



*First American*

# Commitment

## ALTA Commitment for Title Insurance

ISSUED BY

**First American Title Insurance Company**

File No: NCS-981805-HHLV

### COMMITMENT FOR TITLE INSURANCE

Issued By

***First American Title Insurance Company***

### NOTICE

**IMPORTANT-READ CAREFULLY:** THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

### COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and the Commitment Conditions, ***First American Title Insurance Company***, a Nebraska Corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I-Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

***First American Title Insurance Company***

Dennis J. Gilmore, President

Greg L. Smith, Secretary

**If this jacket was created electronically, it constitutes an original document.**

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First American Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions.*

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## COMMITMENT CONDITIONS

### 1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I—Requirements; and
- (f) Schedule B, Part II—Exceptions.

### 4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

### 5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
  - (i) comply with the Schedule B, Part I—Requirements;
  - (ii) eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
  - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

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**6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT**

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

**7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

**8. PRO-FORMA POLICY**

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

**9. ARBITRATION**

Arbitration provision intentionally removed.

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# Schedule A

## ALTA Commitment for Title Insurance

ISSUED BY

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

Issuing Office's ALTA® Registry ID:

Commitment/File No: NCS-981805-HHLV

Fourth Amendment

### SCHEDULE A

1. Effective Date: July 07, 2020, at 8:00 AM
2. Policy or Policies to be issued: POLICY AMOUNT
  - a. ALTA Owner's Policy of Title Insurance (6-17-06) \$ 3,000,000.00  
Proposed Insured: Red Summit Fair, LLC, a Delaware limited liability company, and  
Sahara Pavilion South SC, LLC, a Delaware limited liability company
  - b. ALTA Loan Policy of Title Insurance (6-17-06) \$ N/A  
Proposed Insured: N/A
3. The estate or interest in the Land described or referred to in this Commitment is  
Fee Simple
4. The Title is, [at the Commitment Date, vested in:](#)  
Macy's Retail Holdings, Inc., a New York corporation
5. The Land is described as follows:  
  
in the County of Jackson, State of Missouri, as described in Exhibit A attached hereto and made a part thereof.

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## Schedule BI & BII

### ALTA Commitment for Title Insurance

ISSUED BY

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

Issuing Office's ALTA® Registry ID:

Commitment/File No: NCS-981805-HHLV

### SCHEDULE B, PART I

#### Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. If there has been construction, improvements or repairs to or on the property in the last 12 months, or a portion or all of the loan proceeds will be used for such, then unrecorded mechanics lien coverage will not be furnished unless arrangements are made prior to closing. If the property is 1-4 family residential, a Mechanic's Lien Indemnity Agreement secured by a satisfactory Letter of Credit will need to be furnished to the company. If the property is not 1-4 family residential, either the aforesaid secured indemnity or satisfactory financial statements, indemnities, affidavits and possibly lien waivers, will need to be furnished to the company. Failure to notify the company in writing before closing will invalidate any mechanic's lien coverage given in the policy.
6. In order to delete Exceptions 1, 5 and 6 on Schedule B - II, the Company requires a properly completed and executed Owner's Affidavit in a form that is acceptable to the Company.
7. Proof of payment of the special assessments for Lee's Summit, Missouri.
8. The land is located in an economic development district as disclosed by the tax rolls or other recorded instrument, if any. We require proof of payment of all taxes associated with the land being included within an economic development district.

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9. In regard to Macy's Retail Holdings, Inc., we require the following:
- A) Furnish a copy of the Certificate and Articles of Incorporation.
  - B) Furnish a Certificate of Good Standing from the Missouri, Secretary of State's office.
  - C) Furnish a resolution of the board of directors authorizing the proposed transaction and identifying the parties authorized to execute instruments necessary to close this transaction.

Upon review of these items we reserve the right to make further requirements.

