

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

Legal

AFTER RECORDING, RETURN TO:

Paltzik Law, pllc
7114 E. Stetson Drive, Suite 400
Scottsdale, Arizona 85251
Attn: David M. Paltzik

PaltzikLawCrtsy-25-3-2--
hensleye

RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT

THIS RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT (this "Agreement") is made and entered into as of the 15th day of November, 2015 by and between Safari 159, LLC, a Delaware limited liability company ("Safari 159"), the Safari Drive Condominium Association, an Arizona non-profit corporation (the "Safari Association").

RECITALS

- A. The Safari Association is an Arizona non-profit corporation and is the membership organization for the residents of that certain residential mixed use condominium project known as Safari Drive, located southeast of the Southeast corner of Scottsdale Road and Highland Avenue, in Scottsdale, Arizona (the "Safari I Project"). The real property included in the Safari I Project is depicted and described on Exhibit "A" attached hereto (the "Safari I Property").
- B. Each of the owners of condominium units located within the Safari I Project are members (the "Members") of the Safari Association. As part of their ownership of condominium units within the Safari I Project, each of the Members owns a prorata portion of the common elements located within the Safari I Project, as more particularly identified on The Safari Drive I Plat of Condominium, a condominium as recorded in Book 850, Page 14, Maricopa County Records, as amended by that 2nd Amendment of Safari Drive I Plat of Condominium, as recorded in Book 1071, Page 7, Maricopa County Records, as amended by that 3rd Amendment of Safari Drive I Plat of Condominium, as recorded in Book 1120, Page 45, Maricopa County Records, as may be further amended from time to time.
- C. Safari 159 is the owner of that certain real property which is described on Exhibit "B" attached hereto (the "159 Property"). The 159 Property was previously platted to include one hundred fifty-nine (159) residential condominium units and other common areas which may be amended or modified from time to time (the "159 Units"), as more particularly shown on that certain 3rd Amendment of Safari Drive I Plat of Condominium, recorded on August 10, 2012, as Book 11209 of Maps, Page 45, in the Official Records of Maricopa County, Arizona (the "3rd Plat"), that were able to be annexed into the Safari Association, but had not been so annexed.
- D. The 159 Property was or is in the process of being separated from the Safari I Project, which separation was approved pursuant to a vote of the Members and the agreement of the Safari Association and Safari 159. This has been or will be evidenced by an acknowledgment or other reasonable documentation by the Association (the "Separation").

- E. Safari 159 is currently in the process of replatting and developing the 159 Property, which platting and development will be separate from the Safari I Project and will not have any mutual ownership or interests, except as set forth herein, in or with the Safari I Property.
- F. As a result of the Separation, there will be certain portions of the 159 Property and the improvements thereon that will need or desired to be utilized by and for the benefit of the Members and the Safari I Project and there will be certain portions of the Safari I Property and the improvements thereon that will need or desired to be utilized by and for the benefit of the owners of the 159 Property including, without limitation, uses for ingress and egress, utilities and maintenance. The parties hereto are in agreement with such mutual and shared usage subject to the terms and provisions of this Agreement.
- G. The Safari Association and the Members each desire to acquire from and grant to Safari 159, for the benefit of the 159 Property certain non-exclusive easements for ingress and egress, utilities, location, maintenance and operation of certain improvements on, over, under and across those portions of the Safari I Property as more specifically identified and described hereinbelow and subject to the agreements, covenants and restrictions contained herein
- H. Safari 159 desires to acquire from and grant to the Safari Association and the Members, for the benefit of the Safari I Project certain non-exclusive easements for ingress and egress, utilities, location, maintenance and operation of certain improvements on, over, under and across those portions of the 159 Property as more specifically identified and described hereinbelow and subject to the agreements, covenants and restrictions contained herein
- I. The parties hereto wish by this Agreement to enter into certain agreements, and to establish certain covenants, conditions and restrictions relating to the Safari I Property and the 159 Property.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the parties hereto, intending to be legally bound, agree as follows:

1. **Grant of Easements.**

A. **Reciprocal Parking Garage Easements.**

(i) The Safari Project is improved by and with a subsurface parking garage, which is depicted on Exhibit "C" attached hereto and incorporated herein (the "Safari I Project Garage"). The Safari I Project Garage is used by the Members, and guests, for parking of their personal vehicles and includes approximately 152 parking spaces (the "Safari I Parking Spaces"). As part of the development of the 159 Property, Safari 159 may, but is not obligated to do so pursuant to this Agreement, construct another subsurface parking garage on and for the benefit of the 159 Property (the "159 Garage"). To the extent that Safari 159 has or does in the future provide any depiction or plans for the 159 Garage, the same shall be subject to change and modification by Safari 159 and any reference to the 159 Garage shall

be and include such garage improvements as are actually constructed and built. If the 159 Garage is constructed, it is anticipated that access to the 159 Garage will, at least in part, be from and through the Safari I Project Garage.

(ii) The Safari Association and the Members hereby grant and convey to Safari 159 a non-exclusive perpetual easement (the "Safari I Garage Access Easement") in, on, over and across all portions of the Safari I Project Garage which are reasonably necessary and/or commonly used for pedestrian and vehicular ingress and egress to and from the entry/exit of the Safari I Project Garage to and from the 159 Garage. The Safari I Garage Access Easement does not grant any right or interest in and it is agreed that Safari 159 will not have an easement or any right or permission to use any of the parking spaces located within the Safari I Project Garage.

(iii) To the extent that the 159 Garage is constructed and to the extent the 159 Garage has an alternate vehicular entry/exit, Safari 159 shall be deemed to grant and convey to the Safari Association and the Members a non-exclusive perpetual easement (the "159 Garage Access Easement" and together with the Safari I Garage Access Easement, may collectively be referred to herein as the "Garage Access Easements") in, on, over and across all portions of the 159 Garage which are reasonably necessary and/or commonly used for pedestrian and vehicular ingress and egress to and from such alternate entry/exit of the 159 Parking Garage to and from the Safari I Project Garage. The 159 Garage Access Easement does not grant any right or interest in and it is agreed that neither the Safari Association nor any of the Members will have an easement or any right or permission to use any of the parking spaces located within the 159 Garage.

(iv) To the extent that access to either or both of the 159 Garage and the Safari I Project Garage requires a user and beneficiary of the Garage Access Easements to have an electronic key fob, access card or other entry device, then the party (including any Member or any owner of the 159 Units or any other resident, occupant or tenant) needing to obtain such device shall be personally responsible to pay for the reasonable cost thereof, which shall not be more than the amount generally charged to the regular tenants or occupants of such 159 Property or Safari I Project.

B. Reciprocal Access Roads Easements.

(i) The Safari I Property and the 159 Property each have, or will in the future have, certain roadways, rights of way and adjacent sidewalks, which are depicted on Exhibit "D" attached hereto and incorporated herein (the "Mutual Access Roads"). The Mutual Access Roads are necessary for the reasonable and legal vehicular and pedestrian ingress and egress to and from the Safari I Project and the 159 Property to Scottsdale Road. The Safari Association, the Members, and Safari 159 do hereby mutually grant and convey to each other reciprocal, non-exclusive and perpetual easements (the "Access Roads Easements") on, over and across all portions of the Mutual Access Roads which are reasonably necessary and/or commonly used for pedestrian and vehicular ingress and egress to and from Scottsdale Road to the Safari I Project and the 159 Property. The Access Roads Easements do not grant any right or interest in or to any of the parking spaces or right to park on or over any portion of the Mutual Access Roads.

