



City Council Staff Report

November 17, 2010

CONSENT CALENDAR

Subject: APPROVAL OF TRACT MAP 34165 AND A SUBDIVISION IMPROVEMENT AGREEMENT WITH O & M, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR A 53 LOT RESIDENTIAL SUBDIVISION LOCATED AT THE SOUTHEAST CORNER OF AVENIDA CABALLEROS AND ALEJO ROAD, IN SECTION 14, TOWNSHIP 4 SOUTH, RANGE 4 EAST

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

SUMMARY

Alan C. Hillwig, representing O & M, LLC, a California Limited Liability Company, has prepared a tract map for subdivision of property into fifty three residential lots, located at the southeast corner of Avenida Caballeros and Alejo Road, in Section 14, Township 4 South, Range 4 East. Approval of the tract map will allow the map to be recorded, and construction of residential units to start. This is merely a ministerial action, as required by the Municipal Code and the Subdivision Map Act.

RECOMMENDATION:

1. Adopt Resolution No. _____ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING TRACT MAP 34165 FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF AVENIDA CABALLEROS AND ALEJO ROAD, IN SECTION 14, TOWNSHIP 4 SOUTH, RANGE 4 EAST, AND APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT WITH O & M, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY," and
2. Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

Alan C. Hillwig of Hillwig-Goodrow, Inc., representing O & M, LLC, a California Limited Liability Company, submitted Tract Map 34165 requesting that the property located at

ITEM NO. 2.6.

the southeast corner of Avenida Caballeros and Alejo Road, in Section 14, Township 4 South, Range 4 East, be subdivided into fifty three residential lots on an 8.5 acre site.

At its meeting of March 24, 2010, the Planning Commission recommended approval of Amended Tentative Tract Map 34165, which was subsequently approved by the City Council, subject to conditions, on April 7, 2010.

It has been determined that required conditions have been satisfied, that Tract Map 34165 is in substantial conformance with the approved Amended Tentative Tract Map, and that Tract Map 34165 is ready for City Council approval.

FISCAL IMPACT:

None.

SUBMITTED:

Prepared by:




Marcus L. Fuller
Assistant Director of Public Works

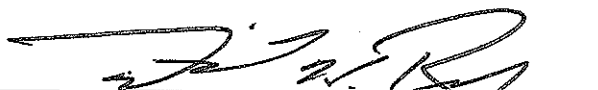
Recommended by:



David J. Barakian
Director of Public Works/City Engineer

Approved by:


Thomas J. Wilson, Asst. City Manager


David H. Ready, City Manager

ATTACHMENTS:

1. Map
2. Subdivision Improvement Agreement
3. Resolution



BASES OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 6, BASED LOCALLY ON CONTROL STATIONS "PSAP" AND "ALRY", AS SHOWN HEREON. ALL BEARINGS SHOWN ON THIS MAP ARE GRID, CHAINED BEARINGS AND DISTANCES FROM REFERENCE ANGLES OR DEEDS ARE AS SHOWN PER THE RECORD REFERENCE. (EPCH 2004.00)

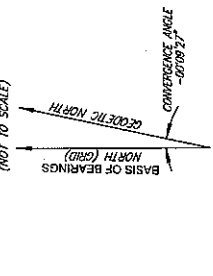
BASES OF COORDINATES

THE BASIS OF COORDINATES FOR THIS SURVEY IS THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 6, BASED LOCALLY ON CONTROL STATIONS "PSAP" AND "ALRY", AS SHOWN HEREON. GRID DISTANCES ARE GRID DISTANCES UNLESS SPECIALLY OTHERWISE INDICATED. GRID DISTANCES MAY BE OBTAINED BY MULTIPLYING THE GRID DISTANCE BY A CONVERSION FACTOR OF 0.999974065.

HORIZONTAL STATE PLANE CONTROL STATIONS

ANO. & U.S.G.S. CALIFORNIA ZONE 6 (GRID) EPOCH 1982.00	POINT 1003
PSAP	N-2945801.227
N-1104046.53	E-6462033.337
N-241807.57	E-6462033.337
N-2945801.227	E-6462033.336

NORTH, GRID & GEODETIC (NOT TO SCALE)



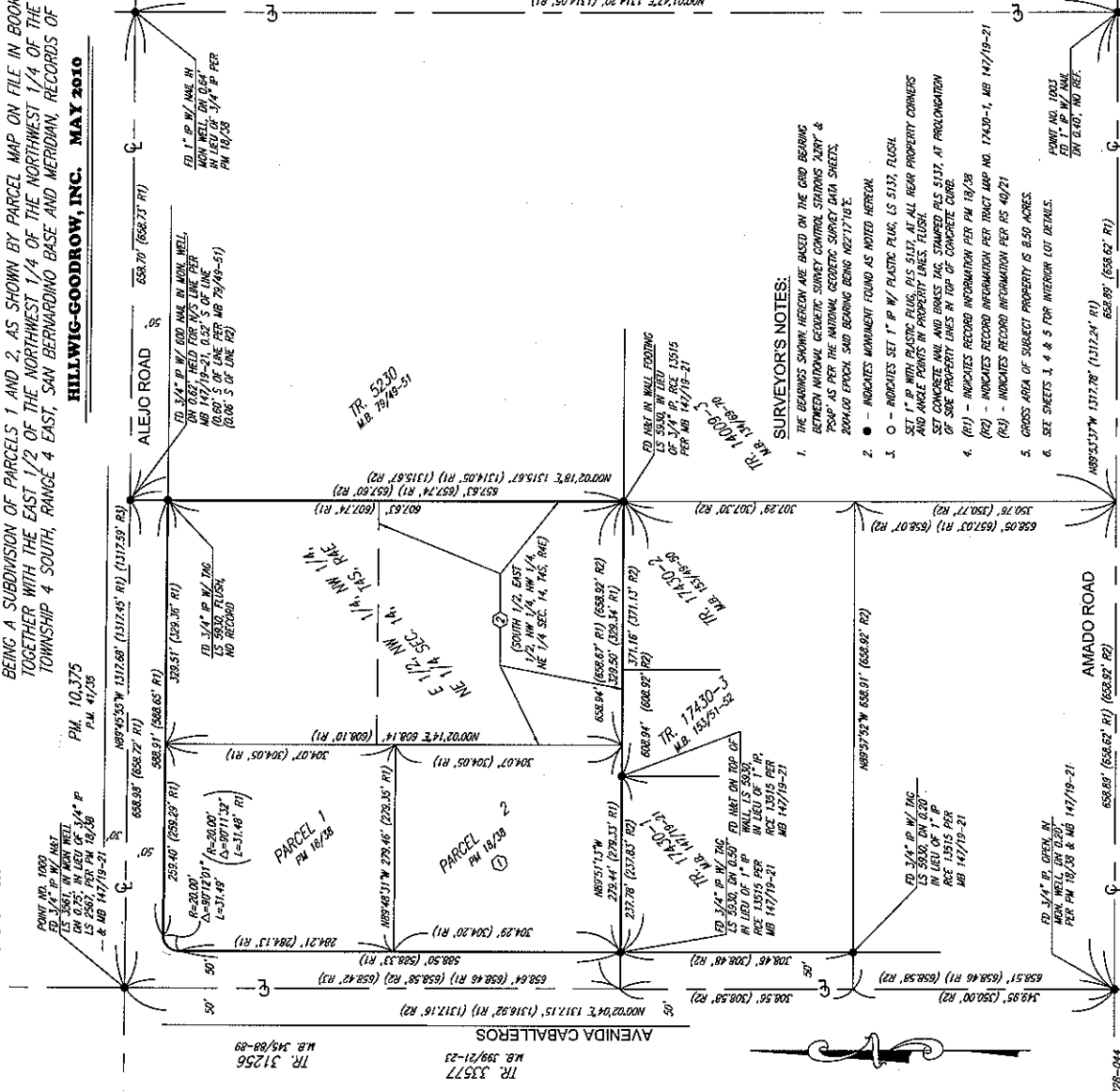
EASEMENT NOTES

- A RIGHT OF WAY FOR ROAD PURPOSES, IN FAVOR OF THE CITY OF PALM SPRINGS PER DOCUMENT RECORDED SEPTEMBER 4, 1968 AS INST. NO. 63702, AND DECEMBER 10, 1971 AS INST. NO. 41276, OFFICIAL RECORDS. (NOT FORTIFIABLE, NOT SHOWN HEREON)
- A RIGHT OF WAY FOR STREETS, HIGHWAYS AND PUBLIC UTILITIES PURPOSES, IN FAVOR OF THE CITY OF PALM SPRINGS PER DOCUMENT RECORDED JUNE 15, 1970 AS INST. NO. 68688, OFFICIAL RECORDS. (LIES WITHIN ALEJO ROAD, NOT SHOWN HEREON)
- A RIGHT OF WAY FOR STREETS, HIGHWAYS AND PUBLIC UTILITIES PURPOSES, IN FAVOR OF THE CITY OF PALM SPRINGS PER DOCUMENT RECORDED JUNE 10, 1967 AS INST. NO. 163179, OFFICIAL RECORDS. (LIES WITHIN ALEJO ROAD, NOT SHOWN HEREON)
- AN EASEMENT FOR PUBLIC UTILITIES IN FAVOR OF SOUTHERN CALIFORNIA GAS COMPANY PER DOCUMENT RECORDED OCTOBER 13, 1975 AS INST. NO. 126642, OFFICIAL RECORDS. (FORMERLY ONET PARCEL 2, P.L. 10730)
- AN EASEMENT FOR PUBLIC UTILITIES, IN FAVOR OF SOUTHERN CALIFORNIA GAS COMPANY PER DOCUMENT RECORDED DECEMBER 21, 1978 AS INST. NO. 268923, OFFICIAL RECORDS. (FORMERLY OIEP S 1/2, E 1/2, NW 1/4, NW 1/4, NE 1/4 SECTION 14)

TRACT MAP NO. 34165

IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
 BEING A SUBDIVISION OF PARCELS 1 AND 2, AS SHOWN BY PARCEL MAP ON FILE IN BOOK 18, PAGE 38 OF PARCEL MAPS, TOGETHER WITH THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

HILLWIG-GOODROW, INC. MAY 2010



SURVEYOR'S NOTES:

