

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

**WHEN RECORDED RETURN TO:**  
CITY OF SCOTTSDALE  
ONE STOP SHOP/RECORDS  
( G.Bloemberg )  
7447 East Indian School Road, Suite 100  
Scottsdale, AZ 85251

City of Scottsdale Case No. 6-ZN-2018

**AGREEMENT FOR THE WAIVER OF CLAIMS  
FOR DIMINUTION IN VALUE OF PROPERTY**

THIS AGREEMENT FOR THE WAIVER OF CLAIMS FOR DIMINUTION IN VALUE OF PROPERTY (the "Agreement") is made in favor of the City of Scottsdale ("City") by Papago Marketplace, LLC, a Delaware Limited Liability Company ("Owner").

**RECITALS**

A. Owner is the fee title owner of property, Parcel No. 129-12-001Y and 129-12-001X located at 7115 E. McDowell Road (the "Property").

B. Owner acknowledges that he/she has made a request to the City for application of its land use laws for the development of the Property and is under no compulsion, economic or otherwise, to enter into this Agreement.

C. Arizona statute ARS § 12-1134.A provides that a city must pay just compensation to a land owner, in some cases, if the city approves a land use law that reduces the fair market value of the owner's property. This law is sometimes referred to as "Proposition 207" or the "Private Property Rights Protection Act". (ARS 12-1131, et.seq.)

D. The Private Property Rights Protection Act (e.g., A.R.S. § 12-1134.I) authorizes private property owners to enter into agreements with political subdivisions to waive any claim for diminution in value of their property in connection with any action requested by the property owner.

E. City and Owner seek to resolve whether the application of the City's land use laws to the Property constitute a "diminution in value" of the Property or other harm entitling Owner, now or in the future, to seek compensation from the City under the Private Property Rights Protection Act.

**IT IS AGREED AS FOLLOWS:**

Owner hereby makes the following acknowledgements and representations:

1. Owner acknowledges that:

a. The recitals set forth above are true and correct and are incorporated herein by this reference.

b. Owner is aware of the Private Property Rights Protection Act. (ARS 12-1131, et. seq.)

c. Owner has independently determined and believes that the application of the City's land use laws to the Property will not reduce the fair market value of the Property.

d. Owner is aware that, as a condition of receiving approvals under the City's land use laws, the City may impose various requirements upon the Property, such as requirements for right-of-way dedications, time limitations for development, and other zoning ordinance stipulations and conditions.

2. The undersigned Owner agrees as follows:

a. The Owner agrees that the stipulations and conditions set forth in Case No. 6-ZN-2018 shall be included as part of the ordinance that will be considered by the Scottsdale City Council. Owner agrees that compliance with the stipulations and conditions set forth in Case No. 6-ZN-2018 will govern development of the property. Owner further understands and agrees that stipulations and conditions may be added or modified during the public hearing process and that those stipulations and conditions will be incorporated into this Agreement.

b. Owner hereby waives and fully releases any and all financial loss, injury, claims and causes of action that Owner may have, now or in the future, for any "diminution in value" and for any "just compensation" under the Private Property Rights Protection Act based on the Owner's request in Case No. 6-ZN-2018. This waiver constitutes a complete release of any and all claims and causes of action under the Private Property Rights Protection Act that may arise out of the Owner's request in Case No. 6-ZN-2018.

c. Owner hereby agrees to indemnify, hold harmless and defend City, its officers, employees and agents, from any and all claims, causes of actions, demands, losses and expenses, including reasonable attorney's fees and litigation costs asserted by or resulting from any of the present owners of any interest in the Property seeking any potential compensation, damages, attorney's fees or costs under the Private Property Rights Protection Act that they may have based on the Owner's request in Case No. 6-ZN-2018.

d. This Waiver Agreement shall run with the land and shall be binding upon all present and future owners of any interest in the Property. Owner consents to the recording of this Agreement with the County Recorder in which the Property is located.

e. The Owner agrees that, as of the effective date of this Agreement, he/she has received equal protection of the laws and due process of all claims and requests, and has not suffered any compensable regulatory taking (as those terms and their related claims are defined by Arizona state and federal constitutional jurisprudence).

3. Owner warrants and represents that Owner is the owner of the fee title to the Property.

4. The person who signs this Agreement on behalf of Owner personally warrants and guarantees to City that he has legal power to bind Owner to this Agreement.

