

207 Waiver

Title

Legal Description

Policy or Appeals

Correspondence Between Legal & Staff

Letter of Authorization

April 14, 2017

**Via Hand-Delivery, to:**

City of Scottsdale  
Planning & Development Services Department  
7447 East Indian School Road, Suite 105  
Scottsdale, Arizona 85251

***Re: Letter of Authorization – Solare (6601 E. McDowell Road)***

To Whom It May Concern:

This letter authorizes the firms and companies of K. Hovnanian Homes, Berry Riddell LLC, LVA Urban Design Studio, Technical Solutions, and Sustainability Engineering Group to represent and act on behalf of **Chapman McDowell LLC** in connection with the General Plan Amendment, Zoning and Development Review Board applications and related City matters for property located at 6601 E. McDowell Road (APN# 129-34-052A) in the City of Scottsdale, Maricopa County, Arizona.

**Chapman McDowell LLC**

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

Its: CFO

## **APPEALS OF DEDICATIONS, EXACTIONS, OR ZONING REGULATIONS**

### **POLICY OF THE CITY OF SCOTTSDALE ON APPEALS OF DEDICATIONS, EXACTIONS, OR ZONING REGULATIONS**

#### **RIGHTS OF PROPERTY OWNER**

In addition to 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) where 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 violation of Arizona and federal court decisions.

#### **APPEAL PROCEDURE**

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

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

- ❖ 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 de novo with the Superior Court within 30 days of the hearing officer's decision.

**If you have questions about this appeal process, you may contact:**

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

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.



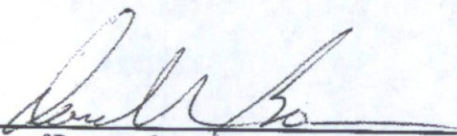
**Owner Certification  
Acknowledging Receipt  
Of  
Notice Of Right To Appeal  
Exactions And Dedications**

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

6601 E. McDowell Rd, Scottsdale, AZ 85257

(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.

  
\_\_\_\_\_  
Signature of Property Owner

4/17/17  
Date



Pre-application No.: 213-PA-2017

Project Name: Solare

### AFFIDAVIT OF AUTHORITY TO ACT FOR PROPERTY OWNER

1. This affidavit concerns the following parcel of land:

- a. Street Address: 6601 E. McDowell Rd, Scottsdale, AZ 85257
- b. County Tax Assessor's Parcel Number 129-34-052A
- c. General Location SEC McDowell Rd & Cross Cut Canal
- d. Parcel Size: 11.6 ac
- e. Legal Description: 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 general manager of the Scottsdale Planning and Development Services Department a written statement revoking my authority.

5. I will immediately deliver to the general manager of the City of Scottsdale Planning and 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 or 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.

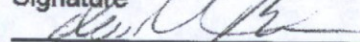
Name (printed)

David R. Bower

Date

4/17, 2017

Signature



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





# Fidelity National Title Insurance Company

Commitment No. AX1477COS

## COMMITMENT FOR TITLE INSURANCE

Issued by

**Fidelity National Title Insurance Company**

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

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

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

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

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

New Land Title Agency, L.L.C.  
20830 North Tatum Blvd., #250  
Phoenix, AZ 85050  
Phone: 480-824-4243 Fax: 480-824-4180

**FIDELITY NATIONAL TITLE INSURANCE COMPANY**



By:

ATTEST

President

Secretary

Countersigned:

Authorized Signatory  
Peter Castiglione





## CONDITIONS

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





**New Land Title Agency, L.L.C.  
PRIVACY POLICY**

This privacy policy notice is designed to inform you of the types of information we may maintain and collect during the course of our relationship with you. It also explains the safeguards we have in place to protect that information and the circumstances in which we may share that information with third parties.

**Information We Maintain or Collect**

We maintain and collect nonpublic personal information from you and about you as necessary to provide you with title insurance for your home and, if applicable, to provide your mortgage lender with title insurance. In addition, we maintain and collect nonpublic personal information about you as necessary to provide you with settlement services for your home purchase, mortgage financing or re-financing. We also may maintain or collect information about you to provide products, services, and other opportunities that we believe may be of benefit to you. The following are examples of the types of nonpublic personal information we maintain or collect:

- Information we receive from you on applications or other forms, such as your name, address, social security number, tax identification number, asset information, and income information;
- Information we receive from you through our Internet websites, such as your name, address, email address, Internet Protocol address, the website links you used to get to our websites, and your activity while using or reviewing our websites;
- Information about your transactions with or services performed by us, our affiliates, or others, such as but not limited to information concerning your home or other real property, information from lenders and other third parties involved in such transaction, account balances, and credit card information; and
- Information we receive from consumer or other reporting agencies and publicly recorded documents.