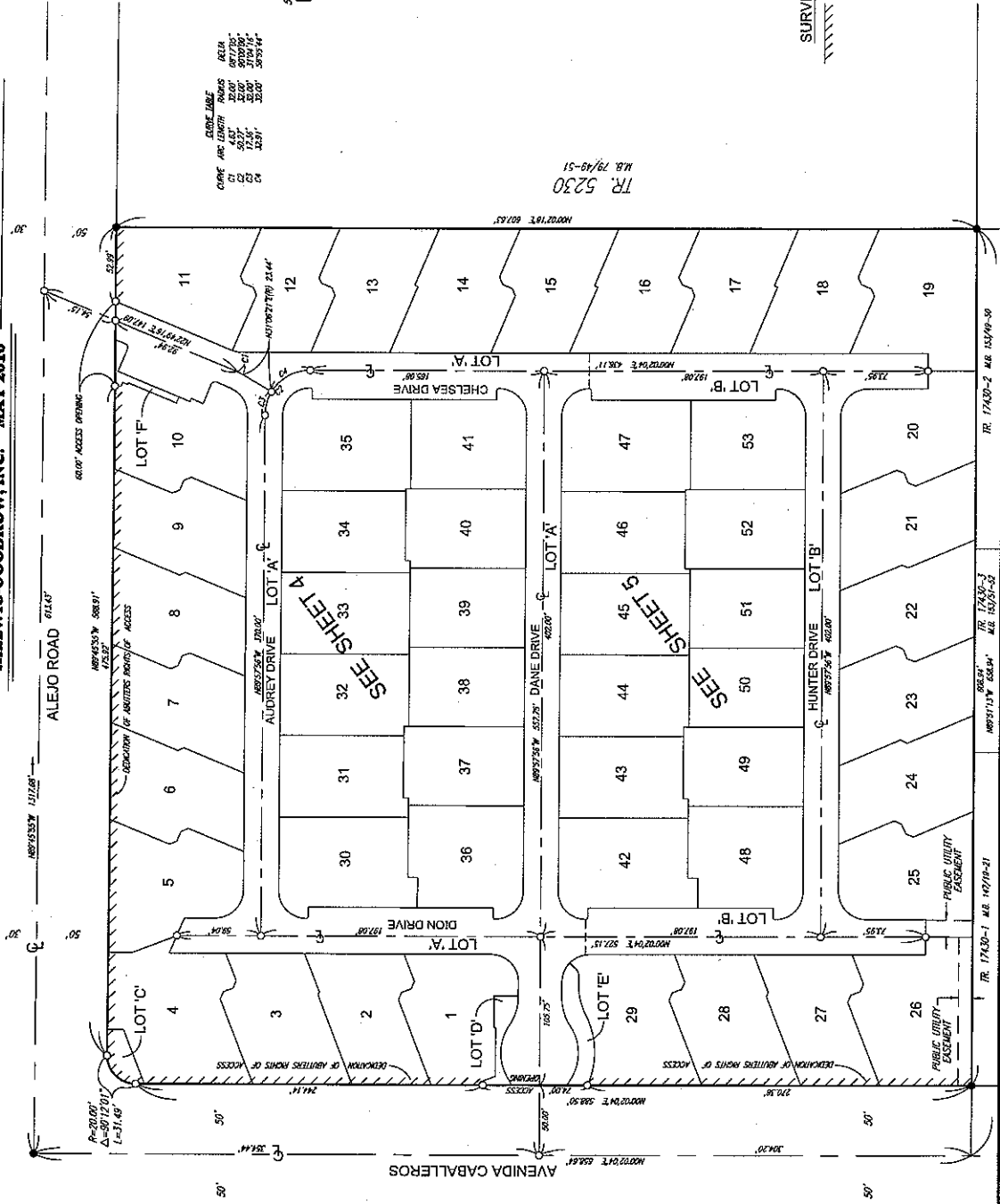
- THE BEARINGS SHOWN HEREON ARE BASED ON THE GRID BEARING BETWEEN NATIONAL GEODETIC SURVEY CONTROL STATIONS "ALRY" & "PSAP" AS PER THE NATIONAL GEODETIC SURVEY DATA SHEETS, 2004.00 EPOCH, SAID BEARING BEING N02°17'19\"/>
- - INDICATES MONUMENT FOUND AS NOTED HEREON
- - INDICATES SET 1" P W/ PLASTIC FLAG, LS 5137, FLUSH
- SET 1" P WITH PLASTIC FLAG, PLS SILEX AT ALL REAR PROPERTY CORNERS AND ANGLE POINTS IN PROPERTY LINES, FLUSH
- SET CONCRETE ANGL AND BRASS TAG, STAMPED PLS 5137, AT PROLONGATION OF SIDE PROPERTY LINES IN TOP OF CONCRETE CURB.
- (R1) - INDICATES RECORD INFORMATION PER PM 18/28
- (R2) - INDICATES RECORD INFORMATION PER TRACT MAP NO. 17450-1, MB 147/19-21
- (R3) - INDICATES RECORD INFORMATION PER RS 40/21
- SET SHEETS 3, 4 & 5 FOR INTERIOR LOT DETAILS.

TRACT MAP NO. 34165

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TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PM 10.375
PAL 41/25

HILLWIG-GOODROW, INC. MAY 2010



SURVEYOR'S NOTES:
INDICATES DEMONSTRATION OF ADJUTERS' RIGHTS OF ACCESS

TR 31256
M.B. 345/88-89

TR 33577
M.B. 389/21-23

IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
TRACT MAP NO. 34165

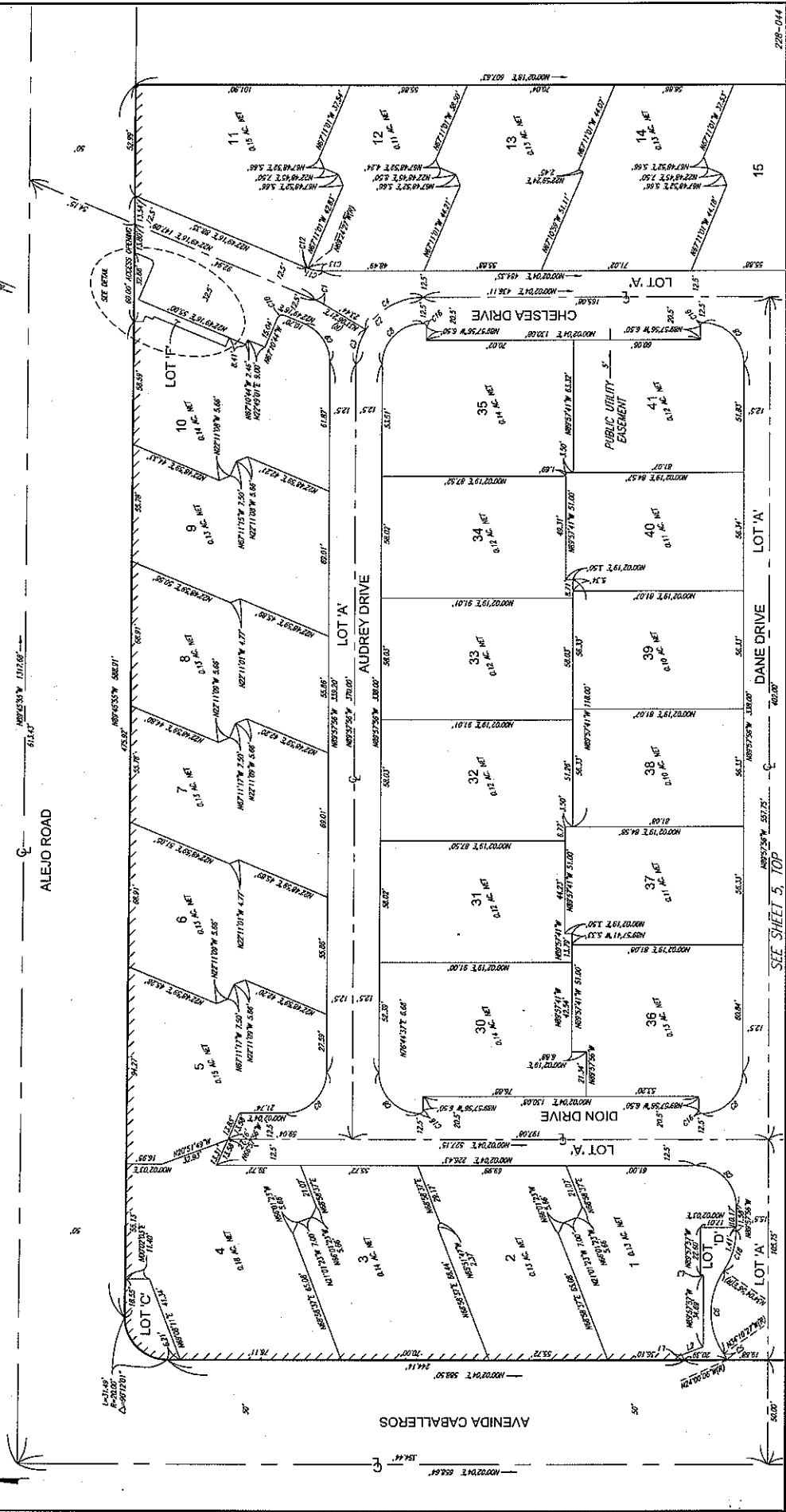
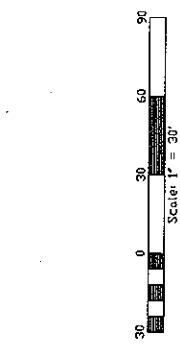
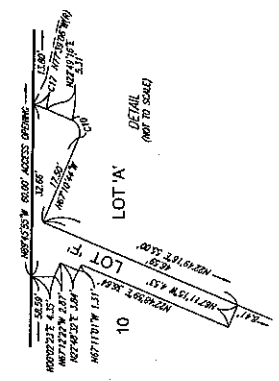
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HILLWIG-GOODROW, INC. MAY 2010

SURVEYOR'S NOTES:

INDICATES RESTRICTED RIGHTS OF ACCESS
 SEE SHEET 5 FOR COURSE TABLES

SHEET 4 OF 5 SHEETS



228-044

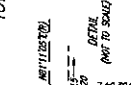
SEE SHEET 5, TOP

IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
TRACT MAP NO. 34165

BEING A SUBDIVISION OF PARCELS 1 AND 2, AS SHOWN BY PARCEL MAP ON FILE IN BOOK 18, PAGE 38 OF PARCEL MAPS, TOGETHER WITH THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

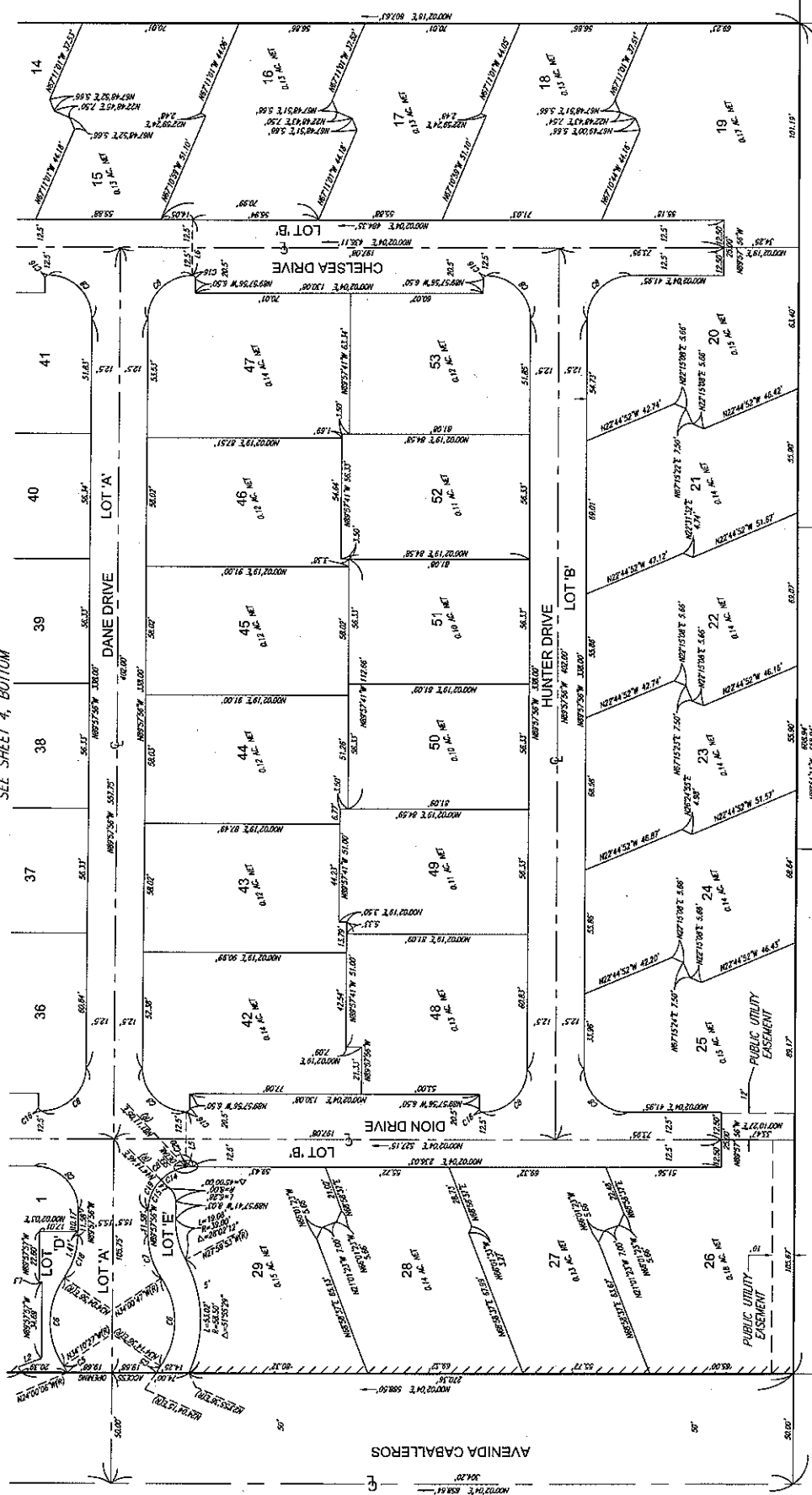
HILLWIG-GOODROW, INC. MAY 2010

CODE	ARC LENGTH	BEAR	ANGLE	RADIUS	CHORD	CHORD BEARING	CHORD DISTANCE
C0	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C1	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C2	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C3	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C4	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C5	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C6	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C7	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C8	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C9	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C10	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C11	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C12	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C13	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C14	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C15	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C16	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C17	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C18	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C19	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00
C20	0.00	0.00°	0.00	0.00	0.00	0.00°	0.00