10. In regard to Red Summit Fair, LLC, we require the following:
- A) Furnish a copy of the Articles of Organization and the Operating Agreement.
  - B) Furnish a Certificate of Good Standing from the Delaware, Secretary of State's office.
  - C) Furnish a resolution of the members authorizing the proposed transaction.
  - D) The proposed transaction should be executed by all the members of the LLC unless provided otherwise in the operating agreement. If the members of the above referenced limited liability company are entities other than individuals, additional requirements will be made.

Upon review of these items we reserve the right to make further requirements.

11. In regard to Sahara Pavilion South SC, LLC, we require the following:
- A) Furnish a copy of the Articles of Organization and the Operating Agreement.
  - B) Furnish a Certificate of Good Standing from the Delaware, Secretary of State's office.
  - C) Furnish a resolution of the members authorizing the proposed transaction.
  - D) The proposed transaction should be executed by all the members of the LLC unless provided otherwise in the operating agreement. If the members of the above referenced limited liability company are entities other than individuals, additional requirements will be made.

Upon review of these items we reserve the right to make further requirements.

**CLOSING INFORMATION NOTE:** If the closing for the Land is to be conducted by First American Title Insurance Company, we require all monies due to be in the form of a cashier's check or wire transfer. If the parties use a cashier's check in lieu of wired funds, it may take 24-48 hours to verify with the institution issuing the check that we have good funds. **We are unable to close until we receive this verification and THIS MAY DELAY CLOSING.**

The above applies to all closings unless other specific arrangements are made. Due to wide variances in banking practices and lack of control over funds "on the wire" we cannot accept financial responsibility for delays in the clearing of funds.

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## **Schedule BI & BII (Continued)**

### **ALTA Commitment for Title Insurance**

ISSUED BY

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

Issuing Office's ALTA® Registry ID:

Commitment/File No: NCS-981805-HHLV

### **SCHEDULE B, PART II**

#### **Exceptions**

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I-Requirements are met.
2. Rights or claims of parties in possession not shown by the Public Records.
3. Easements, or claims of easements, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation or adverse circumstances affecting Title that would be disclosed by an accurate and complete survey of the Land or that could be ascertained by an inspection of the Land.
5. Any lien, or right to lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
6. Taxes, or special assessments, if any, not shown as existing liens by the Public Records.
7. The lien of the general taxes for the year 2020, and thereafter.

General, state, county and city taxes and assessments for the year 2019 in the amount of \$362,280.97 are PAID. Parcel No. 51-700-03-30-00-00-000

8. The lien of the City of Lee's Summit, Missouri special assessment taxes, if any.
9. Location of the land within an economic development district as disclosed by the tax rolls or other recorded instrument, if any, including without limitation, tax liability associated therewith, retroactive and subsequent years.

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10. Lack of right of access for ingress and egress to Highway No. 470 and relocated Route 50 from the subject property, said right of access having been granted to the State of Missouri by Indenture recorded January 8, 1971, as Document No. [176230](#) in Book I229, Page 466.
11. This item has been intentionally deleted.
12. Terms and Provisions as set forth in Tax Increment Financing Contract, by and between The City of Lee's Summit, Missouri and Red Lee's Summit East, LLC, a Missouri limited liability company, recorded January 22, 2007 as Document No. [2007E0009221](#).

Amended and Restated Tax Increment Financing Contract recorded August 1, 2008 as Document No. [2008E0082099](#).

Declaration Regarding Tax Increment Financing Contract recorded March 16, 2011 as Document No. [2011E0025421](#).

