:	2015
Tax Parcel No:	<u>173-41-175</u> (Lot 59)
Total Tax:	\$2,026.40
First Installment Amount:	\$Paid
Second Installment Amount:	\$Paid



**SCHEDULE B – Section I  
(Continued)**

## Tax Note:

Year:	2015
<u>Tax Parcel No:</u>	<u>173-41-176 (Lot 60)</u>
Total Tax:	\$1,943.22
First Installment Amount:	\$Paid
Second Installment Amount:	\$Paid

## Tax Note:

Year:	2015
<u>Tax Parcel No:</u>	<u>173-41-177 (Lot 61)</u>
Total Tax:	\$1,874.12
First Installment Amount:	\$Paid
Second Installment Amount:	\$Paid

**END OF SCHEDULE B – SECTION I**

## SCHEDULE B – SECTION II

### EXCEPTIONS

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

- A. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
- B. Exceptions and Exclusions from coverage which will appear in the policy or policies to be issued as set forth in Attachment One attached.
  - 1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the year 2016.
  - 2. Any outstanding liabilities and obligations, including unpaid assessments, imposed upon said Land by reason of: (a) inclusion thereof within the boundaries of the Salt River Project Agricultural Improvement and Power District; (b) membership of the owner thereof in the Salt River Valley Water Users' Association, an Arizona corporation and (c) the terms of any Water Right Application made under the reclamation laws of the United States for the purposes of obtaining water rights for said Land.
  - 3. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording No: Docket 577, Page 113

And thereafter Corrected

Recording No: Docket 686, Page 307

- 4. Easements, covenants, conditions and restrictions as set forth on the plat recorded in Book 86 of Maps, Page 13.
- 5. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording No: Docket 3095, Page 229

And thereafter Termination of Declaration of Restrictions

Recording No: 2010-0935917

**SCHEDULE B – Section II**  
**(Continued)**

Liens and charges as set forth in the above mentioned declaration,

Payable to: Camelback Park Plaza Association

6. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: Roadway and utilities  
Recording Date: December 23, 1970  
Recording No: Docket 8455, Page 576  
(Affects Lot 61)

7. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: Roadway and utilities  
Recording Date: December 31, 1970  
Recording No: Docket 8466, Page 131  
(Affects Lot 59)

8. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: Roadway and utilities  
Recording Date: December 22, 1971  
Recording No: Docket 9138, Page 600  
(Affects Lots 59 and 60)

9. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording No: Docket 9138, Page 602  
(Affects Lots 59 and 60)

10. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording No: Docket 9803, Page 541  
(Affects Lot 61)

11. Matters contained in that certain document

Entitled: Covenant and Agreement to Hold Property as One Parcel  
Recording Date: August 10, 1995  
Recording No: 95-0477902

Reference is hereby made to said document for full particulars.  
(Affects Lots 59 and 60)

**SCHEDULE B – Section II  
(Continued)**

12. Matters contained in that certain document

Entitled: Permission for Private Improvements in Right-of-Way  
Recording Date: February 12, 2015  
Recording No: 2015-0092755

Reference is hereby made to said document for full particulars.  
(Affects Lots 59 and 60)

**END OF SCHEDULE B – SECTION II**



## CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. *The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <<http://www.alta.org/>>.*



**Lawyers Title of Arizona, Inc.**

**DISCLOSURE NOTICES**

**Good Funds Law**

Arizona Revised Statutes Section 6-843 regulates the disbursement of escrow funds by an escrow agent. The law requires that funds be deposited in the escrow agent's escrow account and available for withdrawal prior to disbursement. Funds deposited with the Company by wire transfer may be disbursed upon receipt. Funds deposited with the Company in the form of cashier's checks, certified checks or teller's checks, or checks which are made by an affiliate of a state or federally regulated depository institution when the check is drawn on that institution, may be disbursed the same day as deposited. If funds are deposited with the Company by other methods, recording and/or disbursement may be delayed.

**PURCHASER DWELLING ACTIONS NOTICE**

Pursuant to Arizona Revised Statutes Section 12-1363.N, notice is hereby provided to the purchaser of a dwelling of the provisions of Arizona Revised Statutes Sections 12-1361, 1362 and 1363. These statutory sections set forth the requirements to be met by a purchaser prior to bringing an action against the seller of a dwelling arising out of or related to the design, construction, condition or sale of the dwelling. "Dwelling" means a single or multifamily unit designed for residential use and common areas and improvements owned or maintained by an association or its members. "Seller" means any person, firm, partnership, corporation, association or other organization engaged in the business of designing, constructing or selling dwellings. The complete statutory sections can be viewed on the Arizona State Legislature's web site: [www.azleg.state.az.us/ars/ars.htm](http://www.azleg.state.az.us/ars/ars.htm).

**NOTICE:**

Pursuant to Arizona Revised Statutes 11-480, effective January 1, 1991, the County Recorder may not accept documents for recording that do not comply with the following:

1. Print must be ten-point type (pica) or larger.
2. Margins of at least one-half inch along the left and right sides one-half inch across the bottom and at least two inches on top for recording and return address information.
3. Each instrument shall be no larger than 8½ inches in width and 14 inches in length.

**CORPORATE REQUIREMENTS FOR NOTARIZATION OF DOCUMENTS:**

Any document being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an FNTG agent, an authorized employee of the insured lender, or by using Bancserv or other corporate approved third-party notary service. Please contact your escrow officer to make arrangements for notary services prior to signing any documents.

## FIDELITY NATIONAL FINANCIAL PRIVACY NOTICE

At Fidelity National Financial, Inc. and its majority-owned subsidiary companies (collectively, "FNF", "our" or "we"), we value the privacy of our customers. This Privacy Notice explains how we collect, use, and protect your information and explains the choices you have regarding that information. A summary of our privacy practices is below. We also encourage you to read the complete Privacy Notice following the summary.