SURVEYOR'S NOTES:
 // INDICATES RESTRICTED RIGHTS OF ACCESS

SEE SHEET 4, BOTTOM



SUBDIVISION IMPROVEMENT AGREEMENT

by and between

CITY OF PALM SPRINGS

and

O & M, LLC

A CALIFORNIA LIMITED LIABILITY COMPANY

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SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT (this "Agreement") is entered into this _____ day of _____, 2010, by and between the CITY OF PALM SPRINGS, a California charter city ("CITY"), and O & M, LLC, a California Limited Liability Company (Subdivider").

RECITALS

A. Subdivider is the owner of, and has obtained approval of a subdivision map for Tract Map No. 34165 located in the City of Palm Springs, County of Riverside, State of California (the "Property"), as described on Exhibit "A". The map contains conditions of approval for the development of the Property (the "Conditions") as described on Exhibit "B".

B. Pursuant to the Conditions, Subdivider, by the Map, has offered dedication to the City of Palm Springs Lot "C" for street and public utility purposes; easements for public utility purposes with the right of ingress and egress for service and emergency vehicles and personnel within Lots "A" and "B"; easements for public utility purposes, as shown on the map; abutters rights of access to Avenida Caballeros adjacent to Lots 1 through 4, inclusive and Lots 26 through 29, inclusive, all as shown on the map; and abutters rights of access to Alejo Road adjacent to Lots 4 through 11, inclusive, all as shown on the map; and City desires to accept the public dedication as shown on the final map, and certain other improvements described in this Agreement.

C. Subdivider has delivered to City and City has approved plans and specifications and related documents for certain "Works of Improvement" (as hereinafter defined) which are required to be constructed and installed in order to accommodate the development of the Property.

D. Subdivider's agreement to construct and install the Works of Improvement pursuant to this Agreement are a material consideration to City in approving the final map for the Property and permitting development of the Property to proceed.

COVENANTS

Based upon the foregoing Recitals which are incorporated herein by reference and in consideration of City's approving the Map for the Property and permitting development of the Property to proceed, Subdivider agrees to timely perform all of its obligations as set forth herein.

1. Construction Obligations.

1.1 Works of Improvement. Subdivider agrees, at its sole cost and expense, to construct or install or cause to be constructed or installed the street, drainage, domestic

water, sanitary sewer and other improvements (herein sometimes collectively referred to as the "Works of Improvement"), as the same may be supplemented and revised from time to time as set forth herein (said plans and specifications, together with all related documents, are referred to herein as the "Plans"). The estimated construction cost for the Works of Improvement is \$4,059,400.00.

1.2 Other Obligations Referenced in Conditions of Tentative Map Approval. In addition to the foregoing, Subdivider shall satisfy all of the conditions of approval on the Tentative Map for the Property. The conditions of approval associated with the Tentative Map are included as Exhibit "B" attached hereto.

1.3 Intent of Plans. The intent of the Plans referenced in Section 1.1 is to prescribe a complete work of improvement which Subdivider shall perform or cause to be performed in a manner acceptable to the City Engineer (or his/her designee) and in full compliance with all codes and the terms of this Agreement. Subdivider shall complete a functional or operable improvement or facility, even though the Plans may not specifically call out all items of work required for the contractor to complete its tasks, incidental appurtenances, materials, and the like. If any omissions are made or information necessary to carry out the full intent and meaning of the Plans, Subdivider or its contractor shall immediately notify its design engineer who will seek approval of the City Engineer for furnishing of detailed instructions. In the event of any doubt or question arising regarding the true meaning of any of the Plans, reference shall be made to the City Engineer whose decision thereon shall be final.

Subdivider recognizes that the Plans consist of general drawings. All authorized alterations affecting the requirements and information given on the Plans shall be in writing and approved by the City Engineer. The Plans shall be supplemented by such working or shop drawings as are necessary to adequately control the work. Without the City Engineer's prior written approval, no change shall be made by Subdivider or Subdivider's contractor to any plan, specification, or working or shop drawing after it has been stamped as approved.

1.4 Survey Monuments. Before final approval of street improvements, Subdivider will place survey monument(s) as shown on the Map in accordance with the provisions of the State Subdivision Map Act and the Subdivision Ordinance of the City of Palm Springs. Subdivider shall provide security for such obligation as provided in Section 4.1(a)(iii) and, after setting the monument(s), Subdivider shall furnish the City Engineer of the City of Palm Springs written notice of the setting of said monument(s) and written proof of having paid the engineer or surveyor for the setting of said monument(s).

1.5 Performance of Work. Subdivider shall furnish or cause to be furnished all materials, labor, tools, equipment, utilities, transportation, and incidentals required to perform Subdivider's obligations under this Agreement.

1.6 Changes in the Work. The City Engineer, without invalidating this Agreement and without notification to any of the sureties or financial institutions referenced in Paragraph 4, may order extra work or may make changes by altering or deleting any portion of the Works of Improvement as specified herein or as deemed necessary or desirable by the City Engineer as determined necessary to accomplish the purposes of this Agreement and to protect the public health, safety, or welfare. The City Engineer shall notify Subdivider or Subdivider's contractor in writing (by Correction Notice) at the time a determination has been made to require changes in the work. No field changes performed or proposed by Subdivider or its contractor shall be binding on City unless approved in writing by the City Engineer.

1.7 Defective Work. Subdivider shall cause its contractor to repair, reconstruct, replace, or otherwise make acceptable any work found by the City Engineer to be defective.

1.8 No Warranty by City. The Plans for the Works of Improvement have been prepared by or on behalf of Subdivider or its consultants or contractors, and City makes no representation or warranty, express or implied, to Subdivider or to any other person regarding the adequacy of the Plans or related documents.

1.9 Authority of the City Engineer. In addition to the authority granted to the City Engineer elsewhere in this Agreement, the City Engineer shall have the authority to decide all questions which may arise as to the quality and acceptability of materials furnished and work performed, and all questions as to the satisfactory and acceptable fulfillment of the terms of this Agreement by Subdivider and Subdivider's contractor.

1.10 Documents Available at the Site. Subdivider shall cause its contractor to keep a copy of all approved Plans at the job site and shall give access thereto to the City's inspectors and engineers at all times.

1.11 Inspection. Subdivider shall have an authorized representative on the job site at all times during which work is being done who has full authority to act for Subdivider, or its design engineer, and Subdivider's contractor(s) regarding the Works of Improvement. Subdivider shall cause its contractor to furnish the City with every reasonable facility for ascertaining whether or not the Works of Improvement as performed are in accordance with the requirements and intent of this Agreement, including the Plans. If the City inspector requests it, the contractor at any time before acceptance of the Works of Improvement shall remove or uncover such portions of the finished work as may be directed which have not previously been inspected. After examination, the contractor shall restore said portions of the work to the standards required hereunder. Inspection or supervision by the City shall not be considered as direct control of the individual workmen on the job site. City's inspector shall have the authority to stop any and all work not in accordance with the requirements contained or referenced in this Agreement.

The inspection of the work by City shall not relieve Subdivider or the contractor of any obligations to fulfill this Agreement as herein provided, and unsuitable materials or work may be rejected notwithstanding that such materials or work may have been previously overlooked or accepted.

1.12 Compliance With Law. In addition to the express provisions of this Agreement and the Plans, Subdivider shall cause construction of the Works of Improvement to be completed in accordance with all other applicable federal, state, and local laws, ordinances, rules and regulations.

1.13 Suspension of Work. City Engineer shall have authority to order suspension of the work for failure of the contractor to comply with law pursuant to Section 1.11. In case of suspension of work for any cause whatever, Subdivider and its contractor shall be responsible for all materials and shall store them properly if necessary and shall provide suitable drainage and erect temporary structures where necessary.

1.14 Final Acceptance of Works of Improvement. After Subdivider's contractor has completed all of the Works of Improvement, Subdivider shall then request a final inspection of the work. If items are found by the inspector to be incomplete or not in compliance with this Agreement or any of the requirements contained or referenced herein, City will inform the contractor of such items. After the contractor has completed these items, the procedure shall then be the same as specified above for the contractor's initial request for final inspection. If items are found by City's inspector to be incomplete or not in compliance after two (2) "final" inspections, City may require the contractor, as a condition to performing further field inspections, to submit in writing a detailed statement of the work performed subsequent to the date of the previous inspection which was found to be incomplete or not in compliance at that time.

No inspection or acceptance pertaining to specific parts of the Works of Improvement shall be construed as final acceptance of any part until the overall final acceptance by City is made. Final acceptance shall not constitute a waiver by City of defective work subsequently discovered.

The date on which the Works of Improvement will be considered as complete shall be the date of the Notice of Acceptance.

2. Time for Performance.

2.1 Commencement and Completion Dates. Subject to Section 2.2 and 2.3 below, Subdivider shall (i) commence with construction and installation of the Works of Improvement thirty (30) days following City's approval of the Plans ("Commencement Date"); and (ii) complete or cause to be completed all of the Works of Improvement two (2) years after the Commencement Date. Extensions of time for completion of the Works of Improvement may be granted upon approval by the City Engineer or his

designee. Extension of time may be granted upon mutual agreement of the City Engineer and Subdivider, either verbally or in writing, as required by the City Engineer or his designee.

2.2 Phasing Requirements. Notwithstanding the provisions of Section 2.1, City reserves the right to control and regulate the phasing of completion of specific Works of Improvement as required to comply with applicable City ordinances, regulations, and rules relating to the timely provision of public services and facilities. In addition to whatever other remedies City may have for Subdivider's failure to satisfy such phasing requirements, as the same now exist or may be amended from time to time, Subdivider acknowledges City's right to withhold the issuance of further building permits on the Property until such phasing requirements are satisfied. Prior to issuance of building permits, Subdivider shall provide satisfactory evidence that all applicable requirements that are a condition to issuance of building permits have been satisfied. Such requirements may include the payment of fees, construction of improvements, or both. Final inspections or issuance of Certificates of Occupancy may be withheld from the Subdivider by the City, if, upon a determination by the City Engineer or his designee, completion of specific Works of Improvements or other requirements associated with the development of the Property have not been completed to his satisfaction.

2.3 Force Majeure. Notwithstanding the provisions of Section 2.1, Subdivider's time for commencement and completion of the Works of Improvement shall be extended for the period of any enforced delay caused due to circumstances beyond the control and without the fault of Subdivider, including to the extent applicable adverse weather conditions, flood, earthquakes, strikers, lockouts, acts or failures to act of a public agency (including City), required changes to the scope of work required by City, and similar causes; provided, however, that the period of any enforced delay hereunder shall not include any period longer than five (5) days prior to City's receipt of a written notice from Subdivider or its Contractor detailing the grounds for Subdivider's claim to a right to extend its time for performance hereunder. City Engineer shall evaluate all claims to Force Majeure and his decision shall be final.

