



NM FORM 6: 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 Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I—Requirements have not been met within six (6) months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

FIRST AMERICAN TITLE INSURANCE COMPANY

By: 
Kenneth D. DeGiorgio, President

By: 
Lisa W. Cornehl, Secretary

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COMMITMENT CONDITIONS

1. DEFINITIONS

- a. "Discriminatory Covenant": Any covenant, condition, restriction, or limitation that is unenforceable under applicable law because it illegally discriminates against a class of individuals based on personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or other legally protected class.
- b. "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.
- c. "Land": The land described in Item 5 of Schedule A and improvements located on that land that by State law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- d. "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.
- e. "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.
- f. "Proposed Amount of Insurance": Each dollar amount specified in Schedule A as the Proposed Amount of Insurance of each Policy to be issued pursuant to this Commitment.
- g. "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- h. "Public Records": The recording or filing system established under Section 14-9-1 NMSA 1978, as amended to the Date of Policy under which a document must be recorded or filed to impart constructive notice of matters relating to the Title to a purchaser for value without Knowledge.
- i. "State": The state or commonwealth of the United States within whose exterior boundaries the Land is located. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Guam.
- j. "Title": The estate or interest in the Land identified in Item 3 of 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.

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- 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; and
 - g. a counter-signature by the Company or its issuing agent that may be in electronic form.
- 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 is not 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 is not 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 is only liable 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 does not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Condition 5.a. or the Proposed Amount of Insurance.
 - e. The Company is not liable for the content of the Transaction Identification Data, if any.
 - f. The Company is not 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. The Company's liability is further limited by the terms and provisions of the Policy to be issued to the Proposed Insured.

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- 6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT; CHOICE OF LAW AND CHOICE OF FORUM**
- 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 under the State law of the State where the Land is located and is restricted to the terms and provisions of this Commitment. Any litigation or other proceeding brought by the Proposed Insured against the Company must be filed only in a State or federal court having jurisdiction.
 - c. 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 IS 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 closing, settlement, escrow, or any other purpose.
- 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. CLAIMS PROCEDURES**
This Commitment incorporates by reference all Conditions for making a claim in the Policy to be issued to the Proposed Insured. Commitment Condition 9 does not modify the limitations of liability in Commitment Conditions 5 and 6.

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Pursuant to the New Mexico title insurance law Section 59A-30-4 NMSA 1978, and title insurance rule 13.14.18.9 NMAC, no part of any title insurance commitment, policy or endorsement form promulgated by the New Mexico superintendent of insurance may be added to, altered, inserted in or typed upon, deleted or otherwise changed from the title insurance form promulgated by the New Mexico superintendent of insurance, nor issued by a person or company not licensed with regard to the business of title insurance by the New Mexico superintendent of insurance, nor issued by a person or company who does not own, operate or control an approved title abstract plant as defined by New Mexico law and regulations for the county wherein the property is located, except as authorized by law.

Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

Issuing Agent: First American Title Insurance Company
Issuing Office: 9400 Holly Avenue NE, Building 1, Albuquerque, NM 87122
Issuing Office's ALTA® Registry ID: 1156126
Commitment Number: 2571991-AL01
Issuing Office File Number: 2571991-AL01
Property Address: 10850 Golf Course Rd NW, Albuquerque, NM 87114
Revision Number: 3

SCHEDULE A

1. Commitment Date: January 16, 2024 at 8:00 a.m.
2. Policy to be issued:
 - a. ☒ NM Form 1 – Owner's Policy
Proposed Insured: Circle K Stores Inc., a Texas corporation
Proposed Amount of Insurance: \$The amount of the current sales price of the land and any existing improvements appurtenant thereto
The estate or interest to be insured: See Item 3 below
 - b. ☐ NM Form 2 – Loan Policy
Proposed Insured:
Proposed Amount of Insurance: \$
The estate or interest to be insured: See Item 3 below
 - c. ☐
Proposed Insured:
Proposed Amount of Insurance: \$
The estate or interest to be insured: See Item 3 below

3. The estate or interest in the Land at the Commitment Date is:

Leasehold (Parcel 1) and Easement (Parcels 2 and 3)

4. The Title to the Fee Simple Estate is, at the Commitment Date, vested in:

Dennis & George, LLC, a New Mexico limited liability company


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5. The Land is described as follows:

See Exhibit A attached hereto and made a part hereof

First American Title Insurance Company

By: 