<p><b>Types of Information Collected.</b> You may provide us with certain personal information, like your contact information, social security number (SSN), driver's license, other government ID numbers, and/or financial information. We may also receive information from your Internet browser, computer and/or mobile device.</p>	<p><b>How Information is Collected.</b> We may collect personal information directly from you from applications, forms, or communications we receive from you, or from other sources on your behalf, in connection with our provision of products or services to you. We may also collect browsing information from your Internet browser, computer, mobile device or similar equipment. This browsing information is generic and reveals nothing personal about the user.</p>
<p><b>Use of Your Information.</b> We may use your information to provide products and services to you (or someone on your behalf), to improve our products and services, and to communicate with you about our products and services. We do not give or sell your personal information to parties outside of FNF for their use to market their products or services to you.</p>	<p><b>Security Of Your Information.</b> We utilize a combination of security technologies, procedures and safeguards to help protect your information from unauthorized access, use and/or disclosure. We communicate to our employees about the need to protect personal information.</p>
<p><b>Choices With Your Information.</b> Your decision to submit personal information is entirely up to you. You can opt-out of certain disclosures or use of your information or choose to not provide any personal information to us.</p>	<p><b>When We Share Information.</b> We may disclose your information to third parties providing you products and services on our behalf, law enforcement agencies or governmental authorities, as required by law, and to parties with whom you authorize us to share your information.</p>
<p><b>Information From Children.</b> We do not knowingly collect information from children under the age of 13, and our websites are not intended to attract children.</p>	<p><b>Privacy Outside the Website.</b> We are not responsible for the privacy practices of third parties, even if our website links to those parties' websites.</p>
<p><b>Access and Correction.</b> If you desire to see the information collected about you and/or correct any inaccuracies, please contact us in the manner specified in this Privacy Notice.</p>	<p><b>Do Not Track Disclosures.</b> We do not recognize "do not track" requests from Internet browsers and similar devices.</p>
<p><b>The California Online Privacy Protection Act.</b> Certain FNF websites collect information on behalf of mortgage loan servicers. The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through those websites.</p>	<p><b>International Use.</b> By providing us with your information, you consent to the transfer, processing and storage of such information outside your country of residence, as well as the fact that we will handle such information consistent with this Privacy Notice.</p>
<p><b>Your Consent To This Privacy Notice.</b> By submitting information to us and using our websites, you are accepting and agreeing to the terms of this Privacy Notice.</p>	<p><b>Contact FNF.</b> If you have questions or wish to contact us regarding this Privacy Notice, please use the contact information provided at the end of this Privacy Notice.</p>



## FIDELITY NATIONAL FINANCIAL, INC. PRIVACY NOTICE

FNF respects and is committed to protecting your privacy. We pledge to take reasonable steps to protect your Personal Information (as defined herein) and to ensure your information is used in compliance with this Privacy Notice.

This Privacy Notice is only in effect for information collected and/or owned by or on behalf of FNF, including collection through any FNF website or online services offered by FNF (collectively, the "Website"), as well as any information collected offline (e.g., paper documents). The provision of this Privacy Notice to you does not create any express or implied relationship, nor create any express or implied duty or other obligation, between FNF and you.

### **Types of Information Collected**

We may collect two types of information: Personal Information and Browsing Information.

**Personal Information.** The types of personal information FNF collects may include, but are not limited to:

- contact information (e.g., name, address, phone number, email address);
- social security number (SSN), driver's license, and other government ID numbers; and
- financial account or loan information.

**Browsing Information.** The types of browsing information FNF collects may include, but are not limited to:

- Internet Protocol (or IP) address or device ID/UDID, protocol and sequence information;
- browser language;
- browser type;
- domain name system requests;
- browsing history;
- number of clicks;
- hypertext transfer protocol headers; and
- application client and server banners.

### **How Information is Collected**

In the course of our business, we may collect *Personal Information* about you from the following sources:

- applications or other forms we receive from you or your authorized representative, whether electronic or paper;
- communications to us from you or others;
- information about your transactions with, or services performed by, us, our affiliates or others; and
- information from consumer or other reporting agencies and public records that we either obtain directly from those entities, or from our affiliates or others.

We may collect *Browsing Information* from you as follows:

- **Browser Log Files.** Our servers automatically log, collect and record certain Browsing Information about each visitor to the Website. The Browsing Information includes only generic information and reveals nothing personal about the user.
- **Cookies.** From time to time, FNF may send a "cookie" to your computer when you visit the Website. A cookie is a

small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive. When you visit the Website again, the cookie allows the Website to recognize your computer, with the goal of providing an optimized user experience. Cookies may store user preferences and other information. You can choose not to accept cookies by changing the settings of your Internet browser. If you choose not to accept cookies, then some functions of the Website may not work as intended.

### **Use of Collected Information**

Information collected by FNF is used for three main purposes:

- To provide products and services to you, or to one or more third party service providers who are performing services on your behalf or in connection with a transaction involving you;
- To improve our products and services; and
- To communicate with you and to inform you about FNF's products and services.

### **When We Share Information**

We may share your Personal Information (excluding information we receive from consumer or other credit reporting agencies) and Browsing Information with certain individuals and companies, as permitted by law, without first obtaining your authorization. Such disclosures may include, without limitation, the following:

- to agents, representatives, or others to provide you with services or products you have requested, and to enable us to detect or prevent criminal activity, fraud, or material misrepresentation or nondisclosure;
- to third-party contractors or service providers who provide services or perform other functions on our behalf;
- to law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoenas or court orders; and/or
- to other parties authorized to receive the information in connection with services provided to you or a transaction involving you.