2.4 Continuous Work. After commencement of construction of the Works of Improvement (or separate portion thereof), Subdivider shall cause such work to be diligently pursued to completion, and shall not abandon the work for a consecutive period or more than thirty (30) days, events of Force Majeure excepted.

2.5 Reversion to Acreage. In addition to whatever other rights City may have due to Subdivider's failure to timely perform its obligations hereunder, Subdivider recognizes that City reserves the right to revert the Property to acreage subject to the limitations and requirements set forth in California Government Code Sections 66499.11-66499.20-3/4. In this regard, Subdivider agrees that if the Works of Improvement have not been completed on or before the later of two (2) years from the date of this Agreement or within the time allowed herein, whichever is the later, and if City thereafter initiates proceedings to revert the Property to acreage, pursuant to

Government Code Section 66499.16 Subdivider hereby consents to reversion and agrees that any improvements made by or on behalf of Subdivider shall not be considered in determining City's authority to revert the Property to acreage.

2.6 Time of the Essence. Time is of the essence of Subdivider's performance of all of its obligations under this Agreement,

3. Labor.

3.1 Labor Standards. Subdivider shall be responsible for causing all contractors and subcontractors performing any of the Works of Improvement to comply with all applicable federal and state labor standards, including to the extent applicable the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor.

3.2 Nondiscrimination. Subdivider agrees that no contractor or subcontractor performing any of the Works of Improvement shall discriminate against any employee or prospective employee with respect to such work in hiring, promotion, seniority, or any other terms and conditions of employment on the grounds of race, creed, color, national origin, ancestry, religion, sex, or marital status.

3.3 Licensed Contractors. Subdivider shall cause all of the Works of Improvement to be constructed by contractors and subcontractors with valid California Contractors' licenses for the type of work being performed.

3.4 Worker's Compensation. Subdivider shall cause every contractor and subcontractor performing any of the Works of Improvement to carry Workers' Compensation Insurance as required by the Labor Code of the State of California and shall cause each such contractor and subcontractor to submit to City a Certificate of Insurance verifying such coverage prior to such contractor or subcontractor entering onto the job site.

4. Security.

4.1 Required Security.

(a) At the time Subdivider executes this Agreement, Subdivider shall furnish to City the following bonds, letters of credit, instruments of credit (assignment of deposit account) or other security acceptable to City in its sole and absolute discretion and satisfying the requirements of the applicable provisions of this Section 4 below (hereinafter "Security Instruments"):

(i) A Security Instrument securing Subdivider's faithful performance of all of the Works of Improvement ("Faithful Performance Security Instrument"), in the amount of

\$4,059,400.00 equal to 100% of the estimated construction cost referenced in Section 1.1.

(ii) A Security Instrument guaranteeing the payment to contractors, subcontractors, and other persons furnishing labor, materials, and/or equipment ("Labor and Materials Security Instrument") with respect to the Works of Improvement in an amount equal to \$2,029,700.00 equal to 50% of the estimated construction cost referenced in Section 1.1.

(iii) A Security Instrument guaranteeing the payment of the cost of setting monuments as required in Section 1.4 in the amount of \$25,950.00 equal to 100% of the cost thereof.

This Agreement shall not be effective for any purpose until such Security Instruments are supplied to and approved by City in accordance herewith.

(b) Required Security Instrument for Maintenance and Warranty. Prior to the City Council's acceptance of the Works of Improvement and recordation of a Notice of Completion, Subdivider shall deliver a Security Instrument warranting the work accepted for a period of one (1) year following said acceptance ("Maintenance and Warranty Security Instrument"), in the amount of \$608,910.00 equal to 15% of the estimated construction cost set forth in Section 1.1 or a suitable amount determined by the City Engineer.

4.2 Form of Security Instruments. All Security Instruments shall be in the amounts required under Section 4.1 (a) or 4.1(b), as applicable, shall meet the following minimum requirements and otherwise shall be in a form provided by City or otherwise approved by the City Attorney:

(a) Bonds. For Security Instruments provided in the form of bonds, any such bond must be issued and executed by an insurance company or bank authorized to transact surety business in the State of California. Any insurance company acting as surety shall have a minimum rating of A-IX, as rated by the current edition of Best's Key Rating Guide published by A.M. Best's Company, Oldwick, New Jersey, 08858. Any bank acting as surety shall have a minimum rating of AA, as rated by Moody's or Standard & Poor's.

(b) Letters of Credit. For Security Instruments which are letters of credit, any letter of credit shall be an original separate unconditional, irrevocable, negotiable and transferable commercial letter of credit issued by a financial institution with offices in the State of California acceptable to City. Any such letter of credit shall specifically permit City to draw on same by unilateral certification of the City Engineer of the City that Subdivider is in default under its payment or performance obligations hereunder or in the event Subdivider fails to deliver a replacement letter of credit not less than thirty (30)

days prior to the date of expiration of any such letter of credit and shall further be subject to the provisions of Section 4.4.

(c) Instrument of Credit. For Security Instruments which are Instruments of Credit, any Instrument of Credit shall be an assignment of deposit account assigning as security to City all of Subdivider's interest in funds on deposit in one or more bank accounts with financial institutions acceptable to City.

(d) General Requirements for all Security Instruments.

(i) Payments under any Security Instruments shall be required to be made (and, with respect to bonds, litigation shall be required to be instituted and maintained) in the City of Palm Springs, State of California (and the Security Instrument shall so provide).

(ii) Each Security Instrument shall have a minimum term of one (1) year after the deadline for Subdivider's completing the Works of Improvement, in accordance with Section 2.1 (other than Instruments of Credit, which shall have no defined term or expiration date).

(iii) Each Security Instrument shall provide that changes may be made in the Works of Improvement pursuant to the terms of this Agreement without notice to any issuer or surety and without affecting the obligations under such Security Instrument.

4.3 Subdivider's Liability. While no action of Subdivider shall be required in order for City to realize on its security under any Security Instrument, Subdivider agrees to cooperate with City to facilitate City's realization under any Security Instrument, and to take no action to prevent City from such realization of any Security Instrument. Notwithstanding the giving of any Security Instrument or the subsequent expiration of any Security Instrument or any failure by any surety or financial institution to perform its obligations with respect thereto, Subdivider shall be personally liable for performance under this Agreement and for payment of the cost of the labor and materials for the improvements required to be constructed or installed hereby and shall, within ten (10) days after written demand therefor, deliver to City such substitute security as City shall require satisfying the requirements in this Section 4.

4.4 Letters of Credit.

(a) In the event a letter of credit is given pursuant to Section 4.2(b), City shall be entitled to draw on any such letter of credit if a replacement letter of credit (expiring in not less than one (1) year, unless City agrees to a lesser term in City's sole and absolute discretion) is not delivered not less than thirty (30) days prior to the expiration of the original letter of credit, such substitute letter of credit being in the same amount and having the terms and conditions as the initial letter of credit delivered hereunder, issued by a financial institution acceptable to City as of the date of delivery of the replacement letter of credit.

(b) In the event of draw by the City on a letter of credit, the City may elect, in its sole and absolute discretion, to apply any such funds drawn to the obligations secured by such letter of credit or to hold such funds in an account under the control of the City, with no interest accruing thereon for the benefit of the Subdivider. If the City elects to hold the funds in an account pursuant to the foregoing, City may thereafter at any time elect instead to apply such funds as provided in the foregoing. Subdivider agrees and hereby grants City a security interest in such account to the extent required for City to realize on its interests therein and agrees to execute and deliver to City any other documents requested by City in order to evidence the creation and perfection of City's security interest in such account.

4.5 Release of Security Instruments.

(a) City shall release the Faithful Performance Security Instrument and Labor and Materials Security Instrument when all of the following have occurred:

(i) Subdivider has made written request for release and provided evidence of satisfaction of all other requirements in this Section 4.5;

(ii) the Works of Improvement have been accepted;

(iii) Subdivider has delivered the Maintenance and Warranty Security Instrument;
and

(iv) subject to the following sentences after passage of the time within which lien claims are required to be made pursuant to Article 3 (commencing with Section 3114) of Chapter 2 of Title 15 of Part IV of Division 3 of the California Civil Code. If lien claims have been timely filed, City shall hold the Labor and Materials Security Instrument until such claims have been resolved, Subdivider has provided a statutory bond, or otherwise as required by applicable law.

(b) City shall release the Maintenance and Warranty Security Instrument upon Subdivider's written request upon the expiration of the warranty period, provided no claims are outstanding at that time regarding defective work.

5. Cost of Construction and Provision of Inspection Service.

5.1 Subdivider Responsible for All Costs of Construction. Subdivider shall be responsible for payment of all costs incurred for construction and installation of the Works of Improvement. In the event Subdivider is entitled to reimbursement from City for any of the Works of Improvement, such reimbursement shall be subject to a separate Reimbursement Agreement to be entered into between Subdivider and City prior to construction of the works.

5.2 Payment to City for Cost of Related Inspection and Engineering Services. Subdivider shall compensate City for all of City's costs reasonably incurred in having its authorized representative make the usual and customary inspections of the Works of Improvement. In addition, Subdivider shall compensate City for all design, plan check, evaluating any proposed or agreed-upon changes in the work. The procedures for deposit and payment of such fees shall be as established by the City Council. In no event shall Subdivider be entitled to additional inspections or a final inspection and acceptance of any of the Works of Improvement until all City fees and charges have been fully paid, including without limitation, charges for applicable penalties and additional required inspections.

6. Acceptance of Offers of Dedication. The City Council shall pass as appropriate resolution or resolutions accepting all offers of dedication shown on the Map for the Property, with acceptance to become effective upon completion and acceptance by City of the Works of Improvement. Such resolution(s) shall authorize the City Clerk to execute the Certificate made a part of the Map regarding said acceptance of the offer of dedication.

7. Warranty of Work. Subdivider shall guarantee all Works of Improvement against defective materials and workmanship for a period of one (1) year from the date of final acceptance. If any of the Works of Improvement should fail or prove defective within said one (1) year period due to any reason other than improper maintenance, or if any settlement of fill or backfill occurs, or should any portion of the Works of Improvement fail to fulfill any requirements of the Plans, Subdivider, within fifteen (15) days after written notice of such defects, or within such shorter time as may reasonably be determined by the City in the event of emergency, shall commence to repair or replace the same together with any other work which may be damaged or displaced in so doing. Should Subdivider fail to remedy defective material and/or workmanship or make replacements or repairs within the period of time set forth above, City may make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by Subdivider. The warranty provided herein shall not be in lieu of, but shall be in addition to, any warranties or other obligations otherwise imposed by law.

8. Default.

8.1 Remedies Not Exclusive. In any case where this Agreement provides a specific remedy to City for a default by Subdivider hereunder, such remedy shall be in addition to, and not exclusive of, City's right to pursue any other administrative, legal, or equitable remedy to which it may be entitled.

8.2 City Right to Perform Work. In addition to whatever other rights or remedies it may have for Subdivider's default hereunder, in the event Subdivider shall fail to timely perform any work required to be performed under this Agreement and such failure shall continue for a period of twenty (20) days after receipt of written notice of

default from City, or thereafter Subdivider shall fail to diligently and continuously pursue the cure of any such default to completion, City shall have the right to enter into the Property and perform any of the uncompleted work by force account or contract or both and thereupon recover from Subdivider or any Security Instrument, or both, the full cost and expense thereby incurred by City.