13. Covenants, conditions, restrictions and indemnity contained in the Special Warranty Deed recorded May 10, 2007 as Document No. [2007E0062066](#).
14. Terms and Provisions as set forth in Storm Water Drainage and Detention Easement Agreement , by and between City of Lee's Summit, Missouri, a constitutional charter city and municipal corporation; Townsend Summit, LLC, a Delaware limited liability company; DWT Summit Technology, L.L.C., a Maryland limited liability company; CBL Lee's Summit East, LLC, a Missouri limited liability company and Red Lee's Summit East, LLC, a Missouri limited liability company, recorded June 5, 2007 as Document No. [2007E0074477](#).
15. Terms and Provisions as set forth in Reciprocal Cross Easement for Access, Ingress and Egress , by and between Red Lee's Summit East, LLC, a Missouri limited liability company; CBL Lee's Summit East, a Missouri limited liability company; City of Lee's Summit, Missouri, a constitutional charter city and municipal corporation and Townsend Summit, LLC, a Delaware limited liability company, recorded June 5, 2007 as Document No. [2007E0074480](#).
16. This item has been intentionally deleted.

17. Easements, restrictions and setback lines as per plat, recorded August 7, 2008 as Document No. [2008E0085122](#) in Plat Book I121, Page 84. (Summit Fair, Third Plat Lots 15-27, and Tracts F-I)

Ordinance No. 6686, vacating easement located within the above plat, recorded September 23, 2008 as Document No. [2008E0101042](#).

18. Terms and Provisions as set forth in Construction, Operation and Reciprocal Easement Agreement , by and between Red Lee's Summit East, LLC, a Missouri limited liability company and Macy's Retail Holdings, Inc., a New York corporation, recorded August 13, 2008 as Document No. [2008E0087108](#) and Document No. [2008E0087161](#).

First Amendment to Construction, Operation and Reciprocal Easement Agreement recorded November 10, 2008 as Document No. [2008E0117315](#).

Memorandum of Supplemental Agreement recorded November 10, 2008 as Document No. [208E0117316](#).

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Second Amendment to Construction, Operation and Reciprocal Easement Agreement recorded August 17, 2016 as Document No. [2016E0076054](#).

Assignment of Developer Rights under Construction, Operation and Reciprocal Easement Agreement, by and between Red Lee's Summit East, LLC, a Missouri limited liability company (Assignor) and Sahara Pavilion South SC, LLC, a Delaware limited liability company (Assignee) recorded August 17, 2016 as Document No. [2016E0076057](#).

19. Declaration of Exclusive Use Restrictive Covenant recorded August 13, 2008 as Document No. [2008E0087148](#).
20. Terms and Provisions as set forth in Developer Acquisition Rights Agreement, by and between Macy's Retail Holdings, Inc., a New York corporation and Red Lee's Summit East, LLC, a Missouri limited liability company, recorded August 13, 2008 as Document No. [2008E0087155](#).
21. Terms and Provisions as set forth in Cooperative Agreement, by and between Red Lee's Summit East, LLC, a Missouri limited liability company; The City of Lee's Summit, Missouri, a Missouri constitutional charter city and political subdivision and The Summit Fair Community Improvement District, a Missouri community district and political subdivision, recorded December 12, 2008 as Document No. [2008E0127185](#).
22. Notice of Private Water System recorded October 5, 2010 as Document No. [2010E0097481](#).
23. Tenancy rights, either as month to month, or by virtue of written leases of persons in possession of any part of the subject property.

NOTE: If any requirements shown on Schedule B-Section I of this Commitment are not complied with, then the requirement or the matters constituting the requirement will be shown as an exception or exceptions on the Policy or Policies provided the Company elects to issue such Policy or Policies.

24. The following matters disclosed by an ALTA/NSPS survey made by Olsson on December 11, 2019, designated Job No. 019-3433:

A. Sanitary sewer, water lines, storm drain and underground power line as shown on said survey.

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## Exhibit A

### ALTA Commitment for Title Insurance

ISSUED BY

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

Issuing Office's ALTA® Registry ID:

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LOT 26, SUMMIT FAIR, THIRD PLAT LOTS 15-27, AND TRACTS F-I, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, RECORDED AS DOCUMENT NO. [2008E0085122](#) IN PLAT BOOK I-121 AT PAGE 84.

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