We may disclose Personal Information and/or Browsing Information when required by law or in the good-faith belief that such disclosure is necessary to:

- comply with a legal process or applicable laws;
- enforce this Privacy Notice;
- investigate or respond to claims that any information provided by you violates the rights of a third party; or
- protect the rights, property or personal safety of FNF, its users or the public.

We make efforts to ensure third party contractors and service providers who provide services or perform functions on our behalf protect your information. We limit use of your information to the purposes for which the information was provided. We do not give or sell your information to third parties for their own direct marketing use.

We reserve the right to transfer your Personal Information, Browsing Information, as well as any other information, in connection with the sale or other disposition of all or part of the

FNF business and/or assets, or in the event of our bankruptcy, reorganization, insolvency, receivership or an assignment for the benefit of creditors. You expressly agree and consent to the use and/or transfer of this information in connection with any of the above-described proceedings. We cannot and will not be responsible for any breach of security by any third party or for any actions of any third party that receives any of the information that is disclosed to us.

#### **Choices With Your Information**

Whether you submit your information to FNF is entirely up to you. If you decide not to submit your information, FNF may not be able to provide certain products or services to you. You may choose to prevent FNF from using your information under certain circumstances ("opt out"). You may opt out of receiving communications from us about our products and/or services.

#### **Security And Retention Of Information**

FNF is committed to protecting the information you share with us and utilizes a combination of security technologies, procedures and safeguards to help protect it from unauthorized access, use and/or disclosure. FNF trains its employees on privacy practices and on FNF's privacy and information security policies. FNF works hard to retain information related to you only as long as reasonably necessary for business and/or legal purposes.

#### **Information From Children**

The Website is meant for adults. The Website is not intended or designed to attract children under the age of thirteen (13). We do not collect Personal Information from any person that we know to be under the age of thirteen (13) without permission from a parent or guardian.

#### **Privacy Outside the Website**

The Website may contain links to other websites, including links to websites of third party service providers. FNF is not and cannot be responsible for the privacy practices or the content of any of those other websites.

#### **International Users**

Because FNF's headquarters is located in the United States, we may transfer your Personal Information and/or Browsing Information to the United States. By using our website and providing us with your Personal Information and/or Browsing Information, you understand and consent to the transfer, processing and storage of such information outside your country of residence, as well as the fact that we will handle such information consistent with this Privacy Notice.

#### **Do Not Track Disclosures**

Currently, our policy is that we do not recognize "do not track" requests from Internet browsers and similar devices.

#### **The California Online Privacy Protection Act**

For some websites which FNF or one of its companies owns, such as the Customer CareNet ("CCN"), FNF is acting as a third party service provider to a mortgage loan servicer. In those

instances, we may collect certain information on behalf of that mortgage loan servicer, including:

- first and last name;
- property address;
- user name and password;
- loan number;
- social security number - masked upon entry;
- email address;
- security questions and answers; and
- IP address.

The information you submit is then transferred to your mortgage loan servicer by way of CCN. **The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through this website. For example, if you believe that your payment or user information is incorrect, you must contact your mortgage loan servicer.**

CCN does not share consumer information with third parties, other than those with which the mortgage loan servicer has contracted to interface with the CCN application. All sections of this Privacy Notice apply to your interaction with CCN, except for the sections titled Choices with Your Information, and Access and Correction. If you have questions regarding the choices you have with regard to your personal information or how to access or correct your personal information, contact your mortgage loan servicer.

#### **Access and Correction**

To access your Personal Information in the possession of FNF and correct any inaccuracies, please contact us by email at [privacy@fnf.com](mailto:privacy@fnf.com) or by mail at:

Fidelity National Financial, Inc.  
601 Riverside Avenue  
Jacksonville, Florida 32204  
Attn: Chief Privacy Officer

#### **Your Consent To This Privacy Notice**

By submitting Personal Information and/or Browsing Information to FNF, you consent to the collection and use of information by FNF in compliance with this Privacy Notice. We reserve the right to make changes to this Privacy Notice. If we change this Privacy Notice, we will post the revised version on the Website.

#### **Contact FNF**

Please send questions and/or comments related to this Privacy Notice by email at [privacy@fnf.com](mailto:privacy@fnf.com) or by mail at:

Fidelity National Financial, Inc.  
601 Riverside Avenue  
Jacksonville, Florida 32204  
Attn: Chief Privacy Officer

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EFFECTIVE AS OF APRIL 1, 2016



**ATTACHMENT ONE**  
**AMERICAN LAND TITLE ASSOCIATION**  
**RESIDENTIAL TITLE INSURANCE POLICY (6-1-87) EXCLUSIONS**

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
  - land use
  - improvements on the land
  - land division
  - environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date.

This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.

2. The right to take the land by condemning it, unless:
  - a notice of exercising the right appears in the public records on the Policy Date

In addition to the Exclusions, you are not insured against loss, costs, attorneys' fees, and the expenses resulting from:

1. Any rights, interests, or claims of parties in possession of the land not shown by the public records.
2. Any easements or liens not shown by the public records. This does not limit the lien coverage in Item 8 of Covered Title Risks.

- the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking.
3. Title Risks:
    - that are created, allowed, or agreed to by you
    - that are known to you, but not to us, on the Policy Date—unless they appeared in the public records
    - that result in no loss to you
    - that first affect your title after the Policy Date—that does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
  4. Failure to pay value for your title.
  5. Lack of a right:
    - to any land outside the area specifically described and referred to in Item 3 of Schedule A
    - OR
    - in streets, alleys, or waterways that touch your landThis exclusion does not limit the access coverage in Item 5 of Covered Title Risks
  3. Any facts about the land which a correct survey would disclose and which are not shown by the public records. This does not limit the forced removal coverage in Item 12 of Covered Title Risks.
  4. Any water rights or claims or title to water in or under the land, whether or not shown by the public records.