BY: Papago Marketplace, LLC, a Delaware limited liability company

BY Pivot McDowell, LLC, an Arizona limited liability company

Owner: [Signature] Its. Co-Manager

STATE OF ARIZONA )

) ss.

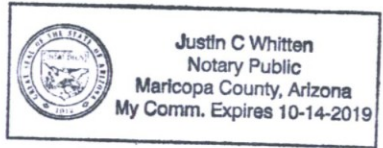
County of Maricopa )

Subscribed, sworn to and acknowledged before me  
by Justin C Whitten on this 11 day of December, 2018

My commission expires:

10-14-19

[Signature]  
Notary Public





FILE COPY

DECLARATION OF CONFLICT OF INTEREST OR PERSONAL INTEREST

NAME: Larry Kush

PUBLIC BODY: Planning Commission

DATE OF PUBLIC MEETING: 11-14-18 AGENDA ITEM NO.: 8

DESCRIPTION OF ITEM: Dupage Plaza

I declare that I have a "substantial interest" in the above-referenced decision or matter, as provided in A.R.S. § 38-501 et seq., and, therefore, declare that I have a conflict of interest in the decision or matter.

Describe the substantial interest held by you or your relative(s) referred to above:

I don't believe that I have a substantial interest in the above-referenced decision or matter and, therefore, do not have a conflict of interest as provided by Arizona law, but I believe that my active participation in the above-referenced decision or matter might raise the perception of undue influence or impropriety.

Explain: My company Orion is the Rental Broker

To avoid a conflict of interest or the perception of undue influence or impropriety, as indicated above, I will refrain from participating in any manner in the decision(s) or matter(s) identified above.

Signature: [Signature] Date Signed: 11-14-18

PLEASE NOTE: Completion and filing of this form with the City Clerk's Office is not, by itself, sufficient for a public officer to meet the requirements of the Conflict of Interest law and Code of Ethical Behavior (S.R.C. § 2-47 et seq.). To complete the requirements the public officer must state publicly at the meeting of the public body that he or she has a conflict of interest, or that participation might raise the perception of undue influence or impropriety; then recuse himself or herself, and leave the room while the matter is being discussed and acted upon by others on the public body.

A copy of this form will be filed as a supplement to the public officer's Personal Interest Disclosure form.



FILE COPY

DECLARATION OF CONFLICT OF INTEREST OR PERSONAL INTEREST

NAME: Kelsey Young

PUBLIC BODY: PC

DATE OF PUBLIC MEETING: 11/14/18 AGENDA ITEM NO.: 8

DESCRIPTION OF ITEM: Papago Plaza

I declare that I have a "substantial interest" in the above-referenced decision or matter, as provided in A.R.S. § 38-501 et seq., and, therefore, declare that I have a conflict of interest in the decision or matter.

Describe the substantial interest held by you or your relative(s) referred to above:

I don't believe that I have a substantial interest in the above-referenced decision or matter and, therefore, do not have a conflict of interest as provided by Arizona law, but I believe that my active participation in the above-referenced decision or matter might raise the perception of undue influence or impropriety.

Explain:

To avoid a conflict of interest or the perception of undue influence or impropriety, as indicated above, I will refrain from participating in any manner in the decision(s) or matter(s) identified above.

Signature: Kelsey Young

Date Signed: 11/14/18

PLEASE NOTE: Completion and filing of this form with the City Clerk's Office is not, by itself, sufficient for a public officer to meet the requirements of the Conflict of Interest law and Code of Ethical Behavior (S.R.C. § 2-47 et seq.). To complete the requirements the public officer must state publicly at the meeting of the public body that he or she has a conflict of interest, or that participation might raise the perception of undue influence or impropriety; then recuse himself or herself, and leave the room while the matter is being discussed and acted upon by others on the public body.

A copy of this form will be filed as a supplement to the public officer's Personal Interest Disclosure form.

**INFORMATION**

The Title Insurance Commitment is a legal contract between you and the company. 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

The Company 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.**

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**COMMITMENT FOR TITLE INSURANCE**

**ISSUED BY**

First American Title Insurance Company  
through its Division

***First American Title Insurance Company***

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**YOU SHOULD READ THE COMMITMENT VERY CAREFULLY**

If you have any questions about the Commitment, contact:

***First American Title Insurance Company National Commercial Services***  
***2425 E. Camelback Road, Suite 300, Phoenix, AZ 85016***

## 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.**

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## SCHEDULE B - EXCEPTIONS

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

**Part One: (for use with 2006 ALTA policies)**

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 which 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 heretofore or hereafter furnished, imposed by law and not 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.