C. Reciprocal Utility Easements.

(i) The Safari I Project and the 159 Property each have or in the future will have, certain lines, equipment, facilities and related improvements to provide existing or future and

necessary utilities including electric, gas, sewer, water, cable television, fire prevention and suppression, and drainage or similar or other lines, pipes or facilities to the Safari I Project and the 159 Property including, without limitation, those depicted on Exhibit "E" attached hereto and incorporated herein (the "Mutual Utilities"). The Safari Association, the Members, and Safari 159 do hereby mutually grant and convey to each other reciprocal, non-exclusive and perpetual easements (the "Utilities Easements") on, over, under and across those portions of the Safari I Property and the 159 Property depicted on Exhibit "E" which are reasonably necessary for the installation, location, maintenance and operation of the Mutual Utilities according to and complying with all plans, specifications and requirements of the City of Scottsdale (the "City"), copies of which, including all updates and modifications thereto (the "Plans and Specs"), shall be provided to Safari 159 and / or the Safari Association, as applicable. Notwithstanding anything contained herein to the contrary, the parties agree that at no time shall either party be entitled to install or locate the Mutual Utilities within a condominium unit, residence, commercial unit owned by the Members or any other private party, without the prior written consent thereof, and the Mutual Utilities shall be installed and located in a manner to not unreasonably interfere with or damage any other improvements on the 159 Property and/or the Safari I Property. Further, notwithstanding the provisions of Section 2(A) below, Safari 159 (or its successor beneficiary of the Utilities Easements) shall have the right at any time to access the Utilities Easements for the repair, operation and maintenance of any Mutual Utilities that benefit Safari 159 but are located on the Safari I Property.

(ii) Safari 159 reserves and the Safari Association and the Members hereby grant to Safari 159 the right to relocate the storm drainage line, sewer line and related facilities, which are currently located on the 159 Property and/or the Safari I Property and identified on Exhibit "E". Such utility lines and facilities may be relocated to any other location within the 159 Property, as determined by Safari 159, or, to the extent located on the Safari I Property to the alternate location generally depicted on Exhibit "E". Such relocation shall be done at the sole cost and expense of Safari 159. Further, such relocation shall not materially impact or delay the use of the storm drainage line, sewer line or related facilities by or for the benefit of the Safari I Project.

D. Encroachment Easements.

(i) Each of the 159 Property and the Safari I Property shall be subject to and each of Safari 159, the Safari Association and the Members do hereby mutually grant and convey to each other reciprocal, non-exclusive and perpetual easements for encroachments and overhangs (the "Encroachment Easements") by walls, fences, subsurface structures, utilities lines and facilities or other structures along the common property boundary line between the two adjacent properties to the extent already constructed on the Safari I Property and to the extent improvements are constructed on the 159 Property or as reconstructed or repaired in accordance with the original plans and specifications or as a result of the reasonable repair, shifting, settlement or movement of any such structure.

(ii) Without limiting the breadth of the Encroachment Easements set forth in Section 1(D) above, each of the parties acknowledge that the Safari I Project Garage encroaches upon the 159 Property. Further, the parties acknowledge that, subject to City approved building plans, the 159 Garage, may encroach upon the Safari I Property. As and to the extent of such encroachments onto the 159 Property or onto the Safari I Property by the respective garages, as constructed, reconstructed or repaired, or as a result of the reasonable repair, shifting, settlement or movement of any such structure, each of Safari 159, the Safari Association and the Members do hereby mutually grant and convey to each other reciprocal, non-exclusive and perpetual easements (the "Garage Encroachment Easements") on, over, under and across those portions of the Safari I Property and the 159 Property which are encroached

upon by the Safari I Project Garage and/or the 159 Garage provided the same shall not permit the grantee to reduce or limit the number of parking spaces within the respective garages.

E. **Construction Easements and Maintenance Easements.**

(i) The Safari Association and the Members hereby grant and convey to Safari 159 a non-exclusive temporary easement (the "Construction Easement") on, over and across the those portions of the Safari I Property as may be reasonably necessary to (i) construct and install the Mutual Access Roads, the Mutual Utilities, the 159 Garage, the buildings, residences and other improvements to be constructed as part of the development and building of the 159 Property, and all related or affiliated improvements (or to demo and reconstruct the same as applicable) (collectively, the "New Facilities"); and (ii) provide reasonable access to, from and for the construction and installation of the New Facilities; provided, that Safari 159 shall take reasonable steps not to interfere with the Members' use of the Safari I Property and to control traffic blockage, noise and dust related to such Construction Easement.

(ii) The rights and easements herein granted in this Section 1(E) are for the use and benefit of Safari 159 and each of its contractors, subcontractors, employees, agents and representatives, as applicable, and are subject to the limitations described herein. Safari 159 shall be fully responsible at its sole cost and expense to repair and maintain the Construction Easement areas in a neat and orderly manner, and good condition and repair and Safari 159 shall repair any damage to the Safari I Property caused by its use thereof pursuant to the Construction Easement. The Construction Easement shall automatically terminate upon completion in full of the all improvements to and for the benefit of the 159 Property.

2. **Operation, Maintenance and Repair of the Easements.**

A. **Standard for Shared Portions of Projects.** The Safari Association, Members and Safari 159 each agree that it is important and materially beneficial to each of them that those portions of the Safari Project and the Safari 159 Property that are shared be operated and maintained in a commercially reasonable, first-class manner consistent with projects (including condominium and multi-family projects) with similar values located in Scottsdale, Arizona (the "Maintenance Standard").

B. **Maintenance of Easements.** The Safari Association and Safari 159 each agree to operate, maintain and repair at their applicable sole expense those portions of the Garage Access Easements, Access Roads Easements, Utilities Easements, Encroachment Easements, Garage Encroachment Easements and Construction Easement (collectively, the "Easements") to the extent located on their respective properties in a manner that is consistent with the Maintenance Standard and free from defective or dangerous conditions or other conditions that would unreasonably interfere with or diminish the benefits granted to the parties pursuant to the Easements. Notwithstanding the foregoing, in the event that any of the parties hereto, or their employees, contractors, representatives, members, guests or invitees cause any damage to any portion of the Easements or other portions of the Safari I Property or the 159 Property or any improvements thereon, then the applicable or affiliated party (either Safari 159 or the Safari Association, respectively) shall be obligated to promptly repair such damage at its sole expense to substantially the same condition as the property or improvements were prior to the activity that caused such damage thereto. To the extent that either party fails to reasonably and timely maintain or repair the Easements as required herein, then upon fifteen (15) days prior written notice, if such maintenance or repair has not been completed (or a reasonably longer period of time so long as it is commenced within such 15-day period if such maintenance or repair is of the type that would require more than 15-days to

complete, and is being diligently pursued to completion), the other party may complete the reasonably necessary maintenance or repair on the other party's property and shall be reimbursed within ten (10) days after delivery of a written invoice for all reasonable costs and expenses incurred therefor plus an administrative fee of five percent (5%) of such total costs and expenses. Such amounts due shall increase at a rate of ten percent (10%) per annum if not timely paid.