**ATTACHMENT ONE  
(Continued)**

**NEBRASKA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**SCHEDULE B, PART I  
EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

**PART I**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.



**ATTACHMENT ONE  
(CONTINUED)**

**FORMERLY AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92)  
WITH A.L.T.A. ENDORSEMENT-FORM 1 COVERAGE  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
- (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine or equitable subordination; or
  - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**ATTACHMENT ONE  
(CONTINUED)  
2006 AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (06-17-06)  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company

by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

- (c) resulting in no loss or damage to the Insured Claimant;
- (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13 or 14); or
- (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records;
- (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.



**ATTACHMENT ONE  
(CONTINUED)**

**FORMERLY AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10-17-92)  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage Policy will also include the following Exceptions from Coverage:

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**ATTACHMENT ONE  
(CONTINUED)**

**2006 AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (06-17-06)  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other Instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records;
- (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**ATTACHMENT ONE  
(CONTINUED)  
CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (10-22-03)  
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (10-22-03)  
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
  - a. building
  - b. zoning
  - c. Land use
  - d. improvements on Land
  - e. land division
  - f. environmental protection

This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.  
This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
  - a. notice of exercising the right appears in the Public Records at the Policy Date; or
  - b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records.
  - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date—this does not limit the coverage described in Covered Risk 7, 8.d., 22, 23, 24 or 25.
5. Failure to pay value for Your Title.
6. Lack of a right:
  - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

**LIMITATIONS ON COVERED RISKS**

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 14, 15, 16, and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A. The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	Covered Risk	Your Deductible Amount	Our Maximum Dollar Limit of Liability
14:	Covered Risk	1% of Policy Amount or \$2,500.00 (whichever is less)	\$10,000.00
15:	Covered Risk	1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
16:	Covered Risk	1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
18:	Covered Risk	1% of Policy Amount or \$2,500.00 (whichever is less)	\$5,000.00

**ATTACHMENT ONE  
(CONTINUED)  
CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (01-01-08)  
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (01-01-08)  
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
  - a. building;
  - b. zoning;
  - c. land use;
  - d. improvements on the Land;
  - e. land division; and
  - f. environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8, a., 14, 15, 16, 18, 19, 20, 23 or 27.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
  - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date—this does not limit the coverage described in Covered Risk 7, 8, e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
  - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 21.

**LIMITATIONS ON COVERED RISKS**

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

			Your Deductible Amount	Our Maximum Dollar Limit of Liability
16:	Covered Risk		1% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$10,000.00
18:	Covered Risk		1% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$25,000.00
19:	Covered Risk		1% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$25,000.00
21:	Covered Risk		1% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$5,000.00



**ATTACHMENT ONE  
(CONTINUED)  
ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvements now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or areas of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14 and 16 of this policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records a Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss damage to the Insured Claimant;
- (d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or
- (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth-in-lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8(e) and 26.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting the title, the existence of which are Known to the Insured at:
  - (a) The time of the advance; or
  - (b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification. This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

**ATTACHMENT ONE  
(CONTINUED)  
ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (01-01-08)**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.

**WHEN RECORDED, RETURN TO:**

( Dan Symer )  
ONE STOP SHOP RECORDS  
CITY OF SCOTTSDALE  
7447 East Indian School Road, Suite 100  
Scottsdale, AZ 85251

Q.S.:	17-45
A.P.N.:	173-41-176
CASE NO.:	2-IP-2016

**AGREEMENT  
FOR EVENING USE TERM IN-LIEU PARKING CREDITS**

THIS AGREEMENT FOR EVENING USE TERM IN-LIEU PARKING CREDITS (the "Agreement") is made and entered into this 25th day November, 2016, between the City of Scottsdale, an Arizona municipal corporation ("City"), and The Rocky and Stephanie Family Trust ("Property Owner").

**RECITALS:**

A. The real property (the "Property") subject to this Agreement is more particularly described and depicted on Exhibit A attached hereto.

B. The Property Owner desires under the terms and provisions of this Agreement to develop the property and comply with the requirements of the City's Zoning Ordinance for onsite parking.

C. Whereas in the downtown overlay and downtown districts, and pursuant to Article IX of the City's zoning ordinance and Resolution No. 8153, Property Owner may purchase evening use term parking credits from the City in-lieu of providing the required amount of onsite parking.

D. Whereas the Property Owner warrants to the City that the Bar use of the property that requires the evening use term parking credits is open for business only during the hours of 5:00 p.m. and 3:00 a.m.

E. Whereas the maximum number of evening-use parking credits is limited to two (2) parking spaces.

F. The Property Owner and City voluntarily enter into this Agreement for the purchase of two (2) evening use term in-lieu parking credits and to establish the manner and method



of payment for the in-lieu parking credits, including remedies for the breach of this Agreement.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the promises and agreements set forth herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Property Owner agree as follows:

### SECTION 1. PURCHASE OF IN-LIEU PARKING CREDITS

1. Recitals. The recitals set forth above are hereby incorporated by this reference.

1.1 Term of Agreement. The term of this Agreement shall commence on the date first above written and unless terminated under the provisions of this agreement end at such time as Property Owner no longer requires evening use term in-lieu parking credits in order to comply with the parking requirements of the Zoning Ordinance of the City of Scottsdale.

1.2 Number of In-Lieu parking credits. Property Owner agrees to purchase evening use term in-lieu parking credits in the amount of two (2) spaces.