**Part One of Schedule B will be eliminated from any A.L.T.A. Extended Coverage Policy, A.L.T.A. Plain Language Policy and policies with EAGLE Protection added. 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.**

**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)

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**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

**First American Title  
Insurance Company  
National Commercial  
Services**



**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](http://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  
National Commercial Services**

**SCHEDULE A**

**ESCROW/CLOSING INQUIRIES** should be directed to your Escrow Officer: **Brandon Grajewski at (602)567-8100**

Effective Date: **April 05, 2018** at 7:30 a.m.

1. Policy or (Policies) to be issued:

ALTA 2006 Extended Owner's Policy for \$0.00

Proposed Insured:

**To Be Determined**

2. The estate or interest in the land described or referred to in this commitment and covered herein is fee simple and [title thereto is at the effective date hereof vested in:](#)

**Papago Marketplace, 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:

**To Be Determined**

4. The land referred to in this Commitment is located in Maricopa County, AZ and is described as:

**SEE EXHIBIT "A " ATTACHED HEREIN**

Title officer: Mike S. Jones @ (602)567-8149/msjones@firstam.com.

**Pages 1 through 5 of this document consist of the Title Insurance Commitment contract and our Privacy Policy.**

**EXHIBIT "A"**

PARCEL NO. 1:

THE NORTHEAST QUARTER OF FARM UNIT "A" (FARM UNIT "A" BEING THE SAME AS LOT 1), SECTION 3, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE NORTH 215 FEET OF THE EAST 215 FEET; AND

EXCEPT THE NORTH 65 FEET AND THE EAST 65 FEET FOR ROADWAY

PARCEL NO. 2:

THE EAST 144 FEET OF THE NORTHWEST QUARTER OF FARM UNIT "A" (FARM UNIT "A" BEING THE SAME AS LOT 1), SECTION 3, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE SOUTH 285 FEET; AND

EXCEPT THE NORTH 65 FEET.

PARCEL NO. 3:

THE NORTH 272 FEET OF THE SOUTHEAST QUARTER OF FARM UNIT "A" (FARM UNIT "A" BEING THE SAME AS LOT 1), SECTION 3, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE WEST 285 FEET; AND

EXCEPT THE EAST 65 FEET.

PARCEL NO. 4:

THAT PORTION OF THE SOUTHEAST QUARTER LOT 1, NORTHEAST QUARTER, NORTHEAST QUARTER, SECTION 3, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1;

THENCE NORTH 0 DEGREES 05 MINUTES 47 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 384.57 FEET TO THE SOUTH LINE OF THE NORTH 272 FEET OF SAID SOUTHEAST QUARTER LOT 1;

THENCE SOUTH 87 DEGREES 49 MINUTES 33 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 212.64 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 0 DEGREES 45 MINUTES 27 SECONDS EAST, A DISTANCE OF 3.96 FEET;

THENCE SOUTH 89 DEGREES 14 MINUTES 33 SECONDS WEST, A DISTANCE OF 160.29 FEET TO THE SOUTHEAST CORNER OF THE NORTH 272.00 FEET OF THE WEST 285 FEET OF SAID SOUTHEAST QUARTER OF LOT 1;

THENCE NORTH 87 DEGREES 49 MINUTES 33 SECONDS EAST, ALONG SAID SOUTH LINE OF SAID NORTH 272.00 FEET, A DISTANCE OF 160.34 FEET TO THE TRUE POINT OF BEGINNING.

**First American Title Insurance Company  
National Commercial Services**

**SCHEDULE B**

**PART TWO:**

1. Taxes for the full year of 2018.  
(The first half is due October 1, 2018 and is delinquent November 1, 2018. The second half is due March 1, 2019 and is delinquent May 1, 2019 .)
2. The liabilities and obligations 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 purpose of obtaining water rights for said land. (All assessments due and payable are paid.)
3. Reservations or Exceptions in Patents, or in Acts authorizing the issuance thereof.
4. An easement for public utility lines, pipes or poles and incidental purposes in the document recorded as [Docket 11775, Page 416](#).  
  
(Affects Parcel No. 3)
5. An easement for underground electrical conduits and incidental purposes in the document recorded as [85-164658](#) of Official Records.  
  
(Affects Parcel Nos. 3 and 4)
6. An easement for underground electrical conduits and incidental purposes in the document recorded as [85-335509](#) of Official Records.  
  