C. **Canal Improvement Area and Maintenance.** The Safari Association and Safari 159 acknowledge that certain improvements (the "Canal Improvements") were made to a portion of property located adjacent to and immediately east of the Safari I Project on real property which is believed to be owned by the Salt River Project Agricultural Improvement and Power District ("SRP") and adjacent to the canal commonly known as the Arizona Canal. As part of the zoning ordinances governing both the Safari I Project and the Safari 159 Property, the City of Scottsdale required the Canal Improvements to be constructed and maintained. The City has required that the certain Covenant to Maintain Landscaping and Improvements (in substantially the form attached hereto as Exhibit "F", the "Canal Covenant") be executed and recorded. The Safari Association will cause the Canal Covenant to be executed and recorded. Notwithstanding anything contained herein or in the Canal Covenant to the contrary, Safari 159 shall not be obligated to pay for any costs or fees incurred for the installation or re-installation of the Canal Improvements, to the extent they were not previously installed or completed in compliance with the requirements of the City or the final plans therefor or to the extent they were not maintained properly before the date that Safari 159 is obligated to begin paying for joint maintenance as set forth in this Agreement.

D. **Joint Maintenance.** Commencing on the date of this Agreement and notwithstanding the provisions of Section 2(B) above, Safari 159 and the Safari Association will form a joint maintenance committee (the "Joint Maintenance Committee"), which will undertake, manage and oversee the maintenance and repair in accordance with the Maintenance Standard (the "Joint Maintenance") of the Mutual Access Roads and the improvements located therein, as further described in this Section 1(C), any entry gates located at the entry to the Safari I Project Garage and the 159 Garage, and will fulfill the obligations set forth in the Canal Covenant (collectively, the "Joint Maintenance Improvements"). The Joint Maintenance Improvements shall only include the above-ground improvements located inside of and including the curbs of the Mutual Access Easements and the pavement, landscaping, trees, flowers, lighting and holiday decorations in the middle of the circle driveway area in the Mutual Access Easements but shall not include any utilities, utility facilities or below ground improvements. The Joint Maintenance Improvements shall include all improvements and obligations set forth in the Canal Covenant and shall not be limited by the prior sentence. Each of Safari 159 and the Safari Association (by and through the board of directors or other managing body thereof) will appoint two (2) people to be members of the Joint Maintenance Committee. The Joint Maintenance Committee will meet on mutually convenient dates at least two (2) times per calendar year and at such other times as may be reasonably necessary. Each of Safari 159 and the Safari Association shall equally contribute to and share in any and all costs and expenses which are reasonably necessary and related to the Joint Maintenance of the Joint Maintenance Improvements (collectively, the "Joint Expenses"). The Safari Association and Safari 159 shall cause any budgeted Joint Expenses to be included in the applicable budgets of the Safari Association and any similar association for Safari 159, if applicable. The Joint Maintenance Committee will be charged with enforcing and causing the Joint Maintenance according to the Maintenance Standards and for the budgeting and expenditures necessary for the Joint Expenses. To the extent that either party fails to contribute its share of the Joint Expenses or unreasonably interferes with the undertaking or completion of the Joint Maintenance, then upon fifteen (15) days prior written notice from the other party, if such payment has not been made or if such interference is not removed or eliminated, the other party may, without any obligation to do so, contribute such amounts and

may undertake to complete the Joint Maintenance. In such case, the party contributing such amounts or undertaking such work shall be reimbursed within ten (10) days after delivery of a written invoice for all amounts contributed and reasonable costs and expenses incurred therefor on behalf of the party failing to do so plus an administrative fee of five percent (5%) of such total costs and expenses. Such amounts due shall increase at a rate of ten percent (10%) per annum if not timely paid.

(i) **Commencement of Contribution by Safari 159.** Notwithstanding anything contained herein to the contrary, Safari 159 shall have no obligation to undertake any Joint Maintenance, or contribute to the Joint Expenses, until such time as Safari 159 has pulled construction permits for the 159 Property (the "159 Construction"). Prior to the commencement of the 159 Construction, the Safari Association shall be obligated to repair and maintain the Joint Maintenance Improvements and to incur all costs and expenses related thereto including those located on the 159 Property. Safari 159 shall be obligated to fulfill the obligations including, without limitation, the contribution to the Joint Expenses as set forth in Section 2(A) above which occur or arise from and after the date of the commencement of the 159 Construction.

(ii) **Resolution of Dispute.** To the extent that the Joint Maintenance Committee is deadlocked in a vote of its members or is otherwise unable to resolve a dispute on its own, then in such case, the members of the Joint Maintenance Committee shall appoint a mediator (the "Mediator") to review such dispute; provided, however, if the Joint Maintenance Committee is unable to agree on a mediator within ten (10) days of any member's request, then each of the Safari Association and Safari 159 shall promptly appoint a mediator and the two appointed mediators shall mutually agree upon a third mediator, which shall be deemed the Mediator for such dispute. Any appointed Mediator must have at least ten (10) years' experience in commercial real estate construction or development or commercial real estate law. The Mediator shall set a mutually agreeable location in Maricopa County, Arizona at a time and date not later than thirty (30) days after appointment to meet and hear from the Joint Maintenance Committee members regarding the dispute. The mediation shall be conducted according to rules reasonably established by the mediator and each of the Safari Association and Safari 159 shall be entitled to engage separate legal counsel, at their respective costs for such matter. The Mediator's determination for resolving the dispute shall be binding upon the Joint Maintenance Committee and non-appealable. The costs related to the Mediator and mediation shall be shared equally by the Safari Association and Safari 159 and the Mediator shall not be entitled to award attorneys' fees to either side of the dispute.

E. **Reasonable Access to Easements.** Each of the Easements shall include a grant and conveyance on, over, under and across those portions of the Safari I Property and the 159 Property, respectively, which are reasonably necessary to access the Easements for commercially reasonable operation, maintenance and repair of the improvements within the Easements. Each of Safari 159 with respect to the 159 Property and the Safari Association with respect to the Safari I Property shall, at its sole cost and expense, operate, maintain and repair those portions of the New Facilities which are located on such real property so that the New Facilities remain in good working order, reasonable wear and tear and casualty and condemnation loss excepted and in a manner so that the New Facilities do not cause or risk damage or injury to the other parties hereto. The costs and expenses of maintaining and repairing the New Facilities shall include, without limitation, the costs and expenses of rehabilitating and/or replacing any of the components of the New Facilities that are outdated or are no longer economical to repair, and the costs and expenses of repairing any damage to landscaping, fencing, walls or other improvements on

the granting party's property caused by repair and maintenance of the New Facilities. Neither Safari 159 nor the Safari Association shall permit any lien to accrue against the New Facilities or any portion of the other party's property. The New Facilities shall be installed, maintained and operated in compliance with all applicable federal, state, county and municipal statutes, laws, rules, regulations, ordinances, orders, and directives ("Applicable Laws").

F. **Right to Relocate.** Notwithstanding anything to the contrary set forth in this Agreement, Safari 159 and/or the Safari Association shall at all times have the right to temporarily or permanently relocate the Easements and/or the improvements located therein, if such relocation is reasonably necessary in connection with the development, improvement, construction, maintenance or repair of the 159 Property or the Safari I Property and does not unreasonably interfere with the Safari I Property or the 159 Property. The party seeking to relocate the Easements and/or the improvements located therein shall provide written notice to the other party of such intention not less than ten (10) days prior to such relocation. The receiving party may request that the requesting party meet (which can be in person or telephonically as is mutually convenient) as promptly as possible but not more than five (5) days after receipt of such notice to provide further information about such relocation. The relocation shall be performed at the requesting party's sole cost and expense. Upon any relocation of such Easements, upon request of either party, the parties to this Agreement will promptly execute and record an amendment to this Agreement, as appropriate, identifying the new location thereof.