1.3 Payment of Evening Use Term In-Lieu Parking Credits. Property Owner shall pay to the City all of the following payments together with all other payments required by this Agreement (collectively referred to as the "In-lieu Fee").

1.4 In-Lieu Fee Items. The Property Owner shall pay to the City each of the following items of the In-lieu Fee:

1.4.1 Fixed Amount. The evening use term payment for each in-lieu parking space credit shall be thirty-four Dollars and ninety cents (\$ 34.90). As set forth above in paragraph 1.2, the Property Owner has agreed to purchase two (2) parking credits and the minimum base in-lieu fee per month shall be (2 credits x \$ 34.90 = \$ 69.80)

1.4.2 First In-Lieu Fee Payment. The In-lieu Fee pertaining to the month commencing this Agreement is due upon execution of the Agreement in the amount of \$69.80. Thereafter each full monthly payment shall be due on the 25<sup>th</sup> day of each month.

1.4.3 Evening Use Term In-Lieu Fee Adjustment. Each July 1<sup>st</sup> the Evening Use Term In-Lieu Fee shall be automatically adjusted upward or downward on the basis of changes in the United States Consumer Price Index for all Urban Consumers (CPI-U), U.S. City average published by the United States Bureau of Labor Statistics (the "Cost of Living Index"). City may also elect to cause the adjustment to occur at the time of any assignment of the Property Owner's obligations under this Agreement. The amount of the Adjusted In-Lieu Fee (represented by the letter "R" in the formula set forth below) shall be equal to the then current Cost of Living Index number, as of the average of each month of the previous year before the adjustment (represented by the letter "C" in the formula set forth

below), plus one (1), and multiplied by the original Evening Use Term In-Lieu Fee amount (represented by the "\$" symbol in the formula set forth below). This computation is expressed by the following formula:

$$R = (C + 1) \times \$$$

1.4.4 Adjustments to the Adjusted Evening Use Term In-Lieu Fee. The Adjusted Evening Use Term In-Lieu Fee specified in Section 1.4.3, above, shall be automatically adjusted upward, or downward, each July 1<sup>st</sup> after the Evening Use Term In-Lieu Fee adjustment. Utilizing the methodology and formula in Section 1.4.3, the existing Adjusted Evening Use Term In-Lieu Fee shall be represented by the "\$", and the new Adjusted In-Lieu Fee shall be represented by the "R".

1.4.5 Late Fees. Should any Evening Use Term In-Lieu Fee not be paid on or before the date due, a late fee shall be added to the amount due in the amount of the greater of ten percent (10%) of the amount due, or One Hundred Dollars (\$100). Furthermore, any Evening Use Term In-Lieu Fee that is not timely paid shall accrue a simple interest at the rate of one and a half percent (1½%) per month, and compounded monthly from the date the amount first came due until paid. The Property Owner expressly agrees that the foregoing represents fair and reasonable charges estimated to cover the City's costs (such as accounting, administrative, legal, and processing costs, etc.) in the event of a delay in payment of the Evening Use Term In-Lieu Fee. City shall have the right to allocate any payment received from the Property Owner among Property Owner's unpaid obligations to the City.

1.4.6 Evening Use Term In-lieu Fee Payment Date. The Property Owner shall pay all In-lieu Fees in advance for each month on the 25<sup>th</sup> day of the prior month. In the event an amount is not known in advance, City shall have the right to estimate the amount; with an adjustment to be made within sixty (60) days after the actual amount becomes known. The Evening Use Term In-Lieu Fee is deemed paid only when the City actually receives valid payment.

1.4.7 Payments Made. Payments shall be made via mail or in person to: Customer Service, Suite 110, 7447 East Indian School Road, Scottsdale, Arizona 85251.

1.5 Evening Use Term In-lieu Parking Credits. Property Owner acknowledges that parking credits obtained by payment of the Evening Use Term In-lieu Fee are only for the term of the activity or use requiring the parking and are not permanently credited to the property. The Evening Use Term in-lieu parking credits are temporary in all forms and shall expire upon termination of the activity requiring the parking or expiration of this Agreement. Upon expiration or termination of this Agreement, Property Owner is not entitled to parking credits in any form.

## **SECTION 2. PUBLIC PARKING**

2. The Property Owner, and/or its tenants shall in all respects conform to each of the following provisions:



2.1 Public Parking Restrictions. The payment of Evening Use Term In-lieu parking fees does not provide the Property Owner with exclusive use of any public parking spaces. Property Owner shall not obstruct, prohibit or prevent any person or vehicle from utilizing a public parking space, without a separate agreement, such as a valet license agreement. Property Owner agrees to expressly prohibit its tenants from doing the same.

2.2 Nonexclusive signage. Property Owner shall not erect signage or otherwise communicate that any public parking space is subject to the exclusive use of the Property Owner or its tenant, without a separate agreement. Property Owner agrees to expressly prohibit its tenants from doing the same.

### **SECTION 3. BREACH AND REMEDIES**

3. The Property Owner shall comply with, perform, and do each of the things required by the Property Owner herein, and Property Owner's failure to do so shall be a breach by the Property Owner of this Agreement:

3.1 Event of Default. This agreement is made upon the condition that each of the following events shall be deemed an "Event of Default" and a material breach by the Property Owner of the obligations under this Agreement:

3.1.1 If the Property Owner is in arrears of the Evening Use Term In-Lieu Fee, including any Late Fees described in Section 1.4.5, and does not cure such arrearages within ten (10) days after the City has notified the Property Owner in writing of such arrears.

3.1.2 If any representation or warranty made by the Property Owner in connection with this Agreement, or the negotiations leading to this Agreement shall prove to be false in any material respect when made.

3.1.3 If the Property Owner assigns or attempts to assign this Agreement to a third party without strictly complying with Section 6 of this Agreement.