(Affects Parcel Nos. 3 and 4)
7. An easement for right to enter for construction and installation of landscaping and incidental purposes in the document recorded as [2005-1284894](#) of Official Records.  
  
(Affects all parcels)
8. An easement for bus stop and access and incidental purposes in the document recorded as [2006-207331](#) of Official Records.  
  
(Affects Parcel No. 1)
9. A document entitled "Resolution No. 8356" recorded June 29, 2010 as [2010-0549775](#) of Official Records.

(Affects all parcels)

10. An easement for public transit and access easement and incidental purposes in the document recorded as [2010-1004516](#) of Official Records.

(Affects Parcel No. 1)

11. Any facts, rights, interests or claims that may exist or arise by reason of the following matters disclosed by an ALTA/NSPS survey made by \_\_\_\_\_ on \_\_\_\_\_, designated Job Number \_\_\_\_\_:  
\_\_\_\_\_
12. The rights of parties in possession by reason of any unrecorded lease or leases or month to month tenancies affecting any portion of the within described property.

NOTE: This matter will be more fully set forth or deleted upon compliance with the applicable requirement(s) set forth herein.

13. Water rights, claims or title to water, whether or not shown by the public records.

**End of Schedule B**



**First American Title Insurance Company  
National Commercial Services**

**REQUIREMENTS:**

1. Compliance with A.R.S. 11-480 relative to all documents to be recorded in connection herewith. See note at end of this section for details.

2. All of 2017 taxes are paid in full.

NOTE: Taxes are assessed in the total amount of \$30.50 for the year 2017 under Assessor's Parcel No. 129-12-001X 2.

(Affects Parcel No. 4)

3. Pay second half of 2017 taxes.

NOTE: Taxes are assessed in the total amount of \$88,185.40 for the year 2017 under Assessor's Parcel No. 129-12-001Y 1.

(Affects Parcel Nos. 1, 2 and 3)

4. Furnish Plat of Survey of the subject property by a Registered Land Surveyor in accordance with the "Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys" which became effective February 23, 2016. Said Plat of survey shall include the required certification and, at a minimum, also have shown thereon Items 1, 8, 11, 16, 17, and 19 from Table A thereof. If zoning assurances are requested, Items 7(a), 7(b), 7(c) and 9 from Table A and information regarding the usage of the property must be included.

NOTE: If a Zoning Endorsement is requested, Items 7(a), 7(b) and 7(c) of Table A will also be required. If "parking" is to be added to the endorsement, the number and type of parking spaces must be shown on the survey. Property use information must also be provided to First American Title Insurance Company.

5. Furnish copies of any existing leases affecting the within described property and insertion of said leases in Schedule B of the Policy of Title Insurance.
6. Furnish a copy of the Articles of Organization or other pertinent formation documents duly processed by the regulatory body of Delaware, a fully executed copy of the Operating Agreement, and any amendments thereto; and a list of the current members of Papago Marketplace, LLC, a limited liability company.
7. Furnish the names of parties to be insured herein and disposition of any matters disclosed thereby.
8. Record Warranty Deed from Papago Marketplace, LLC, a Delaware limited liability company to Buyer(s).

NOTE: If this will be other than a Cash Transaction, notify the title department prior to close and additional requirements will be made.

9. Such further requirements as may be necessary after completion of the above.
10. Return to title department for final recheck before recording.

NOTE: In connection with Arizona Revised Statutes 11-480, as of January 1, 1991, the County Recorder may not accept documents for recording that do not comply with the following:

- a. Print must be ten-point type or larger.
- b. A margin of two inches at the top of the first page for recording and return address information and margins of one-half inch along other borders of every page.
- c. Each instrument shall be no larger than 8-1/2 inches in width and 14 inches in length.

DISCLOSURE NOTE: In the event any Affidavit required pursuant to A.R.S. <sup>+</sup> 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 unsubdivided land in an unincorporated area of a county.

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.