**Information Sharing with Third Parties**



We do not disclose nonpublic personal information about you to third parties except as permitted or required by law. There are numerous instances in which we are permitted or required to share such information. Some examples include:

- Sharing information with third parties who provide services to us in connection with the preparation and processing of title insurance commitments or binders for your and/or your lender, such as by way of example and not limitation, mortgage lenders, title insurance underwriters, title searchers or abstractors.
- Sharing information with others to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure in connection with an insurance transaction or to enable us to comply with your lender's closing instructions;
- Sharing information with lenders, lien holders, judgment creditors, or other parties claiming an encumbrance or an interest in title whose claim or interest must be determined, settled, paid or released prior to a title or escrow closing.
- Sharing information to comply with federal, state or local laws; or when we believe, in good faith, that such disclosure is reasonably necessary to comply with the law or to protect the safety of our customers, employees, or property and/or to comply with a judicial proceeding, court order or legal process.
- Sharing information to protect you, K. Hovnanian, New Land Title Agency, L.L.C. and any of our title insurance underwriters from actual or potential fraud.

### **Confidentiality and Security of Information**

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to process or administer you or your lender's request for title insurance and/or to provide settlement services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

### **Former Customers**

Our privacy policy for sharing nonpublic personal information about former customers is the same as our policy for current customers.

### **Additional Information**

For information about the Financial Services Division Privacy Policy call us at (800) 669-9790, if you have more General Inquiries about the Hovnanian Enterprises, Inc. Privacy Policy contact us at [info@khov.com](mailto:info@khov.com).



New Land Title Agency, L.L.C.  
20830 North Tatum Blvd., #250  
Phoenix, AZ 85050  
Ph: 480-824-4243 Fax: 480-824-4180

### **SCHEDULE A**

Escrow Officer: Paul Lovato-Aguilar  
Title Officer: Peter Castiglione  
Escrow No: **AX1477COS**  
Title No: **AX1477COS**

1. Commitment Date: **April 21, 2017, 08:00 am**

2. Policy (or Policies) to be issued:

a. Owner's Policy

Proposed Insured: **The City of Scottsdale, an Arizona municipal corporation**

Policy Amount

**\$1,000.00**

b. Loan Policy

Proposed Insured:

c. Proposed Insured:

3. **Fee Simple** interest in the land described in this Commitment is owned, at the Commitment Date, by

**Chapman McDowell, LLC, an Arizona limited liability company**

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

**SEE ATTACHED EXHIBIT "A"**



**EXHIBIT "A"**

**Lot 3, Farm Unit "J", Section 3, Township 1 North, Range 4 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;**

**EXCEPT the South 412 feet; and**

**EXCEPT that portion thereof described as follows:**

**BEGINNING at the North quarter corner of said Section 2;**

**THENCE along the center line of Monte Vista Drive, coincident with the North - South midsection line, South 01°22'20" West, 920.24 feet;**

**THENCE along the North line of Papago Parkway No. 7, a subdivision recorded in Book 81 of Maps, page 49, records of Maricopa County, Arizona, South 89°25'05" West, 654.89 feet;**

**THENCE along a line parallel with the center line of Monte Vista Drive, North 01 °22'20" East, 934.18 feet;**

**THENCE along the center line of McDowell Road, coincident with the North line of said Section, South 89°21'45" East, 654.56 feet to the POINT OF BEGINNING.**

**TITLE INSURANCE COMMITMENT**

BY

***Fidelity National Title Insurance Company***

**SCHEDULE B - SECTION I**

***REQUIREMENTS***

NOTE: All instruments need to conform with the County Recorder's Instrument Conformance Template

ARS Section 11-480 requires that the:

Maximum document width is	8 1/2"
Maximum document length is	14"
Minimum print size is	10 point
Minimum top margin is	2"
Minimum left, right and Bottom margins be	1/2"

1. FURNISH "AFFIDAVIT OF NO REPAIRS AND/OR LEASES" executed by the owner of the property.

The right is reserved to make additional exceptions or requirements upon examination of said affidavit

2. Furnish evidence of the date of completion of the improvements constructed on said land and lapse of the statutory time in which a claimant for unpaid labor or materials may record a lien; or in lieu thereof, furnish such documentation that the Company may require for review to determine if an indemnification by the seller and/or contractor and/or borrowers would be acceptable to the Company. Any indemnity must be on the Company's form and it may be required that individual principals or corporations or other entities and their spouse execute same.
3. PAY TAXES and ASSESSMENTS for the Second Half of 2016, plus any penalties and interest which may have accrued;  
Assessor's Parcel No.: 129-34-052A
4. PAY ANY OBLIGATIONS imposed upon said land by its inclusion within any district formed pursuant to Title 48, Arizona Revised Statutes, excluding however Municipal or County Improvement Districts.
5. PROPER SHOWING that all regular and special assessments levied by Salt River Project Agricultural Improvement and Power District, now due and payable, are paid in full.
6. REQUIREMENT MET: FURNISH the Company a copy of the Articles of Organization, stamped "filed" by the Arizona Corporation Commission and a fully executed copy of the Operating Agreement and all amendments thereto for K. Hovnanian Great Western Homes, LLC, an Arizona limited liability company.
7. FURNISH the Company a copy of the Articles of Organization, stamped "filed" by the Arizona Corporation Commission and a fully executed copy of the Operating Agreement and all amendments thereto for Chapman McDowell LLC, an Arizona limited liability company.
8. RECORD A RELEASE AND RECONVEYANCE of the Deed of Trust, which secures the indebtedness and any other obligations secured thereby, in the amount of \$11,500,000.00, dated July 14, 2000, by and between Chapman McDowell LLC, an Arizona limited liability company, Trustor, Transnation Title Insurance Co, Trustee, and Comerica Bank,