3.2 City Remedies. Following the occurrence of any Event of Default, the City may, at its option and without further demand or notice, exercise any or all, or any combination of the following remedies:

3.2.1 Terminate this Agreement. The City may terminate this Agreement for non-payment of the Evening Use Term In-Lieu Fee or for any other Event of Default. Termination of this Agreement does not terminate the Property Owner's obligation to pay any Evening Use Term In-lieu Fees, Late Fees or interest accruing thereon which becomes due prior to termination of this Agreement, or in any way terminate the Property Owner's liability related to any breach of this Agreement. Pursuant to Section 1.4.5 of this Agreement, interest will continue to accrue on any amount in arrears until paid.

3.2.2 Enforce a lien. Property Owner acknowledges and hereby grants a lien that may be recorded against the property described in Exhibit A to the City for any unpaid Evening Use Term In-lieu Fees, Late Fees and interest accruing thereon prior to or following termination of this Agreement. This lien may be enforced by the City and at the



City's option upon the property or any other property acquired hereafter by the Property Owner to secure all Property Owner's obligations hereunder after any Event of Default.

3.2.3 Notice of violation. The Property Owner acknowledges and agrees that if the City terminates this Agreement for any Event of Default by the Property Owner, such notice of termination or default shall also serve as a "Notice of Violation" of the parking requirements of the Zoning Ordinance of the City of Scottsdale. The City's notice of default or termination to the Property Owner shall be in writing and is not required to state that the same is also a Notice of Violation.

3.2.4 Issue a citation. Thirty-one (31) days following Property Owner's receipt of any notice of violation, or notice of termination or default of this Agreement, the City may, issue a citation to the Property Owner for a violation of the city's parking requirements, unless such violation has otherwise been cured by Property Owner within those thirty-one (31) days.

3.2.5 Certificate of Occupancy. Upon Property Owner's violation of the parking requirements of the City's Zoning Ordinance, the City may revoke any or all Certificate(s)-of-Occupancy for the building(s) and tenant area(s) on the property, and prohibit occupancy of the building(s) and tenant area(s).

3.2.6 Other Remedies. At the Property Owner's expense, the City may pursue any and all other remedies and rights, legal or equitable, to which the City is entitled or permitted by law.

3.2.7 No City Obligation to Perform. The City may be excused from further performance of this Agreement.

3.3 Non-wavier. Property Owner acknowledges Property Owner's unconditional obligation to comply with this Agreement. No failure by City to demand any performance required of the Property Owner under this Agreement, and no acceptance by the City of any imperfect or partial performance under this Agreement, shall excuse such performance or impair in any way City's ability to insist, prospectively and retroactively, upon full compliance with this Agreement. No acceptance by the City of any payment or other performances hereunder shall be deemed a compromise or settlement of any claim the City may have for additional or further payments or performances. Any waiver by the City of any breach of condition or covenant contained herein to be kept and performed by Property Owner shall not be construed as a waiver by the City and shall not operate to bar or otherwise prevent City from declaring a default for any breach, or continuing breach of the same condition, or covenant, or otherwise. No statement, bill or notice by the City concerning payments or other performances due hereunder shall excuse Property Owner from compliance with this Agreement nor estop or otherwise impair the City's ability to, at any time, correct such notice and/or insist prospectively and retroactively upon full compliance with this Agreement. No waiver of any description (including any waiver of this sentence or paragraph) shall be effective against City unless made in writing by a duly authorized representative of City specifically identifying the particular provision being waived and specifically stating the scope of the waiver. PROPERTY OWNER EXPRESSLY DISCLAIMS, AND SHALL NOT HAVE THE RIGHT TO RELY ON ANY SUPPOSED WAIVER, OR OTHER CHANGE, OR MODIFICATION, WHETHER BY WORD, OR CONDUCT, OR OTHERWISE, NOT CONFORMING TO THIS PARAGRAPH.

3.4 Default by City. Notwithstanding anything in this Agreement to the contrary, in the event City, at any time, is required to pay Property Owner any amount or render any performance, such amount or performance is not due until thirty (30) days after notice by the Property Owner to the City that the amount has become payable or that the performance is due. In the event a cure cannot be affected during that period, the City shall not be in default so long as the City commences a cure during the thirty (30) day period and diligently prosecutes the cure to completion, provided such cure must be completed within ninety (90) days after it is due.

3.5 Funding. This subparagraph shall control notwithstanding any provision of this Agreement, or any exhibit or other agreement, or document related hereto. In the event funds necessary to fulfill City obligations under this Agreement are not appropriated by the Scottsdale City Council, the City may terminate this Agreement by thirty (30) days notice to Property Owner. Termination in accordance with this provision shall not constitute a breach of this Agreement by the City. No person will be entitled to any compensation, damages or other remedy from City if this Agreement is terminated pursuant to the terms of this subsection. Upon termination of this Agreement pursuant to the terms of this subsection, Property Owner acknowledges that Property Owner must remain in compliance with the parking requirements of the City's Zoning Ordinance. Property Owner must demonstrate to the satisfaction of the City's Zoning Administrator that the parking requirements of the City's Zoning Ordinance have been met by a method permitted in the Zoning Ordinance, other than the parking in-lieu credit option.