3. **Indemnification; Insurance.**

A. **By Safari 159.** To the fullest extent permitted by law, Safari 159 shall indemnify, protect, defend, and hold the Safari Association and the Members and their respective shareholders, members, managers, agents, employees, representatives, successors and assigns (each a "Safari I Indemnified Party", and collectively, the "Safari I Indemnified Parties") harmless for, from and against any and all claims (including, without limitation, claims for mechanic's liens or materialmen's liens), causes of action, demands, obligations, losses, damages, liabilities, judgments, costs, and expenses (including, without limitation, reasonable attorneys' fees) (collectively, the "Claims") in connection with or arising out of any activities carried on by or on behalf of Safari 159 in connection with the use and access on and to the Easements benefiting Safari 159 as set forth in this Agreement; provided, however, that Safari 159 shall not indemnify the Safari I Indemnified Parties for, from or against any Claims arising as a result of or caused by any Safari I Indemnified Party's actions, omissions, negligence or willful misconduct.

B. **By the Safari Association.** To the fullest extent permitted by law, the Safari Association and the Members shall indemnify, protect, defend, and hold Safari 159 and the owners of the 159 Units and their respective shareholders, members, managers, agents, employees, representatives, successors and assigns (each a "159 Indemnified Party", and collectively, the "159 Indemnified Parties") harmless for, from and against any and all Claims (including, without limitation, claims for mechanic's liens or materialmen's liens) in connection with or arising out of any activities carried on by or on behalf of the Safari Association and the Members in connection with the use and access on and to the Easements benefiting the Safari Association and the Members as set forth in this Agreement; provided, however, that the Safari Association and the Members shall not indemnify the 159 Indemnified Parties for, from or against any Claims arising as a result of or caused by any 159 Indemnified Party's actions, omissions, negligence or willful misconduct.

C. **Liability Insurance.** Prior to entry onto either parties' property to perform any work or locate any improvements on the property pursuant to the Easements, the party entering the other

party's property shall be obligated to obtain and maintain during any such access and work thereon commercial general liability insurance in the amount of \$1 million per occurrence and \$2 million in the aggregate; automobile liability insurance in the amount of \$1 million per occurrence and \$1 million in the aggregate; worker's compensation and employer's liability insurance as required by state law. All required insurance shall be with carriers qualified to do business in Arizona and shall name Safari 159, LLC or the Safari Association, as applicable, as an additional insured on a primary and non-contributory basis. All such insurance shall extend to the activities of all contractors, subcontractors, material suppliers and other third parties entering the respective property and for the indemnification obligations set forth herein. Upon request, the parties shall deliver certificates of insurance confirming the insurance in place pursuant to this Section.

4. **Defaults; Remedies.** In the event that either party shall default in the payment or performance of its obligations under this Agreement, which default is not cured within ten (10) business days after written notice of such default, the non-defaulting party may pursue such rights and remedies as may be available under this Agreement, at law or in equity. In the event of a default with respect to any obligation that cannot be cured by the payment of money, if such default cannot reasonably be cured within said cure period, the defaulting party shall have such additional time as is reasonable necessary to cure such default provided that the defaulting party commences to cure the default within said cure period and thereafter diligently prosecutes such cure to completion. In any legal or equitable proceeding for the enforcement of or to restrain the violation of this Agreement, the non-prevailing party shall pay the reasonable attorneys' fees and costs of the prevailing party in such amount as may be fixed by the court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

5. **Modifications or Amendment.** The parties hereto may only modify or amend this Agreement or any provision hereof in a writing which is signed by both Safari 159 and the Safari Association. Notwithstanding anything contained herein to the contrary including the provisions of Section 8 below, so long as Safari 159 has any right, title or interest in or to any part or portion of the 159 Property or entity owning the same, no amendment or modification to this Agreement shall be effective unless it is approved and executed in writing by Safari 159.

6. **Authority to Act.** By executing this Agreement, the Safari Association, by and through its Board of Directors, represents that the Members have approved the terms and provisions of this Agreement, which approval has been properly recorded and memorialized by the Safari Association, and the Members have agreed to be subject hereto and bound hereby. Notwithstanding anything contained herein to the contrary the parties hereto acknowledge and agree that the Board of Directors of the Safari Association shall have the power and authority to bind the Members with respect to this Agreement as well as amendment hereto or any action or notice taken, given or available to be taken or given on behalf of or with respect to the Safari Association, the Members, the Safari I Project and/or the Safari I Property. As such, neither this Agreement nor any amendment, action or notice that is executed or provide by or to the Safari Association shall be required to be provided to or executed by the Members in order to be effective, enforceable or binding.

7. **Additional Provisions.**

A. If any clause, sentence or other portion of the terms, covenants, conditions and restrictions of this Agreement becomes illegal, null or void for any reason or is held by any court of competent jurisdiction to be so, the remaining portions of this Agreement will remain in full force and effect.

B. Whenever required by the context of this Agreement, the singular shall include the plural and vice versa, and the neuter gender shall include the masculine and feminine and vice versa.

C. None of the terms or provisions of this Agreement shall be deemed to create a partnership between the parties, nor shall it cause them to be considered joint ventures or members or a joint enterprise.

D. The terms and provisions hereof shall be governed by and construed in accordance with the laws of the State of Arizona.

E. Time is of the essence of this Agreement.

F. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Easements to the general public or for the general public or for any public purpose whatsoever, and this Agreement shall be strictly limited to and for the purposes expressed herein.

8. **Binding Effect; Covenant Running With Land.** Each and all of the terms, covenants, conditions and restrictions contained in this Agreement (whether affirmative or negative in nature) including, without limitation, the Easements are made for the direct, mutual and reciprocal benefit of the parties hereto as stated herein, and the 159 Property and Safari I Property. The parties intend that the mutual terms, covenants, conditions and restrictions contained herein shall be covenants which touch and concern the 159 Property and the Safari I Property. It is the intention of the parties that such terms, covenants, conditions and restrictions should run with the land, and bind each and all of the current and future owners of any interest in the 159 Property and the Safari I Property, or any portion thereof and shall be a personal obligation of the persons then owning the 159 Property and the Safari I Property and any portions thereof. The Safari Association and the Members acknowledge that after the date of this Agreement the 159 Property will be developed and constructed and that as part of such development and construction Safari 159 may sell, convey, transfer, assign or joint venture the 159 Property to or with third parties including, without limitation, other developers, builders, and/or residential or retail buyers and that it is the intent of this Agreement that such parties will be deemed successors to Safari 159's rights, obligations and interests hereunder. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, executors, administrators, personal representatives, successors, assigns and transferees.

9. **Notice.** All notices or other communications required or provided to be given by either party shall be in writing and shall be hand-delivered, or sent by email or facsimile transmission, overnight courier or United States certified or registered mail, postage prepaid, addressed as follows:

If to the Safari Association
and/or the Members:

The Safari Drive Condominium Association
Safari Drive HOA Office C1001
4747 N. Scottsdale Road
Scottsdale, AZ 85251
Attention: Director / Property Manager
FAX: 602-957-8802
Email: Rhansen@associatedasset.com

If to Safari 159:

Safari 159, LLC
10611 N. Hayden Road
Suite D-105
Scottsdale, AZ 85260
Attention: David Beckham and Michael Zipprich
FAX: N/A
Email: mzipprich@enrpi.com and dbeckham@bg-ventures.com

With copy to:

Paltzik Law, pllc
7114 E. Stetson Boulevard, Suite 400
Scottsdale, Arizona 85251
Attention: David Paltzik
FAX: N/A
Email: Dave@PaltzikLaw.com

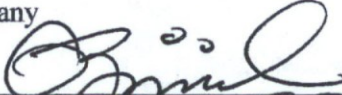
All notices shall be effective upon the earliest of actual receipt or one (1) business day after deposit with an overnight courier, the date of error-free transmission if sent by email or facsimile transmission or three (3) business days after deposit in the United States mail. Each party shall have the right to designate a different address by the giving of notice in conformity with this Paragraph.