Beneficiary, recorded July 18, 2000, in Instrument No. 2000-545959; thereafter Subordination and Attornment Agreement recorded in Instrument no. 2000-562352.

9. RECORD A TERMINATION of FINANCING STATEMENT, by and between Chapman McDowell LLC, an Arizona limited liability company, Debtor, and Comerica Bank, Secured Party, recorded July 18, 2000, in Instrument No. 2000-545960, thereafter Continuation recorded in Instrument no. 20060296465.

10. PROVIDE UNDERWRITER APPROVAL for the transaction to be insured herein required prior to close of escrow.

The Company reserves the right to make additional requirements and/or exceptions after review of said documentation.

11. Completion of a preliminary inspection by the Company prior to the close of escrow.

The Company reserves the right to make additional requirements and/or exceptions after review of said documentation.

12. REQUIREMENT MET: Furnish Plat of Survey of the subject property by a Registered Land Surveyor in according with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" which became effective February 23, 2011. Said Plat of Survey shall include the required certification and, at a minimum, shall also show thereon Items 1, 8, 11(b), 16, 17, 20(a) and 20(b) from Table A thereof.

The Company reserves the right to make additional requirements and/or exceptions after review of said documentation.

13. RECORD Deed from Chapman McDowell LLC, an Arizona limited liability company to K. Hovnanian Great Western Homes, LLC, an Arizona limited liability company.

14. RECORD \_\_\_\_\_ from K. Hovnanian Great Western Homes, LLC, an Arizona limited liability company to The City of Scottsdale

**TITLE INSURANCE COMMITMENT**

BY

***Fidelity National Title Insurance Company***

**SCHEDULE B - SECTION II**

**EXCEPTIONS**

Except as provided in Schedule B - Part II, this policy does not insure against loss or damage, and the Company will not pay costs, attorney's fees, or expenses that arise by reason of:

1. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
2. Easements or claims of easements not shown by the public records.
3. Encroachments, overlaps, boundary line disputes and any matters which would be disclosed by an accurate survey or inspection of the premises and not shown by the public records.
4. Any lien or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
5. (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.
6. (a) Unpatented mining claims; (b) water rights, claims or title to water, whether or not the matters excepted under (a) or (b) are shown by the public records.
7. TAXES and ASSESSMENTS for the Year 2017, a lien, not yet due and payable.
8. RESERVATIONS, EXCEPTIONS and PROVISIONS contained in the Patent(s) from the United States of America or the State of Arizona in Acts authorizing the issuance thereof, as follows:

"Subject to any vested and accrued water rights for mining, agriculture, 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 there is reserved from the lands hereby granted a right-of-way thereon for ditches or canals constructed by the authority of the United States of America."
9. RIGHT OF WAY for road as shown on Map recorded in Book 9 of Road Maps, page 38 and as set forth in instrument recorded in Docket 1111, page 489, over the North 40 feet.
10. EASEMENT for vehicular non-access and rights incident thereto, as set forth in instrument recorded in Document No. 1986-0589631.
11. EASEMENT for alley and rights incident thereto, as set forth in instrument recorded in Document No. 1986-0589632.



12. EASEMENT for bike path and rights incident thereto, as set forth in instrument recorded in Document No. 1986-0589634.
13. EASEMENT for road or highway and rights incident thereto, as set forth in instrument recorded in Document No. 1986-0589645 and re-recorded in Document No. 1987-0363366.
14. EASEMENT for underground electrical conduits and rights incident thereto, as set forth in instrument recorded in Document No. 1987-0029233.
15. EASEMENT for underground electrical conduits and rights incident thereto, as set forth in instrument recorded in Document No. 1988-0373430 and re-recorded in Document No. 1988-0448245.
16. GRANT OF EASEMENT for pipeline and appurtenant facilities, recorded January 4, 2010 in Instrument no. 2010-0000093.
17. RESOLUTION No. 8356, regarding inclusion within Los Arcos Redevelopment Area, recorded in Instrument no. 2010-0549775.
18. Matters as set forth in the ALTA/NSPS Survey provided by AW Land Surveying, LLC dated February 10, 2017 as Project/Job No. 17-009.