Authorized Signatory

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Commitment No. 2571991-AL01

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. Intentionally Omitted
6. Record a Release of the Construction Deed of Trust executed by the Mortgagee/Lender named in the Deed of Trust from Dennis & George, LLC, a New Mexico limited liability company, as Grantor, to Old Republic National Title Insurance Company, as Trustee, for the benefit of Nusenda Federal Credit Union, as Lender or Beneficiary, filed August 5, 2022, recorded as Document No. [2022072638](#), records of Bernalillo County, New Mexico. Said Deed of Trust having been modified by Modification of Deed of Trust, filed November 6, 2023, recorded as Document No. [2023070736](#), records of Bernalillo County, New Mexico.
7. Record a Release of the Assignment of Rents executed by RS Golf Course, LLC, a Texas limited liability company to Nusenda Federal Credit Union, filed August 5, 2022, recorded in [2022072639](#), records of Bernalillo County, New Mexico.
8. Provide a copy of the Articles of Organization and Operating Agreement of Dennis & George, LLC, a New Mexico limited liability company, to First American Title Insurance Company for review and evaluation. Upon examination of the required document, additional exceptions and/or requirements may be made.
9. Provide a copy of the Articles of Incorporation, By-Laws and Certificate of Good Standing of Circle K Stores, Inc., to First American Title Insurance Company for review and evaluation. Upon examination of the required document, additional exceptions and/or requirements may be made.

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10. Provide to First American Title Insurance Company for review and evaluation, a certified copy of the Resolution from the Board of Directors of Circle K Stores, Inc., certified by the Presiding Officer and Secretary, which Resolution shall recite the approval of the directors as to the purchase of the Land, and further shall name the person or persons authorized to execute any documents on behalf of Circle K Stores, Inc.. Upon examination of the required document, additional exceptions and/or requirements may be made.
11. Intentionally Omitted
12. Furnish Plat of Survey which contains certification that said survey is made in accordance with "minimum standard detail requirements for ALTA/NSPS Land Title Surveys", together with Items 1, 2, 4, 6, 7, 8, 9, 10, 11, 13, 16, 17, 18 and 19 of Table "A", as defined therein, by a Registered Civil Engineer or Registered Land Surveyor, showing proper ties to locating monuments, location of the improvements on the Land, easements, or rights-of-way, over or under the Land, together with any encroachments or projections, fences, or any other matters affecting the use and occupancy of the Land, and certification by said surveyor or that there are no other easements or rights-of-way in use or in evidence, over or under the Land, nor any encroachment of improvements onto contiguous property by the improvements located on the Land nor any encroachment of improvements from adjoining property onto the Land other than those shown on said plat. (Note: This requirement is only applicable if the proposed Insured, herein, is requesting deletion of Schedule B, standard exceptions 2 and 3.) Upon examination, additional exceptions and/or requirements may be made.
13. **Provide to Company an executed Owners Affidavit which includes affirmative statement that any improvements made upon the Land within the past 120 days have been paid in full. Upon examination of the required document, additional exceptions and/or requirements may be made.**
14. Record a Quitclaim Deed executed by The City of Albuquerque, a municipal corporation, to Dennis & George, LLC, a New Mexico limited liability company. This deed is required to convey land added as a result of the realignment of Golf Course Road, as shown on plat filed June 25, 1974, in Plat Book D6, Page 61, and on plat filed June 2, 2009, in [Plat Book 2009C, Page 83](#), records of Bernalillo County, New Mexico.
15. Record a Warranty Deed executed by Dennis & George, LLC, a New Mexico limited liability company, to RS Golf Course, LLC, a Texas limited liability company.
16. Record a Lease or memorandum thereof executed by RS Golf Course, LLC, a Texas limited liability company and Circle K Stores Inc., a Texas corporation.
17. Provide a copy of the Articles of Organization and Operating Agreement of RS Golf Course, LLC, a Texas limited liability company, to First American Title Insurance Company for review and evaluation. Upon examination of the required document, additional exceptions and/or requirements may be made.

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18. Record a Partial Release of the Deed of Trust executed by the Mortgagee/Lender named in the Deed of Trust from Dennis & George, LLC, a New Mexico limited liability company, as Grantor, to Old Republic National Title Insurance Company, as Trustee, for the benefit of Nusenda Federal Credit Union, as Lender or Beneficiary, filed November 1, 2023, recorded as Document No. [2023070125](#), records of Bernalillo County, New Mexico.
19. Record a Partial Release of the Assignment of Rents executed by Dennis & George, LLC, a New Mexico limited liability company to Nusenda Federal Credit Union, filed November 1, 2023, recorded as [2023070126](#), records of Bernalillo County, New Mexico.
20. This title commitment is not effective until schedule A is completed and the company reserves the right to amend and supplement this commitment with additional information, requirements and exceptions based upon the provision of additional information.