[Signatures on Following Page]

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date and year first above written.

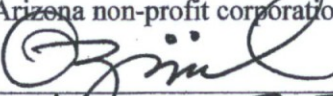
SAFARI 159:

SAFARI 159, LLC, a Delaware limited liability company

By: 
Name: MICHAEL B. ZIPPRICH
Title: MANAGER

SAFARI ASSOCIATION:

SAFARI DRIVE CONDOMINIUM ASSOCIATION,
an Arizona non-profit corporation

By: 
Name: MICHAEL B. ZIPPRICH
Title: PRES.

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 3rd day of November 2015, by Michael Zipprich the Manager of the Safari Drive Condominium Association, an Arizona non-profit corporation, on behalf of that company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Linda Ray
Notary Public

My commission expires:
February 18, 2016

STATE OF ARIZONA)
) ss.
County of Maricopa)



The foregoing instrument was acknowledged before me this 3rd day of November 2015, by Michael Zipprich, the Manager of Safari 159, LLC, a Delaware limited liability company, on behalf of that limited liability company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Linda Ray
Notary Public

My commission expires:
February 18, 2016



EXHIBIT "A"

THE SAFARI I PROPERTY

EXHIBIT "A"

SAFARI DRIVE, A CONDOMINIUM, AS CREATED BY THAT CERTAIN DECLARATION OF CONDOMINIUM RECORDED AS 2006-1051363 AND RE-RECORDED AS 2006-1278918 OF OFFICIAL RECORDS; AMENDMENT RECORDED AS 2008-976819; SECOND AMENDMENT RECORDED AS 2010-1065508; THIRD AMENDMENT RECORDED AS 2010-1067143; FOURTH AMENDMENT RECORDED AS 2010-1082186; FIFTH AMENDMENT RECORDED AS 2012- 0793566; SIXTH AMENDMENT RECORDED AS 2012-1015852; SEVENTH AMENDMENT RECORDED AS 2013-0125620 AND 2013-0239095; AND EIGHTH AMENDMENT RECORDED AS 2014-0842537, ALL OF OFFICIAL RECORDS AND SHOWN ON THE PLAT OF SAD CONDOMINIUM RECORDED AS BOOK 850 OF MAPS, PAGE 14, AND 1ST AMENDMENT PLAT RECORDED AS BOOK 1017, PAGE 40 AND 2ND AMENDMENT PLAT RECORDED AS BOOK 1071, PAGE 7 AND CERTIFICATE OF CORRECTION RECORDED AS 2010-1062389 AND 3RD AMENDMENT PLAT RECORDED AS BOOK 1120 PAGE 45 OF OFFICIAL RECORDS, RECORDS OF MARICOPA COUNTY, ARIZONA;

EXHIBIT "B"

THE 159 PROPERTY

EXHIBIT "A"

SAFARI DRIVE, A CONDOMINIUM, AS CREATED BY THAT CERTAIN DECLARATION OF CONDOMINIUM RECORDED AS 2006-1051363 AND RE-RECORDED AS 2006-1278918 OF OFFICIAL RECORDS; AMENDMENT RECORDED AS 2008-976819; SECOND AMENDMENT RECORDED AS 2010-1065508; THIRD AMENDMENT RECORDED AS 2010-1067143; FOURTH AMENDMENT RECORDED AS 2010-1082186; FIFTH AMENDMENT RECORDED AS 2012- 0793566; SIXTH AMENDMENT RECORDED AS 2012-1015852; SEVENTH AMENDMENT RECORDED AS 2013-0125620 AND 2013-0239095; AND EIGHTH AMENDMENT RECORDED AS 2014-0842537, ALL OF OFFICIAL RECORDS AND SHOWN ON THE PLAT OF SAD CONDOMINIUM RECORDED AS BOOK 850 OF MAPS, PAGE 14, AND 1ST AMENDMENT PLAT RECORDED AS BOOK 1017, PAGE 40 AND 2ND AMENDMENT PLAT RECORDED AS BOOK 1071, PAGE 7 AND CERTIFICATE OF CORRECTION RECORDED AS 2010-1062389 AND 3RD AMENDMENT PLAT RECORDED AS BOOK 1120 PAGE 45 OF OFFICIAL RECORDS, RECORDS OF MARICOPA COUNTY, ARIZONA;

LESS AND EXCEPT THE FOLLOWING UNITS, TOGETHER WITH THE UNDIVIDED INTEREST IN THE COMMON ELEMENTS APPURTENANT TO SUCH UNITS:

UNITS 1002 THROUGH 1009, BUILDING C; UNITS 3001 THROUGH 3004, 3008, 3009, BUILDING C; UNITS 4001 THROUGH 4009, BUILDING C; UNITS 1001, 1003, 1005 THROUGH 1011, 1013, BUILDING D; UNITS 3001, 3006 THROUGH 3011, 3013, BUILDING D; UNITS 4001, 4003, 4005, 4007, 4009, 4011, 4013, BUILDING D; UNITS 1001, 1003, 1005, 1007, BUILDING E; UNITS 2001, 2003, 2005, 2007, BUILDING E; UNITS 3001, 3003, 3005, 3007, BUILDING E; UNITS 1001, 1003, 1005, 1007, BUILDING F; UNITS 3001, 3003, 3005, 3007, BUILDING F; UNITS 100, 101, 1005, 1006, 2000, 2001, 2002, 3001, 3002, 4001, 4002, 5001, BUILDING G; UNITS 101, 1005, 1006, 2000, 2001, 2002, 3000, 3001, 3003, 4001, 4002, 5001, BUILDING H.

EXHIBIT "C"

THE SAFARI I PROJECT GARAGE

EXHIBIT "D"

THE MUTUAL ACCESS EASEMENTS

EXHIBIT "E"