8.3 Attorney's Fees and Costs. In the event that Subdivider fails to perform any obligation under this Agreement, Subdivider agrees to pay all costs and expenses incurred by City in securing performance of such obligations, including costs of suit and reasonable attorney's fees. In the event of any dispute arising out of Subdivider's performance of its obligations under this Agreement or under any of the Security Instruments referenced herein, the prevailing party in such action, in addition to any other relief which may be granted, shall be entitled to recover its reasonable attorney's fees and costs. Such attorney's fees and cost shall include fees and costs on any appeal, and in addition a party entitled to attorney's fees and costs shall be entitled to all other reasonable costs incurred in investigating such action, taking depositions and discovery, retaining expert witnesses, and all other necessary and related costs with respect to the litigation. All such fees and costs shall be deemed to have accrued on commencement of the action and shall be enforceable whether or not the action is prosecuted to judgment.

9. Indemnity. Subdivider agrees to indemnify, defend, and hold harmless City and City's officers, employees, and agents from and against any and all claims, liabilities, losses, damages, causes of action, and obligations arising out of Subdivider's failure to perform the construction and installation of the Works of Improvement in accordance with the requirements contained or referenced in this Agreement. Said indemnity obligation shall apply to personal injury, death, property damage, economic loss, and any other monetary damage or penalty to which City may be subjected, including without limitation, attorney's fees and costs and the costs of realizing on any Security Instrument provided by Subdivider pursuant to the terms hereof. Such indemnity obligation shall not extend to any loss resulting from City's sole negligence or willful misconduct.

10. General Provisions.

10.1 Successors and Assigns. This Agreement shall be binding upon all successors and assigns to Subdivider's right, title, and interest in and to the Property and any portion thereof.

10.2 No Third Party Beneficiaries. This Agreement is intended to benefit only the parties hereto and their respective successors and assigns. Neither City nor Subdivider intend to create any third party beneficiary rights in this Agreement in any contractor, subcontractor, member of the general public, or other person or entity.

10.3 Entire Agreement; Waivers and Amendments. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to all or part of the subject matter hereof, except as may be expressly provided herein. All waivers of the provisions of this Agreement must be in writing and signed by an authorized representative of the party to be charged, and all amendments hereto must be in writing and signed by the appropriate representatives of both parties.

11. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant the (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into of this Agreement does not violate any provisions of any other Agreement to which said party is bound.

* * * * *

(Signatures on Next Page)

IN WITNESS WHEREOF, the parties hereto have executed this Subdivision Improvement Agreement as of the date first above written.

ATTEST:
CALIFORNIA

CITY OF PALM SPRINGS,

By _____
James Thompson, City Clerk

David H. Ready, City Manager

STANDARD FORM CITY ATTORNEY APPROVED AGREEMENT
RECOMMENDED BY:

David Barakian, City Engineer

SUBDIVIDER:

O & M, LLC, A California Limited Liability Company

Check one: Individual Partnership Corporation* Company

*Note, for Corporations, two corporate officers must sign this Agreement, as indicated below; for all others, authorized agents must sign this Agreement.

By: _____
Signature (notarized)

By: _____
Signature (notarized)

Name: Curtis R. Olson

Name: _____

Title: Managing Member

Title: _____

(For Corporations, this document must be signed in the above space by one of the following: Chairman of the Board, President or any Vice President)

For Corporations, this document must be signed in the above space by one of the following: Secretary, Chief Financial Officer or any Assistant Treasurer)

Mailing Address:

**Curtis R. Olson
c/o Nexus Development Corporation
1 MacArthur Place, Suite 300
South Coast Metro, California 92707**

**(714) 546-5600 telephone
(714) 546-5660 facsimile**

EXHIBIT "A"

TRACT MAP 34165 LEGAL DESCRIPTION

Tract Map No. 34165, as recorded in Map Book _____, Pages _____ through _____ inclusive, records of Riverside County, California.

EXHIBIT "B"

TENTATIVE TRACT MAP 34165 CONDITIONS OF APPROVAL

RESOLUTION NO. _____

EXHIBIT B

Case 5.1082 AMND PDD 321 "Delano" a subdivision of 53 single family attached and detached residences, and TTM AMND 34165
April 7, 2010

Southeast corner of Avenida Caballeros and Alejo Road

CONDITIONS OF APPROVAL

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the City Engineer, the Director of Planning Services, the Director of Building and Safety, the Chief of Police, the Fire Chief or their designee, depending on which department recommended the condition.

Any agreements, easements or covenants required to be entered into shall be in a form approved by the City Attorney.

ADMINISTRATIVE CONDITIONS

- ADM 1. Project Description. This approval is for the project described per Case (5.1082 AMND PDD 321 TTM AMND 34165); except as modified with the approved Mitigation Monitoring Program and the conditions below;
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans, date stamped (March 17, 2010), including site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division and TTM 34165 amended dated 3/17/10, except as modified by the approved Mitigation Measures and conditions below.
- ADM 3. Conform to all Codes and Regulations. The project shall conform to the conditions contained herein, all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, and any other City County, State and Federal Codes, ordinances, resolutions and laws that may apply.
- ADM 4. Minor Deviations. The Director of Planning or designee may approve minor deviations to the project description and approved plans in accordance with the provisions of the Palm Springs Zoning Code.
- ADM 5. Tentative Map. This approval is for an amendment to Tentative Tract Map 34165 located at the southeast corner of Avenida Caballeros and Alejo Road, date stamped 3/17/10. This approval is subject to all applicable regulations of the Subdivision Map Act, the Palm Springs Municipal Code, and any other applicable City Codes, ordinances and resolutions.

ADM 6. Indemnification. The owner shall defend, indemnify, and hold harmless the City of Palm Springs, its agents, officers, and employees from any claim, action, or proceeding against the City of Palm Springs or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Palm Springs, its legislative body, advisory agencies, or administrative officers concerning Case 5.1082 AMND PDD 321 TTM AMND 34165. The City of Palm Springs will promptly notify the applicant of any such claim, action, or proceeding against the City of Palm Springs and the applicant will either undertake defense of the matter and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

ADM 7. Maintenance and Repair. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation all structures, sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.

ADM 8. Time Limit on Approval. Approval of the (Planned Development District (PDD) Tentative Tract Map (TTM) and Major Architectural Applications (MAJ) shall be valid for a period of two (2) years from the effective date of the approval. Extensions of time may be granted by the Planning Commission upon demonstration of good cause.

Extensions of time may be approved pursuant to Code Section 9.63.110. Such extension shall be required in writing and received prior to the expiration of the original approval

ADM 9. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05.00. Permits will not be issued until the appeal period has concluded.

- ADM 10. Public Art Fees. This project shall be subject to Chapters 2.24 and 3.37 of the Municipal Code regarding public art. The project shall either provide public art or payment of an in lieu fee. In the case of the in-lieu fee, the fee shall be based upon the total building permit valuation as calculated pursuant to the valuation table in the Uniform Building Code, the fee being 1/2% for commercial projects or 1/4% for residential projects with first \$100,000 of total building permit valuation for individual single-family units exempt. Should the public art be located on the project site, said location shall be reviewed and approved by the Director of Planning and Zoning and the Public Arts Commission, and the property owner shall enter into a recorded agreement to maintain the art work and protect the public rights of access and viewing.
- ADM 11. Park Development Fees. The developer shall dedicate land or pay a fee in lieu of a dedication, at the option of the City. The in-lieu fee shall be computed pursuant to Ordinance No. 1632, Section IV, by multiplying the area of park to be dedicated by the fair market value of the land being developed plus the cost to acquire and improve the property plus the fair share contribution, less any credit given by the City, as may be reasonably determined by the City based upon the formula contained in Ordinance No. 1632. In accordance with the Ordinance, the following areas or features shall not be eligible for private park credit: golf courses, yards, court areas, setbacks, development edges, slopes in hillside areas (unless the area includes a public trail) landscaped development entries, meandering streams, land held as open space for wildlife habitat, flood retention facilities and circulation improvements such as bicycle, hiking and equestrian trails (unless such systems are directly linked to the City's community-wide system and shown on the City's master plan).
- ADM 12. Community Services District. The Project will bring a significant number of additional residents to the community. The City's existing public safety and recreation services, including police protection, criminal justice, fire protection and suppression, ambulance, paramedic, and other safety services and recreation, library, cultural services are near capacity. Accordingly, the City may determine to form a Community Services District under the authority of Government Code Section 53311 et seq., or other appropriate statutory or municipal authority. Developer agrees to support the formation of such assessment district and shall waive any right to protest, provided that the amount of such assessment shall be established through appropriate study and shall not exceed \$500 annually with a consumer price index escalator. The district shall be formed prior to sale of any lots or a covenant agreement shall be recorded against each parcel, permitting incorporation of the parcel in the district.
- ADM 13. Tribal Fees Required. The project is located on the reservation of the Agua Caliente Band of Cahuilla Indians. Development fees, environmental

conservation plan fees and any other fees as required by the Tribal Council shall be paid prior to issuance of a building permit.

ADM 14. CC&R's The applicant prior to issuance of building permits shall submit a draft declaration of covenants, conditions and restrictions ("CC&R's") to the Director of Planning for approval in a format to be approved by the City Attorney. These CC&R's may be enforceable by the City, shall not be amended without City approval, and shall require maintenance of all property in a good condition and in accordance with all ordinances

ADM 15. CC&R's. Prior to recordation of a final Tentative Tract Map or issuance of building permits, the applicant shall submit a draft declaration of covenants, conditions and restrictions ("CC&R's") to the Director of Planning for approval in a format to be approved by the City Attorney. The draft CC&R package shall include:

- a. The document to convey title
- b. Deed restrictions, easements, of Covenant Conditions and Restrictions to be recorded.
- c. Provisions for joint access to the proposed parcels, and any open space restrictions.
- d. A provision, which provides that the CC&R's may not be terminated or substantially amended without the consent of the City and the developer's successor-in-interest.

Approved CC&R's are to be recorded following approval of the final map. The CC&R's may be enforceable by the City, shall not be amended without City approval, and shall require maintenance of all property in a good condition and in accordance with all ordinances,

ADM 16. CC&R's Deposits & Fees. The applicant shall submit to the City of Palm Springs, a deposit in the amount of \$3,500, for the review of the CC&R's by the City Attorney. A \$675 filing fee shall also be paid to the City Planning Department for administrative review purposes.

ADM 17. Notice to Tenants. The applicant shall provide all tenants with a copy of the Conditions of Approval for this project.

ADM 18. Removal of Green Construction Fencing. The applicant/developer shall be required to remove the temporary construction fencing around the perimeter of the subject property subject to the approval of the Director of Public Works and reinstall construction fencing in conformance with the City of Palm Springs requirements at the commencement of construction activities.

ADM 19. Exterior Lighting Plan. An exterior lighting plan in accordance with Zoning Ordinance Section 93.21.00, Outdoor Lighting Standards, shall be submitted

for review and approval by the Director of Planning Services prior to the issuance of building permits. Manufacturer's cut sheets of all exterior lighting on the project and in the landscaping shall be submitted for approval prior to issuance of a building permit. If lights are proposed to be mounted on buildings, down-lights shall be utilized.

- ADM 20. Perimeter Wall Design Review. The applicant shall submit to the Director of Planning for review and approval by the AAC, the design of the perimeter wall for the subject project for conformance with Section 14 Specific Plan Section 7.2.5; "Fences/Walls" on page 7-11, No wall or fence visible from a street shall extend more than 25 feet horizontally without a visual break created by an articulation and/or architectural detailing in the wall plane facing the street. Include benches and public art on the street-side of the exterior perimeter wall.
- ADM 21. Dust Control. Prior to issuance of a grading permit, a Fugitive Dust and Erosion Control Plan shall be submitted and approved by the City Engineer. Refer to Chapter 8.50 of the Municipal Code for specific requirements.
- ADM 22. Grading Plan. The grading plan shall show the disposition of all cut and fill materials. Limits of site disturbance shall be shown and all disturbed areas shall be fully restored or landscaped.
- ADM 23. Other Approvals Required. Separate architectural approval and permits shall be required for all signs. A detailed sign program shall be submitted for review and approval by the Planning Commission prior to issuance of building permits.