#### **SECTION 4. TERMINATION**

4. Rights of Termination. The following provisions shall apply upon expiration or termination of this Agreement for any reason:

4.1 Request to Terminate. Upon receipt of a written request from the Property Owner to the City's Zoning Administrator the City may terminate this Agreement after verification by City's Zoning Administrator that the evening use term in-lieu parking credits are no longer required to meet the parking requirements of the city's Zoning Ordinance. Property Owner shall demonstrate in writing to the Zoning Administrator the methodology Property Owner will use to comply with the City's parking requirements prior to the termination of this Agreement. The methodology shall be in accordance with the City's Zoning Ordinance. If the City, through its employee(s), determines that the evening use term in-lieu parking credits are required to meet the parking requirements of the City's Zoning Ordinance, the City will reject Property Owner's request to terminate this Agreement. The City is not required to provide written notice to the Property Owner if the Property Owner's request to terminate this Agreement is not accepted.

4.2 Continuation of Property Owner's Obligations. Termination of this Agreement by the Property Owner or the City does not terminate the Property Owner's obligation to pay any Evening Use Term In-lieu Fees, Late Fees or interest accruing thereon which became due prior to termination of this Agreement, or in any way terminate the Property Owner's liability related to any breach of this Agreement and interest will continue to accrue on any late amount until paid.



4.3 Compliance with the Zoning Ordinance. Property Owner acknowledges Property Owner's unconditional obligation to comply with the Zoning Ordinance of the City of Scottsdale upon termination of this Agreement.

#### **SECTION 5. COMPLIANCE WITH LAW**

5. Laws Regulations Rules. Property Owner shall perform all obligations under this Agreement in accordance with all federal, state, county and local laws, ordinances, regulations, or other rules or policies as are now in effect or may hereafter be adopted or amended.

5.1 Applicability of Municipal Law. Without limitation, the Property Owner shall comply with municipal laws as follows:

5.1.1 Property Owner acknowledges that this Agreement does not constitute, and City has not promised or offered, any type of waiver of, or agreement to waive (or show any type of forbearance, priority or favoritism to Property Owner with regard to) any law, ordinance, power, regulation, tax, assessment or other legal requirement now or hereafter imposed by the City of Scottsdale, or any other governmental body upon or affecting the Property or Property Owner.

5.1.2 All of Property Owner's obligations herein are in addition to and cumulative upon (and not to any extent in substitution or satisfaction of) all existing or future laws and regulations applicable to the Property Owner.

5.1.3 This Agreement does not impair the City of Scottsdale's power to enact, apply, or enforce any laws, or regulations, or exercise any governmental powers affecting in any way the Property Owner, the monthly parking credits or the City's Zoning Ordinance.

5.1.4 The City's rights and remedies under this Agreement for the Property Owner's failure to comply with all applicable laws, supplements, and are in addition to, and do not replace the otherwise existing authority of the City of Scottsdale or any other governmental body.

#### **SECTION 6. ASSIGNMENT**

6. Assignability. This Agreement is assignable by Property Owner in strict compliance with the following:

6.1 Assignment Requirements. This Agreement shall be assignable by the Property Owner only in strict compliance with each of the following requirements:

6.1.1 No arrearages. No assignment of this Agreement will be made or effective, if at the time of assignment Property Owner is in arrears as to any portion of the Evening Use Term In-lieu Fee or Late Fees.

6.1.2 City approval required. No assignment of this Agreement will be made or effective without prior written notice by the Property Owner to the City and prior written approval by the Zoning Administrator of the City of Scottsdale.

6.1.3 Subsequent Owners. Only assignment of this Agreement will be made or effective where the assignee is the fee simple title holder to the Property subsequent to the Property Owner. No assignment of this Agreement will be made or effective to an assignee that is a tenant or holds less than fee simple title to the Property.

6.2 Assignment Remedies. Any prohibited assignment shall be void and vest no rights in the assignee. Nevertheless, City may, in its sole discretion and in addition to all other remedies available to City under this Agreement or otherwise and in any combination, collect the Evening Use Term In-lieu Fee from the assignee and apply the net amount collected to the Evening Use Term In-lieu Fee required to be paid herein and/or void the assignment, all without prejudicing any other right or remedy of the City under this Agreement. No cure or grace periods shall apply to assignments prohibited by this Agreement or to enforcement of this Agreement against an assignee who did not receive City's approval. City may elect to increase the Evening Use Term In-lieu Fee provided for herein as a condition to consenting to any assignment.

6.3 No Waiver. Absent strict compliance with Section 6.1 of this Agreement, no acceptance of payment, or other action or inaction by City shall be deemed a waiver of the assignability provisions or any other provision of this Agreement; nor shall it be deemed acceptance of the assignment or a release of Property Owner from the further performance of the provisions of this Agreement. An effective and valid assignment of this Agreement shall not relieve Property Owner or the assignee from complying with Section 6.1 of this Agreement for any further assignment.

6.4 Enforceability after Assignment. This Agreement shall be enforceable personally and in total against each assignee of this Agreement.

6.5 Grounds for Refusal. No assignments of this Agreement are contemplated, or bargained for. The City has the absolute right for any reason, or for no reason and in its sole discretion to give or withhold consent to any assignment, or to impose any conditions upon any assignment. The Property Owner shall pay to the City the sum of Five Hundred Dollars (\$500) for legal and administrative expenses related to any request for approval of an assignment.

6.6 Form of Assignment. Any assignment shall be by agreement in form and content acceptable to the City. Without limitation, any assignment shall specify and require that each assignee of this Agreement shall assume, be bound by and be obligated to perform and agrees to the terms and conditions of this Agreement.

6.7 Transfer of the Property. Future Owner's rights and obligations upon transfer of title to the Property:

6.7.1 While this Agreement is in effect, no transfer of fee simple title to the Property shall occur without a corresponding assignment of Property Owner's rights under this Agreement to the assignee, and assumption of Property Owner's obligations under this Agreement by the grantee.