THE UTILITIES EASEMENTS

SCOTTSDALE ROAD

COOLIDGE STREET

72ND WAY

CURRENT STORM
LINE LOCATION

ALTERNATE STORM
LINE LOCATION

ARIZONA CANAL



STORM DRAIN EXHIBIT

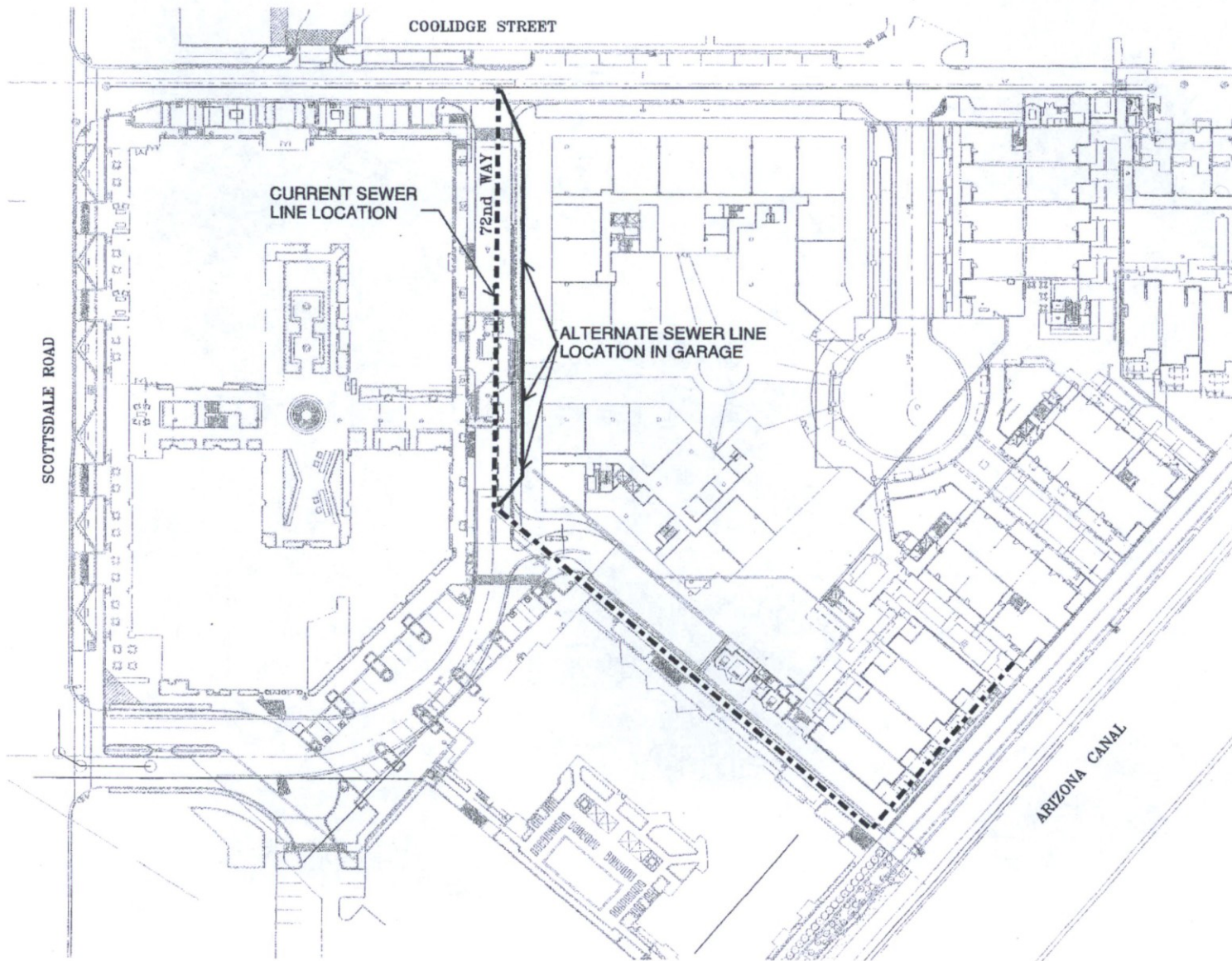
SCALE:
NTS
SECTION: 23
TOWNSHIP: 2N
RANGE: 4E
JOB NO.:
SAFA0000-0001
SHEET 1 OF 1

**DAVID EVANS
AND ASSOCIATES INC.**
Professional Engineers
1000 N. Washington Street, Suite 405
Phoenix, Arizona 85004
Phone: 602.944.8101

DESIGNED BY: ZLOP
DRAWN BY: ZLOP
CHECKED BY: BHO
DATE: 02/2015

PROJECT MANAGER:
DATE:
REVISION:

BY:



DESIGNED BY: ZCP	PROJECT MANAGER:
DRAWN BY: ZCP	
CHECKED BY: BHD	
DAVID EVANS and ASSOCIATES INC. 400 E. UNIVERSITY AVENUE, SUITE 100 PHOENIX, ARIZONA 85024 Phone: 602.978.1515	
PG&M	
SANITARY SEWER LINE EXHIBIT	
SCALE: NTS	
SECTION: 23	
TOWNSHIP: 2N	
RANGE: 4E	
JOB NO.: SAF4000-C	
SHEET 1 OF	

EXHIBIT "F"

THE CANAL COVENANT

October 3, 2016

City of Scottsdale
7447 E. Indian School Rd., Suite 100
Scottsdale, AZ 85251

Re: **Safari II (the "Site")**

To Whom It May Concern:

As Owner of the Safari II project located at 4733 North Scottsdale Road, Scottsdale, AZ, we authorize Deco Acquisitions, LLC. (Robert Lyles, Patricia Watts, Dan Richards), architect Humphreys Associates (Daniel Gehman), attorney Beus Gilbert (Paul Gilbert), to submit the Pre-Application Request, attend the Pre-Application meeting and submit the Development Application for the site.

If you have any questions, please feel free to contact me.

Sincerely,



David Beckham
Safari Property Holdings, LLC.
10611 N. Hayden Road, Suite D105
Scottsdale, Arizona, 85250
Telephone: (480) 751-6290



Affidavit of Authority to Act as the Property Owner

1. This affidavit concerns the following parcel of land:

- a. Street Address: 4733 N. SCOTTSDALE RD.
- b. County Tax Assessor's Parcel Number: 173-38-418
- c. General Location: NEC SCOTTSDALE RD. & CAMELBACK RD.
- d. Parcel Size: 2.06 ACRES
- e. Legal Description: LOT 2, OF 4TH AMENDMENT OF SAFARI DRIVE PLAT, BOOK 1246 OF MAPS,
(If the land is a platted lot, then write the lot number, subdivision name, and the plat's recording number and date. Otherwise, write "see attached legal description" and attach a legal description.) PAGE 44

2. I am the owner of the land or I am the duly and lawfully appointed agent of the owner of the land and have authority from the owner to sign this affidavit on the owner's behalf. If the land has more than one owner, then I am the agent for all of the owners, and the word "owner" in this affidavit refers to all of them.
3. I have authority from the owner to act for the owner before the City of Scottsdale with regard to any and all reviews, zoning map amendments, general plan amendments, development variances, abandonments, plats, lot splits, lot ties, use permits, building permits and other land use regulatory or related matters of every description involving the land, or involving adjacent or nearby lands in which the owner has (or may acquire) an interest, and all applications, dedications, payments, assurances, decisions, agreements, legal documents, commitments, waivers and other matters relating to any of them.
4. The City of Scottsdale is authorized to rely on my authority as described in this affidavit until three work days after the day the owner delivers to the Director of the Scottsdale Planning & Development Services Department a written statement revoking my authority.
5. I will immediately deliver to the Director of the City of Scottsdale Planning & Development Services Department written notice of any change in the ownership of the land or in my authority to act for the owner.
6. If more than one person signs this affidavit, each of them, acting alone, shall have the authority described in this affidavit, and each of them warrant to the City of Scottsdale the authority of the others.
7. Under penalty of perjury, I warrant and represent to the City of Scottsdale that this affidavit is true and complete. I understand that any error or incomplete information in this affidavit or any applications may invalidate approvals or other actions taken by the City of Scottsdale, may otherwise delay or prevent development of the land, and may expose me and the owner to other liability. I understand that people who have not signed this form may be prohibited from speaking for the owner at public meetings or in other city processes.