ENVIRONMENTAL ASSESSMENT CONDITIONS

- ENV 1. Coachella Valley Multiple-Species Habitat Conservation Plan (CVMSHCP) Local Development Permit Fee (LDMF). This project is exempt from CVMSHCP LDMF fees.
- ENV 2. California Fish & Game Fees Required. The project is required to pay a fish and game impact fee as defined in Section 711.4 of the California Fish and Game Code. This CFG impact fee plus an administrative fee for filing the action with the County Recorder shall be submitted by the applicant to the City in the form of a money order or a cashier's check payable to the Riverside County Clerk prior to the final City action on the project (either Planning Commission or City Council determination). This fee shall be submitted by the City to the County Clerk with the Notice of Determination. Action on this application shall not be final until such fee is paid. The project may be eligible for exemption or refund of this fee by the California Department of Fish & Game. Applicants may apply for a refund by the CFG at www.dfg.ca.gov for more information.

ENV 3. Mitigation Monitoring. The mitigation measures of the environmental assessment shall apply. The applicant shall submit a signed agreement that the mitigation measures outlined as part of the negative declaration or EIR will be included in the plans prior to Planning Commission consideration of the environmental assessment. Mitigation measures are defined in the approved project description. The mitigation measures of the environmental assessment shall apply. The applicant shall submit a signed agreement that the mitigation measures outlined as part of the mitigated negative declaration will be included in the Planning Commission consideration of the environmental assessment. Mitigation measures are as follows:

MM III-1 To the extent feasible, the project contractor shall use the following equipment and methods to reduce construction emissions:

- A. Measures to mitigate for off-road mobile source emissions (Table 11-3 of SCABMD CEQA Handbook):
 - 1. Methane-fueled pile drivers.
 - 2. Use electricity from power poles rather than temporary diesel or gasoline power generators.
 - 3. Use methanol or natural gas on-site mobile equipment instead of diesel.
 - 4. Use propane or butane-powered on-site mobile equipment instead of gasoline.

- B. To mitigate for PM₁₀ Emissions:
 - 1. Grading
 - a. Apply non-toxic soil stabilizers according to manufacturers' specification to all inactive construction areas (previously graded areas inactive for ten days or more).
 - b. Replace ground cover in disturbed areas as quickly as possible.
 - c. Enclose, cover, water twice daily or apply non-toxic soils binders according to manufacturers' specifications, to exposed piles (i.e., gravel, sand, dirt) with 5% or greater silt content.
 - d. Water active sites at least twice daily.
 - e. Suspend all excavating and grading operations when wind speeds (as instantaneous gusts) exceed 25 mph.
 - f. Monitor for particulate emissions according to District-specified procedures. Contact the District for more information at (714) 396-3600.
 - 2. Paved Roads
 - a. Sweep streets at the end of the day if visible soil

- material is carried onto adjacent public paved roads (recommend water sweepers with reclaimed water).
- b. Install wheel washers where vehicles enter and exit unpaved roads onto paved roads, or wash off trucks and equipment leaving the site each trip.
3. Unpaved Roads
- a. Apply water three times daily, or non-toxic soil stabilizers according to manufacturers' specifications, to all unpaved parking or staging areas or unpaved road surfaces.
 - b. Traffic speeds on all unpaved roads to be reduced to 15 mph or less.
 - c. Pave construction roads that have a traffic volume of more than 50 daily trips by construction equipment, 150 total daily trips for all vehicles.
 - d. Pave all construction access roads at least 100 feet on to the site from the main road.
 - e. Pave construction roads that have a daily traffic volume of more than 50 vehicle trips.

MM III-2 The following measures from the District's Rule 403, Table 1 Best Available Control Measures shall also be implemented. Rule 403 prohibits the release of fugitive dust emissions from any active operation, open storage pile, or disturbed surface area beyond the property line of the emission source:

- A. Stabilize backfill material during handling and at completion of activity.
- B. Pre-water soils prior to cut and fill activities.
- C. Stabilize wind erodible surfaces to reduce dust.
- D. Stabilize surface soils where support equipment and vehicles will operate.
- E. Stabilize disturbed soils throughout the construction site.
- F. Pre-apply water and re-apply water as necessary to maintain soils during earth-moving activities. Visible emissions shall not exceed 100 feet in any direction.
- G. Maintain at least six feet of freeboard on haul vehicles.
- H. Stabilize stockpiled soils.

- I. Limit vehicular travel to establish unpaved roads (haul routes) and unpaved parking lots.

The above measures shall be implemented during all grading and construction phases of the project and enforced/monitored by the City of Palm Springs and the SCAQMD. Implementation of these mitigation measures would reduce construction-related emissions in accordance with the reduction efficiencies shown in Tables 11-3 and 11-4 of the SCAQMD CEQA Handbook. These measures are considered adequate by the District to reduce emissions to less than significant.

MM V-1 As there is always a possibility of buried cultural and paleontological resources in a project area, a Native American Monitor(s) shall be present during all round disturbing activities including clearing and grubbing, excavation, burial of utilities, planting of rooted plants, etc. The Agua Caliente Band of Cahuilla Indian Cultural Office shall be contacted for additional information on the use and availability of Cultural Resource Monitors. Should buried cultural deposits be encountered, the Monitor shall contact the Director of Planning Services. Following consultation, the Director shall have the authority to halt destructive construction and shall notify a qualified archaeologist to investigate the find. If necessary, the qualified archaeologist shall prepare a treatment plan for submission to the State Historic Preservation Officer and Agua Caliente Cultural Resource Coordinator for approval. If human remains are discovered they shall be handled consistent with the state law provisions.

To comply with the City 65 dBA CNEL exterior and 45 dBA CNEL interior noise level standards, the following mitigation measures outlined in the noise study (Endo Engineering, 2005) are required:

MM XI-1 During construction phases, the contractor shall ensure that all construction is performed in accordance with the applicable City of Palm Springs noise standards. This measure shall be added to the construction contract.

MM XI-2 Construction activities on-site should take place only during the hours between 7:00 a.m. and 8:00 p.m., as specified by the Palm Springs Noise Ordinance (11.74.041), to reduce noise impacts during more sensitive time periods. The Construction Site Regulations (Chapter 8.04.220) also identify specific limits on hours of operation for construction equipment as not between 5 p.m. and 8 a.m. if the noise produced is of such intensity or quality that it disturbs the peace and quiet of any other person of normal sensitivity.

MM XI-3 All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and the engines shall be equipped with shrouds.

MM XI-4 All construction equipment shall be in proper working order and maintained in a proper state of tune to reduce backfires.

MM XI-5 Stockpiling and vehicle staging areas shall be located as far as practical from noise sensitive receptors.

MM XI-6 Parking, refueling and servicing operations for all heavy equipment and on-site construction vehicles shall be located as far as practical from existing homes.

MM XI-7 Every effort shall be made during construction activities to create the greatest distance between noise sources and noise-sensitive receptors located in the vicinity of the project site.

MM XI-8 Stationary equipment should be placed such that emitted noise is directed away from noise-sensitive receptors.

MM XI-9 The residential uses proposed adjacent to Avenida Caballeros and Alejo Road shall include a 6.0 foot perimeter wall, or shall be evaluated by a qualified noise consultant at more detailed levels of planning to ensure that adequate noise attenuation measures are incorporated in the project design to meet the City of Palm Springs noise standards (65 CNEL in outside activity areas and 45 CNEL in interior living areas) and the California Noise Insulation Standards. The applicant shall demonstrate to the satisfaction of the City that the required shielding shall be incorporated in the project design, prior to the issuance of building permits.

MM XI-10 All internal combustion-powered equipment shall be equipped with properly operating mufflers and kept properly tuned to alleviate backfires. This measure shall be added to the construction contract.

To comply with City ordinance and policy requirements, the following mitigation measures outlined in the project traffic study (Endo Engineering, 2005) are required.

MM XV-1 The project proponent shall dedicate appropriate right-of-way to accommodate the ultimate improvement of the master planned roadways (Alejo Road and Avenida Caballeros) adjacent to the project site. This shall include the right-of-way dedication of the property line corner cutback dedication required at the northwest corner of the site to accommodate a curb ramp.

MM XV-2 The master planned roadways (Alejo Road and Avenida Caballeros) shall be improved adjacent to the site, to the design standards identified in the Section 14 Specific Plan, as required by the City of Palm Springs.

MM XV-3 The project proponent will comply with the Section 14 Specific Plan requirements regarding the master planned bikeways adjacent to the site along Avenida Caballeros.

MM XV-4 Sufficient off-street parking shall be provided on-site to meet the requirements of the Palm Springs Municipal Code.

MM XV-5 The project proponent shall contribute traffic impact mitigation fees, by participating in the Traffic Uniform Mitigation Fee (TUMF) program.

The following mitigation measures are recommended to reduce potential circulation and/or site access impacts associated with the proposed project:

MM XV-6 To insure compliance with City access and design standards, the final building and parking layout and site access design shall be subject to the review and approval of the City Traffic Engineer, as part of the development review process.

MM XV-7 Clear unobstructed sight distance shall be provided at the unsignalized site driveway on Avenida Caballeros.

MM XV-8 The project proponent shall be required to contribute 100 percent of the cost of the following circulation improvements in conjunction with the development of the proposed project:

- A. Avenida Caballeros – The Applicant shall modify or remove the raised median on Avenida Caballeros, south of Alejo Road, as required by the City Engineer.
- B. Avenida Caballeros - Since the site has 610 feet of frontage on Avenida Caballeros, the TWLTL may be extended beyond the site access, to function as a median refuge for motorists making westbound left turns out of the project site.
- C. Avenida Caballeros - The southern terminal treatment for introduction of the TWLTL shall be developed by simple northbound through-lane approach taper widening from the basic 2- or 4-lane cross section on Avenida Caballeros. This taper will cause all vehicles to transition laterally and shall be moderately long (approximately 150 feet long assuming 35 mph) to shift the northbound through lanes laterally 6 feet and provide a full shadowed 12-foot wide TWLTL.
- D. Avenida Caballeros - Construct a single westbound exit lane and a single entry lane at the site access.

- E. Avenida Caballeros - Install a STOP sign facing exiting site traffic.
- F. Avenida Caballeros - Construct a meandering 5-foot pedestrian/jogging path, a 10-foot meandering Class I bikeway within a 28-foot landscaped parkway along the east side of Avenida Caballeros, as specified in the Section 14 Master Development Plan/Specific Plan.
- G. Alejo Road - Construct a 6-foot Class II bikeway and a 6-foot meandering sidewalk within a 20-foot wide parkway on the south side of the Alejo Road adjacent to the project site, as specified in the Section 14 Master Development Plan/Specific Plan.

ENV 4. Reimburse City for Monitoring Expenses. The developer shall reimburse the City for the City's costs incurred in monitoring the developer's compliance with the conditions of approval and mitigation monitoring program, including, but not limited to inspections and review of developers operations and activities for compliance with all applicable dust and noise operations, and cultural resource mitigation. This condition of approval is supplemental and in addition to normal building permit and public improvement permits that may be required pursuant to the Palm Springs Municipal Code.

ENV 5. Cultural Resource Survey Required. Prior to any ground disturbing activity, including clearing and grubbing, installation of utilities, and/or any construction related excavation, an Archaeologist qualified according to the Secretary of the Interior's Standards and Guidelines, shall be employed to survey the area for the presence of cultural resources identifiable on the ground surface.

ENV 6. Cultural Resource Site Monitoring. There is a possibility of buried cultural or Native American tribal resources on the site. A Native American Monitor shall be present during all ground-disturbing activities. (check for duplication in engineering conditions)

a). A Native American Monitor(s) shall be present during all ground disturbing activities including clearing and grubbing, excavation, burial of utilities, planting of rooted plants, etc. Contact the Agua Caliente Band of Cahuilla Indian Cultural Office for additional information on the use and availability of Cultural Resource Monitors. Should buried cultural deposits be encountered, the Monitor shall contact the Director of Planning. After consultation the Director shall have the authority to halt destructive construction and shall notify a Qualified Archaeologist to further investigate the site. If necessary, the Qualified Archaeologist shall prepare a treatment plan for submission to the State Historic Preservation Officer and Agua Caliente Cultural Resource Coordinator for approval.

b). Two copies of any cultural resource documentation generated in connection with this project, including reports of investigations, record search results and site records/updates shall be forwarded to the Tribal Planning, Building, and Engineering Department and one copy to the City Planning Department prior to final inspection.