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Commitment No. 2571991-AL01

SCHEDULE B, PART II—Exceptions

Standard exceptions 1, 2, 3, and or 4, may be deleted from a policy upon compliance with all provisions of the applicable rules, upon payment of all additional premiums required by the applicable rules, upon receipt of the required documents and upon compliance with the company's underwriting standards for each such deletion. Standard exception 5 may be deleted from the policy if the named insured in the case of an owner's policy, or the vestee, in the case of a leasehold or loan policy, is a corporation, a partnership, or other artificial entity, or a person holding title as trustee.

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.

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

1. Rights or claims of parties in possession not shown by the Public Records.
2. Easements, or claims of easements, not shown by the Public Records.
3. Encroachments, overlaps, conflicts in boundary lines, shortages in area, or other matters which would be disclosed by an accurate survey and inspection of the premises.
4. Any lien, claim or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
5. Community property, survivorship, or homestead rights, if any, of any spouse of the insured (or vestee in a leasehold or Loan Policy).
6. Water rights, claims or Title to water.
7. Taxes for the year 2024, and thereafter.
8. Defects, liens, encumbrances, adverse claims or other matters, if any, created first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.

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9. Reservations contained in Patent from United States of America recorded in [Book 64, Page 412](#), records of Bernalillo County, New Mexico.
10. Covenants, conditions, restrictions, terms, provisions and easements in Protective Covenants, filed February 5, 1974, recorded in Book Misc. 352, Page 408, as Document No. [92932](#), and in Protective Covenants, filed February 5, 1974, recorded in Book Misc. 352, Page 412, as Document No. [92933](#), records of Bernalillo County, New Mexico, 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).
11. Public utility easements, public water and sanitary sewer easements, and blanket cross access and drainage easement, reserved across the Land, covenants and conditions as shown and noted on the recorded plat, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on December 13, 1966, in [Plat Book D3, Page 154](#); filed June 25, 1974, in [Plat Book D6, Page 61](#); and filed June 2, 2009, in [Plat Book 2009C, Page 83](#).
12. Reservation of 1/2 of all oil, gas, uranium and other minerals as reserved with conditions in Warranty Deed recorded in [Book D-513, page 189](#), records of Bernalillo County, New Mexico. Said Document, by its own term prohibits exploration for minerals or the removal there from as to adversely affect the surface of the ground or any improvements which are or may be placed on the land. Affidavit recorded December 04, 1996, as Document No. [96130372](#); Memorandums of Existence of Oil and Gas Lease filed March 03, 2008, recorded as Documents No. [2008023956](#), [2008023957](#) and [2008023958](#), records of Bernalillo County, New Mexico.
13. Reservations, provisions, covenants and conditions in Warranty Deed, filed May 31, 1983, recorded in Book D185A, Page 675, as Document No. [83 34662](#), records of Bernalillo County, New Mexico.
14. Rights of tenant(s) in the Land, if any, and rights of all parties claiming by, through or under said tenant(s).
15. Failure to comply with the terms and conditions of the Lease, between RS Golf Course, LLC, a Texas limited liability company (Lessor), and Circle K Stores, Inc. (Lessee), filed _____, recorded as Document No. _____, records of Bernalillo County, New Mexico.
16. Easements reserved across the Land, covenants and conditions as shown and noted on the recorded plat, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on December 20, 2023, in [Plat Book 2023C, Page 105](#).
17. Infrastructure Improvements Agreement, filed November 15, 2023, recorded as Document No. [2023072871](#), records of Bernalillo County, New Mexico.

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Commitment No. 2571991-AL01

EXHIBIT A

The Land referred to herein below is situated in the County of Bernalillo, State of New Mexico, and is described as follows:

Parcel 1:

Tract D-1-A, Paradise Heights, Unit I, Albuquerque, Bernalillo County, New Mexico, as shown on the Plat of Tracts D-1-A, D-1-B, D-1-C and D-1-D, Paradise Heights, Unit I, Albuquerque, New Mexico, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on December 20, 2023, in [Plat Book 2023C, Page 105](#), as Document No. 2023080158.

Parcel 2:

Non-exclusive rights of easement for cross access and drainage, under and in accord with the Plat of Tracts D-1, E-1 and AMAFCA Black Arroyo Channel ROW, Paradise Heights, Unit I, Albuquerque, New Mexico, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on June 2, 2009, in [Plat Book 2009C, Page 83](#), as Document No. 2009061460, to the extent of and only for the duration as provided for therein.

Parcel 3:

Non-exclusive rights of easement for private ingress/egress and access, under and in accord with the Plat of Tracts D-1-A, D-1-B, D-1-C and D-1-D, Paradise Heights, Unit I, Albuquerque, New Mexico, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on December 20, 2023, in [Plat Book 2023C, Page 105](#), as Document No. 2023080158, to the extent of and only for the duration as provided for therein.

For informational purposes only address of property per county assessor's tax roll:

10850 Golf Course Rd NW,
Albuquerque, New Mexico 87114

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