Name (printed)	Date	Signature	
<u>David N. Beckham</u>	<u>11-18</u> , 20 <u>16</u>	<u>[Signature]</u>	OWNER
<u>DAN RICHARDS</u>	<u>11/21</u> , 20 <u>16</u>	<u>[Signature]</u>	AGENT
<u>ROB GASPARD</u>	<u>11/22</u> , 20 <u>16</u>	<u>[Signature]</u>	AGENT
_____	_____, 20____	_____	

56-DR-2016
12/07/2016



Affidavit of Posting

Office of the City Clerk

STATE OF ARIZONA)
)
COUNTY OF MARICOPA) ss

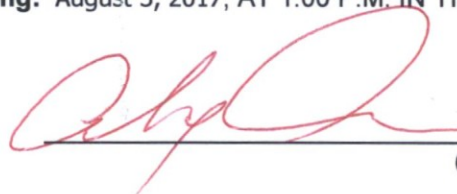
I, AVEO ACEVEDO, being first duly sworn, depose and say:

That on JULY 24, 2017, I posted notification poster(s) for the properties indicated below.

Site(s) must be posted on or before: July 26, 2017

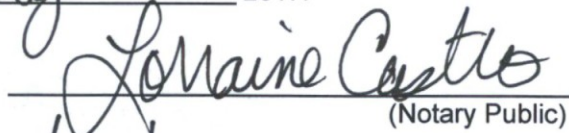
Case No.	Description and Location of Project	No. of Signs	Date Posted
56-DR-2016	Peacock Scottsdale, 4733 N Scottsdale Rd	1	7/24/17

Date of Development Review Board Public Meeting: August 3, 2017, AT 1:00 P.M. IN THE CITY HALL KIVA, SCOTTSDALE, ARIZONA.



(Signature)

Acknowledged this 24th day of July 2017.



(Notary Public)

My commission expires 11/15/2020



Planning and Development Services

7447 E. Indian School Road, Suite 105, Scottsdale, AZ 85251 ♦ Phone: 480-312-7000 ♦ Fax: 480-312-7088

INFORMATION

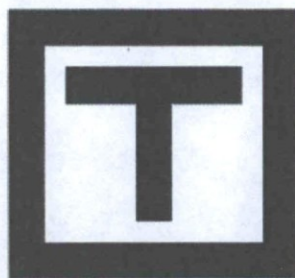
The Title Insurance Commitment is a legal contract between you and the company set forth below. It is issued to show the basis on which we will issue a Title Insurance Policy to you. The Policy will insure you against certain risks to the land title, subject to the limitations shown in the Policy.

We will give you a sample of the Policy form, if you ask.

The Commitment is based on the land title as of the Commitment Date. Any changes in the land title or the transaction may affect the Commitment and the Policy.

The Commitment is subject to its Requirements, Exceptions and Conditions.

THIS INFORMATION IS NOT PART OF THE TITLE INSURANCE COMMITMENT.



THOMAS
Title & Escrow

COMMITMENT FOR TITLE INSURANCE

Issued by

Thomas Title & Escrow

as Issuing Agent for First American Title Insurance Company

TABLE OF CONTENTS

AGREEMENT TO ISSUE POLICY	on the following page
COMMITMENT DATE	Schedule A (Page 1)
POLICIES TO BE ISSUED, AMOUNTS AND PROPOSED INSURED	Schedule A (Page 1)
INTEREST IN THE LAND	Schedule A (Exhibit A)
DESCRIPTION OF THE LAND	on the following page
EXCEPTIONS - PART ONE	Schedule B (inside)
EXCEPTIONS - PART TWO	Schedule B (inside)
REQUIREMENTS (Standard)	on the third page
REQUIREMENTS (Continued)	Requirements (inside)
CONDITIONS	on the third page

YOU SHOULD READ THE COMMITMENT VERY CAREFULLY

AGREEMENT TO ISSUE POLICY

We agree to issue a policy to you according to the terms of this Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under the Commitment is limited by the following:

- The Provisions in Schedule A
- The Requirements
- The Exceptions in Schedule B - Parts 1 and 2
- The Conditions

This Commitment is not valid without SCHEDULE A and Parts 1 and 2 of SCHEDULE B.

SCHEDULE B - EXCEPTIONS

Part One of Schedule B will be eliminated from any A.L.T.A. Extended Coverage Policy, A.L.T.A. Plain Language Policy, A.L.T.A. Homeowner's Policy, A.L.T.A. Expanded Coverage Residential Loan Policy and any short form versions thereof. However, the same or similar exception may be made in Schedule B of those policies in conformity with Schedule B, Part Two of this Commitment.

Part One: (for use with 2006 ALTA policies)

1. (a) 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; (b) 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 by making inquiry of persons in possession of the Land
3. Easements, liens or encumbrances, or claims thereof, which are 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.

Part One: (for use with 1992 and prior ALTA policies)

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 by making inquiry of 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 aforementioned matters excepted are shown by the public records.

6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

**REQUIREMENTS
(Standard)**

The following requirements must be met:

- (a) Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
- (b) Pay us the premiums, fees and charges for the policy.
- (c) Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
- (d) You must tell us in writing the name of anyone not referred to in this commitment who will get interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.

(Continued on Requirements Page)

CONDITIONS

1. **DEFINITIONS**

- (a) "Mortgage" means mortgage, deed of trust or other security instrument.
- (b) "Public Records" means title records that give constructive notice of matters affecting the title according to the state law where the land is located.

2. **LATER DEFECTS**

The Exceptions in Schedule B may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attached between the Commitment Date and the date on which all of the Requirements are met. We shall have no liability to you because of this amendment.

3. **EXISTING DEFECTS**

If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

4. **LIMITATION OF OUR LIABILITY**

Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying on this Commitment when you acted in good faith to:

comply with the Requirements

or

eliminate with our written consent any Exceptions shown in Schedule B

We shall not be liable for more than the Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

5. **CLAIMS MUST BE BASED ON THIS COMMITMENT**

Any claims, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms

Note: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

First American - Training Office The First American Corporation

PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from public records or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our web site at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial services providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products and services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

First American Title Insurance Company

COMMITMENT FOR TITLE INSURANCE

SCHEDULE A FIRST AMENDMENT

Effective Date: **November 23, 2016**

1. Policy (or Policies) to be issued: Policy Amount:

ALTA 2006 EXTENDED OWNER'S POLICY

Proposed Insured: **CITY of SCOTTSDALE**

2. The estate or interest in the land described or referred to in this commitment and covered herein is **Fee as to Parcel No. 1 and an Easement as to Parcel Nos. 2 and 3** and title thereto is at the effective date vested in:

Safari Property Holdings, LLC, a Delaware limited liability company

3. Title to the estate or interest in the land upon issuance of the policy shall be vested in:

CITY of SCOTTSDALE

4. The land referred to in the Commitment is described as follows:

SEE ATTACHED EXHIBIT "A"

5. The address of the land referred to in the Commitment is described as follows:

N/A

Countersigned
Thomas Title & Escrow, LLC

BY: Frank W Busch
Authorized Signature

EXHIBIT "A"

PARCEL NO. 1:

LOT 2 OF MINOR SUBDIVISION PLAT FOR LOT 2, 4TH AMENDMENT OF SAFARI DRIVE 1, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED AS BOOK 1269 OF MAPS, PAGE 10.

PARCEL NO. 2:

NON-EXCLUSIVE, PERPETUAL EASEMENT FOR INGRESS AND EGRESS AS SET FORTH IN PERMANENT, RECIPROCAL, NON-EXCLUSIVE EASEMENT AGREEMENT, RECORDED FEBRUARY 14, 2005 AS 2005-185399, OF OFFICIAL RECORDS.