PLANNING DEPARTMENT CONDITIONS

- PLN 1. Outdoor Lighting Conformance. Exterior lighting plans, including a photometric site plan showing the project's conformance with Section 93.21.00 Outdoor Lighting Standards of the Palm Springs Zoning ordinance, shall be submitted for approval by the Department of Planning prior to issuance of a building permit. Manufacturer's cut sheets of all exterior lighting on the building and in the landscaping shall be included. If lights are proposed to be mounted on buildings, down-lights shall be utilized. No lighting of hillsides is permitted.
- PLN 2. Water Efficient Landscaping Conformance. The project is subject to the Water Efficient Landscape Ordinance (Chapter 8.60.00) of the Palm Springs Municipal Code and the State of California Water Efficient Landscape Ordinances. The applicant shall submit a landscape and irrigation plan to the Director of Planning for review and approval prior to the issuance of a building permit that has been certified as conforming to the State Landscape Ordinance. Landscape plans shall also be wet stamped and approved by the Riverside County Agricultural Commissioner's Office prior to submittal. Refer to Chapter 8.60 of the Municipal Code for specific requirements. (See Chapter 8.60.020 for exemptions)
- PLN 3. Flat Roof Requirements. Roof materials on flat roofs must conform to California Title 24 thermal standards for "Cool Roofs". Such roofs must have a minimum initial thermal emittance of 0.75 and minimum initial solar reflectance of 0.70. Only matte (non-specular) roofing is allowed in colors such as beige or tan.
- PLN 4. Maintenance of Awnings & Projections. All awnings shall be maintained and periodically cleaned
- PLN 5. Screen Roof-mounted Equipment. All roof mounted mechanical equipment shall be screened per the requirements of Section 93.03.00 of the Zoning Ordinance.
- PLN 6. Surface Mounted Downspouts Prohibited. No exterior downspouts shall be permitted on any facade on the proposed building(s) that are visible from adjacent streets or residential and commercial areas.

- PLN 7. Pool Enclosure Approval Required. Details of fencing or walls around pools (material and color) and pool equipment areas shall be submitted for approval by the Planning Department prior to issuance of Building Permits.
- PLN 8. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 9. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
- PLN 10. No off-site Parking. Vehicles associated with the operation of the proposed development including company vehicles or employees vehicles shall not be permitted to park off the proposed building site unless a parking management plan has been approved.
- PLN 11. Final Map. Prior to recordation of the final subdivision map, the developer shall submit for review and approval the following documents to the Planning Department which shall demonstrate that the project will be developed and maintained in accordance with the intent and purpose of the approved tentative map:
- a. The document to convey title.
 - b. Deed restrictions, easements, covenant conditions and restrictions that are to be recorded.
 - c. The approved documents shall be recorded at the same time that the subdivision map is recorded. The documents shall contain provisions for joint access to the proposed parcels and open space restrictions. The approved documents shall contain a provision which provides that they may not be terminated or substantially amended without the consent of the City and the developer's successor-in-interest.
- PLN 13 Maintenance Standards. Trash cans shall be screened from view and kept within fifty (50) feet of the street.
- PLN 12. Perimeter Walls. Perimeter walls shall be designed, installed and maintained in compliance with the corner cutback requirements as required in Section 93.02.00.D.
- PLN 13. House Numbers. The street address numbering/lettering shall not exceed eight inches in height.
- PLN 14. Decorative Paving. Work with Tribal Historic Preservation Office on the design of patterns for the decorative pavement areas, incorporating mosaic

patterns of selected Cahuilla symbols or art forms. (Pursuant Specific Plan Section 5.2.13, p. 5-42)

- PLN 15. Section 14 Entry Feature. The location of the entry drive into the proposed project requires the removal of the General Plan and Specific Plan-required landscape median along Avenida Caballeros. As an aesthetic alternative to the landscape medians, provide an entry feature with landscaping, shade trees, seating, and public art at the southeast corner of Avenida Caballeros and Alejo Road on the exterior side of the perimeter wall. (See ENG 7 for further details).

POLICE DEPARTMENT CONDITIONS

- POL 1. Developer shall comply with Section II of Chapter 8.04 "Building Security Codes" of the Palm Springs Municipal Code.

BUILDING DEPARTMENT CONDITIONS

- BLD 1. Prior to any construction on-site, all appropriate permits must be secured.
- BLD 2. Construction of any residential unit shall meet minimum soundproofing requirements prescribed pursuant to Section 1092 and related sections of Title 25 of the California Administrative Code. Compliance shall be demonstrated to the satisfaction of the Director of Building and Safety.
- BLD 3. Prior to the issuance of building permits, locations of all telephone and electrical boxes must be indicated on the building plans and must be completely screened and located in the interior of the building.

ENGINEERING DEPARTMENT CONDITIONS

The Engineering Division recommends that if this application is approved, such approval is subject to the following conditions being completed in compliance with City standards and ordinances.

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the City Engineer.

STREETS

- ENG 1. Any improvements within the public right-of-way require a City of Palm Springs Encroachment Permit.
- ENG 2. Street improvement plans have been submitted to and approved by the City Engineer for this project; refer to Drawing Numbers 5043-1, 5043-2 and 5043-3 on file with the Public Works and Engineering Department. The applicant

shall make revisions to the approved street improvement plans as necessary in accordance with the amended project.

- ENG 3. The applicant shall be required to construct asphalt concrete paving for streets in two separate lifts. The final lift of asphalt concrete pavement shall be postponed until such time that on-site construction activities are complete, as may be determined by the City Engineer. Paving of streets in one lift prior to completion of on-site construction will not be allowed, unless prior authorization has been obtained from the City Engineer. Completion of asphalt concrete paving for streets prior to completion of on-site construction activities, if authorized by the City Engineer, will require additional paving requirements prior to acceptance of the street improvements, including, but not limited to: removal and replacement of damaged asphalt concrete pavement, overlay, slurry seal, or other repairs, as required by the City Engineer.

AVENIDA CABALLEROS

- Map ENG 4. Dedicate abutters rights of access to Avenida Caballeros along the entire frontage of the project, excluding the 74 feet wide access point for the Main Entry; vehicular access to Avenida Caballeros, other than from the Main Entry, shall be prohibited.
- ENG 5. The required street improvements for Avenida Caballeros are identified and shown on the approved street improvement plans; refer to Drawing Numbers 5043-1 and 5043-3 on file with the Public Works and Engineering Department.
- ENG 6. An Opticom or Tomar system (or approved equal) for automatic operation by emergency vehicles, with uninterrupted power supply (battery back-up), shall be installed for the entry gates on Avenida Caballeros, meeting the approval of the Fire Marshall.
- Map ENG 7. Remove the existing raised landscaped median located south of Alejo Road and replace with a minimum pavement section of 5 inches asphalt concrete pavement over 4 inches crushed miscellaneous base with a minimum subgrade of 24 inches at 95% relative compaction, or equal. The applicant shall install public art at the southeast corner of the Avenida Caballeros and Alejo Road intersection. The public art shall be designed as a "Gateway" into Section 14, in accordance with requirements established by the Agua Caliente Band of Cahuilla Indians and the Palm Springs Public Arts Commission. Public art shall be designed in accordance with policies and procedures established by the Palm Springs Public Arts Commission, and shall be subject to approval by the Palm Springs Public Arts Commission prior to its construction and installation. Costs associated with the public art may be credited against any public art fees otherwise due. The applicant shall

dedicate an easement to the City of Palm Springs for installation and maintenance of the public art to be installed at the southeast corner of the Avenida Caballeros and Alejo Road intersection, if installed outside of existing right-of-way.

ENG 7a. Construct a raised, landscaped median island as specified by the City Engineer from south of the entry into the Palomino Tract (Tract Map No. 33577) located on the west side of Avenida Caballeros, to the south property line of the Tract Map No. 34165 project site. Landscaping and irrigation plans for the median shall be submitted to the City Engineer and Department of Parks and Recreation for review and approval, in conjunction with the associated street improvement plans.

ENG 7b. Submit landscaping and irrigation system improvement plans for review and approval by the City Engineer and Department of Parks and Recreation. The irrigation system shall be separately metered from the parkway landscaping to be maintained by the applicant, for future use by the City upon acceptance of the median landscaping by the City. The plans shall be approved in conjunction with the street improvement plans for the median and prior to issuance of a building permit, unless otherwise allowed by the City Engineer.

ENG 7c. All median landscaping shall be guaranteed for a period of 90 days from the date of acceptance by the City Engineer. Any landscaping that fails during the 90-day landscape maintenance period shall be replaced with similar plant material to the satisfaction of the City Engineer, and shall be subject to a subsequent 90-day landscape maintenance period.

ENG 8. All broken or off grade street improvements shall be repaired or replaced.

ALEJO ROAD

Map ENG 9. Dedicate abutters rights of access to Alejo Road along the entire frontage of the project, excluding the 60 feet wide access point for the emergency access; vehicular access to Alejo Road shall be prohibited.

ENG 10. The required street improvements for Alejo Road are identified and shown on the approved street improvement plans; refer to Drawing Numbers 5043-1 and 5043-2 on file with the Public Works and Engineering Department.

ENG 11. Access through the gated driveway on Alejo Road shall be limited to emergency access only. The access shall be gated and locked; and lock box key provided to the Fire Department for emergency access.

ENG 12. All broken or off grade street improvements shall be repaired or replaced.

ON-SITE

- Map ENG 13. Dedicate easements for public utility purposes, with the right of ingress and egress for service and emergency vehicles and personnel over the proposed private streets.
- ENG 14. Nothing shall be constructed or planted in the corner cut-off area of any on-site intersection or driveway which does or will exceed the height required to maintain an appropriate sight distance in accordance with City of Palm Springs Zoning Code Section 93.02.00, D.
- ENG 15. All on-site private streets shall be two-way with a minimum 24 feet wide travelway (as measured from face of curb) where no on-street parking is proposed.
- ENG 16. All on-site private streets shall be two-way with a minimum 32 feet wide travelway (as measured from face of curb) where on-street parallel parking is proposed on one-side of the street.
- ENG 17. All on-site streets shall be constructed with an inverted section with gutters to accept and convey on-site stormwater runoff, in accordance with applicable City Standards.
- ENG 18. DELETED
- ENG 19. DELETED
- ENG 20. All on-site streets shall be constructed with a minimum pavement section of 2½ inches asphalt concrete pavement over 4 inches crushed miscellaneous base with a minimum subgrade of 24 inches at 95% relative compaction, or equal. If an alternative pavement section is proposed, the proposed pavement section shall be designed by a California registered Geotechnical Engineer using "R" values from the project site and submitted to the City Engineer for approval.
- CC&RS
ENG 21. Parking shall be restricted along both sides of the 24 feet wide on-site private streets; and parking shall be restricted along one side of the 32 feet wide on-site private streets, as necessary to maintain a minimum 24 feet wide clear two-way travel way. Regulatory Type R26 "No Parking" signs or red curb shall be installed along the private streets as necessary to enforce parking restrictions. The Home Owners Association (HOA) shall be responsible for regulating and maintaining required no parking restrictions, which shall be included in Covenants, Conditions, and Restrictions (CC&R's) required for the development.