**End of Requirements**

## **LEGAL DESCRIPTION**

A PORTION OF THE NORTHEAST QUARTER OF FARM UNIT "A" (FARM UNIT "A" BEING THE SAME AS LOT 1), SECTION 3, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

COMMENCING AT A FOUND BRASS CAP IN A HAND HOLE AT THE NORTHEAST CORNER OF SAID SECTION 3, FROM WHICH A FOUND BRASS CAP IN A HAND HOLE AT THE EAST QUARTER CORNER OF SAID SECTION 3 BEARS SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, A DISTANCE OF 2637.03 FEET;

THENCE SOUTH 88 DEGREES 56 MINUTES 24 SECONDS WEST, ALONG THE NORTH LINE OF SAID SECTION 3, A DISTANCE OF 215.11 FEET;

THENCE SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, LEAVING SAID NORTH SECTION LINE, A DISTANCE OF 65.03 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF MCDOWELL ROAD AND THE POINT OF BEGINNING;

THENCE SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, LEAVING SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 264.64 FEET;

THENCE NORTH 89 DEGREES 11 MINUTES 14 SECONDS WEST, A DISTANCE OF 165.33 FEET;

THENCE SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, A DISTANCE OF 95.33 FEET;

THENCE NORTH 89 DEGREES 11 MINUTES 14 SECONDS WEST, A DISTANCE OF 42.00 FEET;

THENCE SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, A DISTANCE OF 240.01 FEET;

THENCE SOUTH 88 DEGREES 44 MINUTES 24 SECONDS WEST, A DISTANCE OF 235.00 FEET;

THENCE NORTH 00 DEGREES 55 MINUTES 57 SECONDS EAST, A DISTANCE OF 285.21 FEET;

THENCE SOUTH 88 DEGREES 44 MINUTES 24 SECONDS WEST, A DISTANCE OF 144.11 FEET;

THENCE NORTH 00 DEGREES 55 MINUTES 57 SECONDS EAST, A DISTANCE OF 309.35 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF SAID MCDOWELL ROAD;

THENCE NORTH 88 DEGREES 56 MINUTES 24 SECONDS EAST, ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 585.26 FEET TO THE POINT OF BEGINNING.

## **LEGAL DESCRIPTION**

A PORTION OF THE NORTHEAST QUARTER OF FARM UNIT "A" (FARM UNIT "A" BEING THE SAME AS LOT 1), SECTION 3, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

COMMENCING AT A FOUND BRASS CAP IN A HAND HOLE AT THE NORTHEAST CORNER OF SAID SECTION 3, FROM WHICH A FOUND BRASS CAP IN A HAND HOLE AT THE EAST QUARTER CORNER OF SAID SECTION 3 BEARS SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, A DISTANCE OF 2637.03 FEET;

THENCE SOUTH 88 DEGREES 56 MINUTES 24 SECONDS WEST, ALONG THE NORTH LINE OF SAID SECTION 3, A DISTANCE OF 215.11 FEET;

THENCE SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, LEAVING SAID NORTH SECTION LINE, A DISTANCE OF 65.03 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF MCDOWELL ROAD AND THE POINT OF BEGINNING;

THENCE SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, LEAVING SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 264.64 FEET;

THENCE NORTH 89 DEGREES 11 MINUTES 14 SECONDS WEST, A DISTANCE OF 165.33 FEET;

THENCE SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, A DISTANCE OF 95.33 FEET;

THENCE NORTH 89 DEGREES 11 MINUTES 14 SECONDS WEST, A DISTANCE OF 42.00 FEET;

THENCE SOUTH 00 DEGREES 48 MINUTES 46 SECONDS WEST, A DISTANCE OF 240.01 FEET;

THENCE SOUTH 88 DEGREES 44 MINUTES 24 SECONDS WEST, A DISTANCE OF 235.00 FEET;

THENCE NORTH 00 DEGREES 55 MINUTES 57 SECONDS EAST, A DISTANCE OF 285.21 FEET;

THENCE SOUTH 88 DEGREES 44 MINUTES 24 SECONDS WEST, A DISTANCE OF 144.11 FEET;

THENCE NORTH 00 DEGREES 55 MINUTES 57 SECONDS EAST, A DISTANCE OF 309.35 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF SAID MCDOWELL ROAD;

THENCE NORTH 88 DEGREES 56 MINUTES 24 SECONDS EAST, ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 585.26 FEET TO THE POINT OF BEGINNING.

# Appeals of Dedication, Exactions or Zoning Regulations



## Rights of Property Owner

In addition to the other rights granted to you by the U.S. and Arizona Constitution, federal and state law and city ordinances or regulations, you are hereby notified of your right to appeal the following City actions relating to your property:

- 1) Any dedication or exaction which is required of you by an administrative agency or official of the city as a condition of granting approval of your request to use, improve or develop your real property. This appeal right does not apply to a dedication or exaction required as part of a city legislative act (for example a zoning ordinance) when an administrative agency or official has no discretion to determine the dedication or exaction.
- 2) The adoption or amendment of a zoning regulation that creates a taking of property in violations of Arizona and federal court decision.