PARCEL NO. 3:

NON-EXCLUSIVE, PERPETUAL EASEMENT FOR INGRESS AND EGRESS AS SET FORTH IN INTERRUPTIBLE, RECIPROCAL, NON-EXCLUSIVE EASEMENT AGREEMENT, RECORDED FEBRUARY 14, 2005 AS 2005-185400, OF OFFICIAL RECORDS.

First American Title Insurance Company

COMMITMENT FOR TITLE INSURANCE

SCHEDULE B - SECTION I REQUIREMENTS FIRST AMENDMENT

Effective Date: **November 23, 2016, 05:00pm**

The following are the requirements to be complied with prior to the issuance of the policy or policies. Unless otherwise noted, all documents must be recorded in the office of the Recorder of the County in which the property is located.

1. **First half of 2016 taxes are paid in full.**

NOTE: See attached tax sheets for the following 161 Parcel Numbers. (Assessors Tax Parcel No's. 173-38-225C, 173-38-239 and 173-38-247 thru 405, Covers More Property)

Note: The land has been assigned a new tax parcel number but is not yet being assessed under that number. The new tax parcel number is: 173-38-418.

2. **Furnish Updated Plat of Survey of the subject property by David J. Nykorchuk (R.L.S. 13016), D.N.A. Inc, Dated August 15, 2016, Job No. 16-156**
 - a) **Intentionally Omitted**
 - b) **Also Certify survey to Thomas Title & Escrow and Deco Acquisitions LLC.**
 - c) **Intentionally Omitted**
 - d) **Correct Assessor Parcel No's to those in Requirement No. 1 above**
 - e) **Intentionally Omitted**
3. **Provide proper notification prior to the closing of this transaction to Thomas Title & Escrow for an inspection to be completed and to disclose any additional exceptions and/or requirements.**
4. **Furnish full and complete copy of any unrecorded lease, agreement, contract and/or license with all supplements, assignments and amendments and fully executed owner's affidavit prior to close of transaction. The owner's affidavit shall also state that none of the leases referred to in the affidavit contain a first right of refusal or option to purchase. Thomas Title & Escrow reserves the right to except additional items and/or make requirements after review of the foregoing documents.**
5. **FURNISH the Company with a written statement from the Member(s) or Manager(s) named below stating that the Operating Agreement for the following Limited Liability Company has not been amended since the date shown below, or if said Agreement has been amended, furnish a copy of said amendment to the Company for review:**
Members/Managers: Safari 159 LLC, a limited liability company
Name of Limited Liability Company: Safari Property Holdings, LLC, a Delaware limited liability company
Dated: February 1, 2016

6. **Record Full Reconveyance of a Deed of Trust securing an original indebtedness in the amount of \$4,416,326.53, dated January 12, 2016, recorded February 1, 2016 as 2016-0067005, of Official Records, by Safari Holdings, LLC, a Delaware limited liability company, Trustor, First American Title Agency, Trustee, and Canal West Capital, LLC, an Arizona limited liability company, Beneficiary.**
7. **Record _____ Deed from Safari Property Holdings, LLC, a Delaware limited liability company, to Buyer(s).**

END OF SCHEDULE B - REQUIREMENTS

DISCLOSURE NOTE: In the event any Affidavit required pursuant to A.R.S. 33-422 has been, or will be, recorded pertaining to the land, such Affidavit is not reflected in this Commitment nor will it be shown in any policy to be issued in connection with this Commitment. The statute applies only to unincorporated land in an unincorporated area of a county.

First American Title Insurance Company

COMMITMENT FOR TITLE INSURANCE

SCHEDULE B - SECTION II EXCEPTIONS FIRST AMENDMENT

Effective Date: November 23, 2016, 05:00pm

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

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 shown on this title commitment, but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage covered by this commitment.

1. **Second installment of 2016 real property taxes, a lien, payable on or before March 1, 2017 and delinquent May 1, 2017.**
2. **Reservations contained in the Patent from the United States of America, reading as follows: Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, recorded February 4, 1891 as Book 25 of Deeds, Page 588.**
3. **Water rights, claims or title to water, and agreements, covenants, conditions or rights incident thereto, whether or not shown by the public records. This exception is not limited by reason of disclosure of any matter relating to Water Rights as may be set forth elsewhere in Schedule B.**
4. **The liabilities and obligations imposed upon the 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 purpose of obtaining water rights for said land.
(All assessments currently due and payable have been paid.)**
5. **Easements, restrictions, reservations, conditions and set-back lines as set forth on the plat recorded as Book 850 of Maps, Page 14; First Amendment of Safari Drive I recorded as Book 1017 of Maps, Page 40; and thereafter City of Scottsdale Release of Easements recorded as 2012-819511; recorded as 2012-819513; recorded as 2012-819557 and the effect of City of Scottsdale Release of Easement recorded as 2012-819522, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).**

6. Easements, restrictions, reservations, conditions and set-back lines as set forth on the plat recorded as Book 1071 of Maps, Page 7 and thereafter Certificate of Correction recorded as 2010-1062389, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).
7. Easements, restrictions, reservations, conditions and set-back lines as set forth on the plat recorded as Book 1120 of Maps, Page 45, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).
8. The terms, conditions and provisions contained in the document entitled Permanent Reciprocal, Non-Exclusive Easements Agreement recorded as 2005-185399, of Official Records.
9. The terms, conditions and provisions contained in the document entitled Interruptible Reciprocal, Non-Exclusive Easements Agreement recorded as 2005-185400, of Official Records.
10. The terms, conditions and provisions contained in the document entitled Memorandum of Agreement recorded as 2005-185655, of Official Records.
11. An easement for electric transmission and incidental purposes recorded as Docket 3036, Page 582, of Official Records.
(Affects that portion of the property on that certain ALTA/ACSM Survey, dated August 15, 2016, prepared by D.N.A. Inc., as Job No. 16-156)
12. An easement for gas pipeline and incidental purposes recorded as 2006-1101381, of Official Records.
13. An easement for power distribution and incidental purposes recorded as 2007-986174, of Official Records.
(Affects that portion of the property on that certain ALTA/ACSM Survey, dated August 15, 2016, prepared by D.N.A. Inc., as Job No. 16-156)
14. An easement for electric transmission lines and incidental purposes recorded as 2010-625364, of Official Records.
15. The terms, conditions and provisions contained in the document entitled Agreement for the Waiver of Claims for Diminution in Value of Property recorded as 2012-161621, of Official Records.
16. All matters as set forth in Covenant to Maintain Landscaping and Improvements, recorded August 11, 2015, as 2015-582297, of Official Records.
17. Easements, restrictions, reservations, conditions and set-back lines as set forth on the plat recorded as Book 1246 of Maps, Page 44, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

18. **The following matters disclosed by an ALTA/NSPS survey made by David J. Nykorchuk (R.L.S. 13016) D.N.A. Inc. on August 15, 2016, last updated _____, designated Job No. 16-156:**
 - a) **Wall along South is not on the subject property line (up to .54 feet)**
19. **Any facts about the land that an inspection or inquiry of parties in possession would disclose and that are not shown by the Public Records.**
20. **The terms, conditions and provisions contained in the document entitled Reciprocal Easement and Maintenance Agreement recorded December 4, 2015 as 2015-861849, of Official Records.**

END OF SCHEDULE B - EXCEPTIONS