The Rocky and Stephanie Family Trust  
8306 East San Simon Drive  
Scottsdale, Arizona 85258

Stephanie Yen Fen Yuan a/k/a Yen Fen Yuan  
The Rocky and Stephanie Family Trust  
8306 East San Simon Drive  
Scottsdale, Arizona 85258

or to such other street address within Maricopa County, Arizona as may be designated by the respective parties in writing from time to time. Notices to the Property Owner may instead be hand delivered to the Property. Service of notice by mail shall be deemed to be complete forty-eight (48) hours after the notice is deposited in the United States Postal Service mail.

7.6 Time of Essence. Time is of the essence of each and every provision of this Agreement. Any payments due on Saturday, Sunday, or an Arizona legal holiday shall be due on the next succeeding day that is not a Saturday, Sunday, or an Arizona legal holiday.

7.8 Paragraph Headings. The paragraph headings contained herein are for convenience in reference only, and not intended to define, or limit the scope of any provision of this Agreement.

7.9 Action or Suit. In the event any action, lawsuit or proceeding is brought by either party to enforce compliance with this Agreement, or for failure to observe any of the covenants of this Agreement, or to vindicate or exercise any rights or remedies hereunder, the party which does not prevail shall pay all costs of the prevailing party in the suit, action, or proceeding together with the reasonable attorneys fees of the prevailing party.

7.10 No Third Party Beneficiaries. Except for limited provisions, if any, expressly stated to be "for the benefit of a third party, if any, no person, or entity shall be a third party beneficiary to this Agreement, or shall have any right, or cause of action hereunder.

7.11 Exhibits. All Exhibits specifically stated to be attached hereto are incorporated into this Agreement by this reference.

7.12 Integration. This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and supersedes any prior agreement, understanding, negotiation, or representation regarding the evening use term in-lieu parking credits.

7.13 Further Assurances. Property Owner and City agrees to do such further acts and to execute and deliver such additional agreements and instruments as may be reasonably required to consummate, evidence, confirm or carry out this Agreement.

7.14 Construction. Whenever the context of this Agreement requires, the singular shall include the plural, and the masculine shall include the feminine. This

Agreement shall be construed according to its plain meaning and neither for nor against any party hereto. Property Owner acknowledges that the In-lieu Fee payable hereunder was negotiated in light of the plain meaning of this Agreement, and this Agreement shall therefore be interpreted according to its plain meaning and without regard to rules of interpretation, if any, that might otherwise favor Property Owner.

7.15 Survival of Liability. All obligations of Property Owner hereunder and all warranties and indemnities of Property Owner hereunder shall survive termination of this Agreement for any reason.

7.16 Choice of Law. This Agreement shall be governed by the internal laws of the State of Arizona. Exclusive proper venue for any action regarding this Agreement shall be Maricopa County.

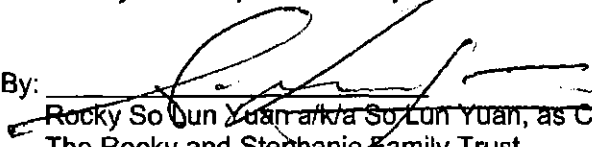
7.17 Approvals and Inspections. All approvals, reviews, and inspections by City under this Agreement, or otherwise, are for the City's sole benefit, and not the Property Owner's benefit.

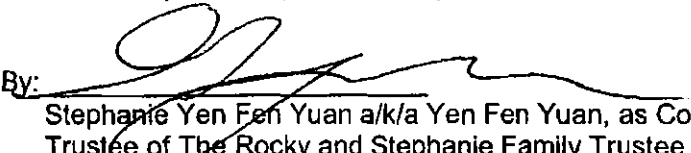
7.18 Recording. Within forty-five (45) days after the date of the Agreement, City shall cause this Agreement to be recorded in the office of the Maricopa County Recorder.

7.19 Statutory Cancellation Right. In addition to its other rights hereunder, City shall have the rights specified in Arizona Revised Statutes §38-511.


EXECUTED as of the date first given above.

PROPERTY OWNER: The Rocky and Stephanie Family Trust

By:   
Rocky So Lun Yuan a/k/a So Lun Yuan, as Co-Trustee of  
The Rocky and Stephanie Family Trust

By:   
Stephanie Yen Fen Yuan a/k/a Yen Fen Yuan, as Co-  
Trustee of The Rocky and Stephanie Family Trust

CITY: **CITY OF SCOTTSDALE**  
an Arizona Municipal Corporation

By:   
Randy Grant  
Zoning Administrator



APPROVED AS TO FORM  
OFFICE OF THE CITY ATTORNEY

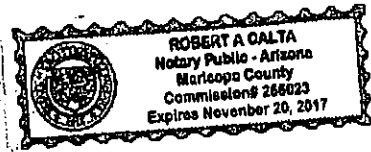
By 

State of Arizona        )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of September 2016, by Rocky So Lun Yuan a/k/a So Lun Yuan the Co-Trustee, f the The Rocky and Stephanie Family Trust.

  
NOTARY PUBLIC

My Commission Expires: 11/20/2017

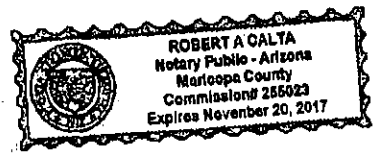


State of Arizona        )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of September, 2016, by Stephanie Yen Fen Yuan a/k/a Yen Fen Yuan the Co-Trustee, of the The Rocky and Stephanie Family Trust.

  
NOTARY PUBLIC

My Commission Expires: 11/20/2017



State of Arizona )  
 ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Randy Grant, Zoning Administrator of the City of Scottsdale, an Municipal Corporation.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

LEGAL DISCRIPTION

Lot 59, 60, and 61, CAMELBACK PARK PLAZA, according to Book 86 of Maps, Page 13, in the records of the Maricopa County, Arizona