## Appeal Procedure

The appeal must be in writing and specify the City action appealed and the date final action was taken, and must be filed with or mailed to the hearing officer designated by the city within 30 days after the final action is taken

- No fee will be charged for filing
- The city Attorney's Office will review the appeal for compliance with the above requirements, and will notify you if your appeal does not comply
- Eligible appeals will be forwarded to the hearing officer, and a hearing will be scheduled within 30 days of receipt by the hearing officer of your request. Ten days notice will be given to you of the date, time and place of the hearing unless you indicate that less notice is acceptable to you.
- The City will submit a takings impact report to the hearing officer.
- In an appeal from a dedication or exaction, the City will bear the burden of proving that the dedication or exaction to be imposed on your property bears an essential nexus between the requirement and a legitimate governmental interest and that the proposed dedication or exaction is roughly proportional to the impact of the use, improvement or development you proposed.
- In an appeal from the adoption or amendment of a zoning regulation, the City will bear the burden of proving that any dedication or exaction requirement in the zoning regulation is roughly proportional to the impact of the proposed use, improvement, or development, and that the zoning regulation does not create a taking of property in violation of Arizona and federal court cases.
- The hearing officer must render his decision within five working days after the appeal is heard.
- The hearing officer can modify or delete a dedication or exaction or, in the case of an appeal from a zoning regulation, transmit a recommendation to the City Council.
- If you are dissatisfied with the decision of the hearing officer, you may file a complaint for a trial *nevo* with the Superior Court within 30 days of the hearing officer's decision.

For questions, you may contact:

City's Attorney's Office  
3939 Drinkwater Blvd.  
Scottsdale, AZ 85251  
480-312-2405

Address your appeal to:

Hearing Officer, C/O City Clerk  
3939 Drinkwater Blvd  
Scottsdale, AZ 85251

Please be aware that City Staff cannot give you legal advice. You may wish, but are not required, to hire an attorney to represent you in an appeal.

## Planning and Development Services

7447 E. Indian School Road, Suite 105, Scottsdale, AZ 85251 ♦ [www.scottsdaleaz.gov](http://www.scottsdaleaz.gov)

**Owner Certification  
Acknowledging Receipt  
Of  
Notice Of Right To Appeal  
Exactions And Dedications**

I hereby certify that I am the owner of property located at:

7047 E. McDowell Road, Scottsdale (APN No. 129-12-001Y)

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(address where development approval, building permits, or city required improvements and dedications are being required)

and hereby certify that I have received a notice that explains my right to appeal all exactions and/or dedications required by the City of Scottsdale as part of my property development on the parcel listed in the above address.



Digitally signed by Lee Mashburn  
DN: cn=Lee Mashburn, o=Pivot  
Development, ou=President,  
email=mashburn@mashco.net, c=US  
Date: 2018.04.11 12:22:48 -07'00'

---

Signature of Property Owner

---

Date

# Affidavit of Authorization to Act for Property Owner



1. This affidavit concerns the following parcel of land:

- a. Street Address: 7047 E. McDowell Road
- b. County Tax Assessor's Parcel Number: 129-12-001Y
- c. General Location: SWC of Scottsdale and McDowell Roads
- d. Parcel Size: 10 acres
- e. Legal Description: See attached

(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.)

- 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>Lee Mashburn</u>	<u>April 11</u> , <u>2018</u>	<u></u>
_____	_____, 20__	_____
_____	_____, 20__	_____
_____	_____, 20__	_____

## Planning and Development Services

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • [scottsdaleaz.gov](http://scottsdaleaz.gov)

March 30, 2018

City of Scottsdale  
Planning and Development Services  
7447 E. Indian School Road  
Scottsdale, Arizona 85251

Re: Authorization – 7047 E. McDowell Road, Scottsdale, Arizona (APN No. 129-12-001Y)

To whom it may concern:

Please accept this letter as authorization for Withey Morris, PLC to file applications for land use entitlements for the above reference property. I hereby certify that I am the property owner and / or authorized agent of property owner and have the authority to grant this authorization.

Sincerely,  
Papago Marketplace, LLC



By: \_\_\_\_\_

Manager

It's: \_\_\_\_\_

6-ZN-2018  
4/20/2018