SANITARY SEWER

- ENG 22. Any existing on-site sewer improvements shall be removed as required by the City Engineer.
- ENG 23. All sanitary facilities shall be connected to the public sewer system. New laterals shall not be connected at manholes.
- ENG 24. The required on-site private sewer improvements for the development are identified and shown on the approved private sewer improvement plans that are on file with the Public Works and Engineering Department. Sewer manhole covers shall be identified as "Private Sewer".
- CC&R's
ENG 25. All on-site sewer systems shall be privately maintained by a Home Owners Association (HOA). Provisions for maintenance of the on-site sewer system acceptable to the City Engineer shall be included in the Covenants, Conditions and Restrictions (CC&R's) required for this project.

GRADING

- ENG 26. A Precise Grading and Paving Plan, and a Fugitive Dust Control Plan, have been submitted to and approved by the City Engineer for this project. An updated Fugitive Dust Control Plan meeting all current City requirements shall be submitted to and approved by the City Engineer prior to issuance of a grading permit. The approved Precise Grading and Paving Plan shall be revised as necessary to incorporate the amended site plan, or otherwise a new Precise Grading and Paving Plan shall be submitted for review and approval by the City Engineer.
- ENG 27. Prior to issuance of a Grading Permit, the applicant shall obtain written approval to proceed with construction from the Agua Caliente Band of Cahuilla Indians, Tribal Historic Preservation Officer or Tribal Archaeologist. The applicant shall contact the Tribal Historic Preservation Officer or the Tribal Archaeologist at (760) 699-6800, to determine their requirements, if any, associated with grading or other construction. The applicant is advised to contact the Tribal Historic Preservation Officer or Tribal Archaeologist as early as possible. If required, it is the responsibility of the applicant to coordinate scheduling of Tribal monitors during grading or other construction, and to arrange payment of any required fees associated with Tribal monitoring.
- ENG 28. The existing screen fencing shall be removed from the site within 90 days of approval of the amended Tentative Tract Map 34165 and amended Planned Development District 321, unless construction (rough grading) of the site is otherwise initiated by the applicant prior to that date. The City Engineer may authorize an extension of time related to the removal of the existing fencing if the applicant is demonstrating progress towards plan revisions and permit issuance.

- ENG 29. If the applicant does not initiate construction (rough grading) of the site within 90 days of approval of the amended Tentative Tract Map 34165 and amended Planned Development District 321 (or as may be extended by the City Engineer), the applicant shall re-grade the interior portion of the site where an existing pit is located and shall apply soil stabilizer to all disturbed areas upon completion, as directed by the City Engineer.
- ENG 30. A revised PM-10 Dust Control Plan shall be submitted to and approved by the City Engineer. In accordance with the revised PM-10 Dust Control Plan, the existing green screening shall be removed, and new tan screening shall be installed. Perimeter fencing shall be installed after issuance of a Grading Permit, and immediately prior to commencement of grading operations.
- ENG 31. During active construction, perimeter fence screening shall be appropriately maintained, as required by the City Engineer. Cuts (vents) made into the perimeter fence screening shall not be allowed. Perimeter fencing shall be adequately anchored into the ground to resist wind loading.
- ENG 32. Within 10 days of ceasing all construction activity and when construction activities are not scheduled to occur for at least 30 days, the disturbed areas on-site shall be permanently stabilized, in accordance with Palm Springs Municipal Code Section 8.50.022. Following stabilization of all disturbed areas, perimeter fencing shall be removed, as required by the City Engineer. In the event construction of structures or other improvements on-site represent a potential hazard to the public, perimeter fencing may be allowed to remain, subject to the approval of the City Engineer. In accordance with this condition, the disturbed areas on-site shall be permanently stabilized, in accordance with Palm Springs Municipal Code Section 8.50.022, and the existing perimeter fencing shall be removed, until construction activities resume on the project site.
- Waived by Tribe* ENG 33. Prior to issuance of grading permit, the applicant shall provide verification to the City that the fee has been paid to the Agua Caliente Band of Cahuilla Indians in accordance with the Tribal Habitat Conservation Plan (THCP).
- ENG 34. Drainage swales shall be provided adjacent to all curbs and sidewalks to keep nuisance water from entering the public streets, roadways, or gutters.
- ENG 35. Notice of Intent to comply with the California General Construction Stormwater Permit (Water Quality Order 2009-0009-DWQ as modified September 2, 2009) is required for the proposed development via the California Regional Water Quality Control Board (Phone No. (760) 346-7491). A copy of the executed letter issuing a Waste Discharge Identification (WDID) number shall be provided to the City Engineer prior to issuance of a grading or building permit.

- ENG 36. Projects causing soil disturbance of one acre or more, must comply with the General Permit for Stormwater Discharges Associated with Construction Activity, and shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). A copy of the up-to-date SWPPP shall be kept at the project site and be available for review upon request.
- ENG 37. In accordance with City of Palm Springs Municipal Code, Section 8.50.025 (c), the applicant shall post with the City a cash bond of two thousand dollars (\$2,000.00) per disturbed acre for mitigation measures for erosion/blowsand relating to this property and development.
- ENG 38. A Geotechnical/Soils Report prepared by a California registered Geotechnical Engineer shall be required for and incorporated as an integral part of the grading plan for the proposed development. A copy of the Geotechnical/Soils Report shall be submitted to the Engineering Division with the first submittal of a grading plan.
- ENG 39. The applicant shall provide all necessary geotechnical/soils inspections and testing in accordance with the Geotechnical/Soils Report prepared for the project. All backfill, compaction, and other earthwork shown on the approved grading plan shall be certified by a California registered geotechnical or civil engineer, certifying that all grading was performed in accordance with the Geotechnical/Soils Report prepared for the project. Documentation of all compaction and other soils testing are to be provided. No certificate of occupancy will be issued until the required certification is provided to the City Engineer.
- ENG 40. The applicant shall provide pad elevation certifications for all building pads in conformance with the approved grading plan to the Engineering Division prior to construction of any building foundation.
- ENG 41. In cooperation with the Riverside County Agricultural Commissioner and the California Department of Food and Agriculture Red Imported Fire Ant Project, applicants for grading permits involving a grading plan and involving the export of soil will be required to present a clearance document from a Department of Food and Agriculture representative in the form of an approved "Notification of Intent To Move Soil From or Within Quarantined Areas of Orange, Riverside, and Los Angeles Counties" (RIFA Form CA-1) prior to approval of the Grading Plan. The California Department of Food and Agriculture office is located at 73-710 Fred Waring Drive, Palm Desert (Phone: 760-776-8208).

DRAINAGE

- ENG 42. This project will be required to install measures in accordance with applicable National Pollution Discharge Elimination System (NPDES) Best Management

Practices (BMP's) included as part of the NPDES Permit issued for the Whitewater River Region from the Colorado River Basin Regional Water Quality Control Board (RWQCB). The applicant is advised that installation of BMP's, including mechanical or other means for pre-treating stormwater runoff, will be required by regulations imposed by the RWQCB. It shall be the applicant's responsibility to design and install appropriate BMP's, in accordance with the NPDES Permit, that effectively intercept and pre-treat stormwater runoff from the project site, prior to release to the City's municipal separate storm sewer system ("MS4"), to the satisfaction of the City Engineer and the RWQCB. Such measures shall be designed and installed on-site; and provisions for perpetual maintenance of the measures shall be provided to the satisfaction of the City Engineer.

ENG 43. The required private storm drain improvements for the development are identified and shown on the approved private storm drain improvement plans; refer to Drawing Numbers 5048-1, 5048-2, 5048-3, and 5048-4 on file with the Public Works and Engineering Department.

ENG 44. The applicant may conduct stormwater runoff off-site to the Tachevah Dam Outlet Drain operated and maintained by Riverside County Flood Control and Water Conservation District (RCFC), subject to the review and approval by RCFC. Appropriate post-construction "operational" Best Management Practices (BMP's) shall be incorporated as part of the on-site storm drain system to effectively pre-treat the stormwater runoff prior to its release into the Tachevah Dam Outlet Drain. The applicant shall provide a copy of the encroachment permit issued from RCFC for the storm drain connection, prior to issuance of a construction permit for the on-site private storm drain system.

ENG 45. All on-site storm drain systems shall be privately maintained by a Homeowners Association (HOA). Provisions for maintenance of the on-site storm drain systems acceptable to the City Engineer shall be included in Covenants, Conditions and Restrictions (CC&R's) required for this project.

GENERAL

ENG 46. Any utility trenches or other excavations within existing asphalt concrete pavement of off-site streets required by the proposed development shall be backfilled and repaired in accordance with City of Palm Springs Standard Drawing No. 115. The developer shall be responsible for removing, grinding, paving and/or overlaying existing asphalt concrete pavement of off-site streets as required by and at the discretion of the City Engineer, including additional pavement repairs to pavement repairs made by utility companies for utilities installed for the benefit of the proposed development (i.e. Desert Water Agency, Southern California Edison, Southern California Gas Company, Time Warner, Verizon, etc.). Multiple excavations, trenches, and other street cuts within existing asphalt concrete pavement of off-site streets

required by the proposed development may require complete grinding and asphalt concrete overlay of the affected off-site streets, at the discretion of the City Engineer. The pavement condition of the existing off-site streets shall be returned to a condition equal to or better than existed prior to construction of the proposed development.

- ENG 47. On phases or elements of construction following initial site grading (e.g., sewer, storm drain, or other utility work or fuel pipeline work requiring trenching) associated with this project, the applicant shall be responsible for coordinating the scheduled construction with the Agua Caliente Band of Cahuilla Indians, Tribal Historic Preservation Officer or Tribal Archaeologist. Unless the project site has previously been waived from any requirements for Tribal monitoring, it is the applicant's responsibility to notify the Tribal Historic Preservation Officer or the Tribal Archaeologist at (760) 699-6800, for any subsequent phases or elements of construction that might require Tribal monitoring. If required, it is the responsibility of the applicant to coordinate scheduling of Tribal monitors during construction, and to arrange payment of any required fees associated with Tribal monitoring. Tribal monitoring requirements may extend to off-site construction performed by utility companies on behalf of the applicant (e.g. utility line extensions in off-site streets), which shall be the responsibility of the applicant to coordinate and arrange payment of any required fees for the utility companies.
- ENG 48. All proposed utility lines shall be installed underground.
- ENG 49. In accordance with Chapter 8.04.401 of the City of Palm Springs Municipal Code, all existing and proposed electrical lines of thirty-five thousand volts or less and overhead service drop conductors, and all gas, telephone, television cable service, and similar service wires or lines, which are on-site, abutting, and/or transecting, shall be installed underground unless specific restrictions are shown in General Orders 95 and 128 of the California Public Utilities Commission, and service requirements published by the utilities. The existing overhead utilities extending across the subject property meet the requirement to be installed underground. The overhead utilities shall be installed underground from the nearest off-site pole located north of Alejo Road; no new power poles shall be installed unless otherwise approved by the City Engineer. A letter from the owner(s) of the affected utilities shall be submitted to the Engineering Division prior to approval of any grading plan, informing the City that they have been notified of the City's utility undergrounding requirement and their intent to commence design of utility undergrounding plans. When available, the utility undergrounding plan shall be submitted to the Engineering Division identifying all above ground facilities in the area of the project to be undergrounded. Undergrounding of existing overhead utility lines shall be completed prior to issuance of a certificate of occupancy.

- ENG 50. Upon approval of any improvement plan by the City Engineer, the improvement plan shall be provided to the City in digital format, consisting of a DWG (AutoCAD 2004 drawing file), DXF (AutoCAD ASCII drawing exchange file), and PDF (Adobe Acrobat 6.0 or greater) formats. Variation of the type and format of the digital data to be submitted to the City may be authorized, upon prior approval of the City Engineer.
- ENG 51. The original improvement plans prepared for the proposed development and approved by the City Engineer shall be documented with record drawing "as-built" information and returned to the Engineering Division prior to issuance of a final certificate of occupancy. Any modifications or changes to approved improvement plans shall be submitted to the City Engineer for approval prior to construction.
- ENG 52. Nothing shall be constructed or planted in the corner cut-off area of any intersection or driveway which does or will exceed the height required to maintain an appropriate sight distance per City of Palm Springs Zoning Code Section 93.02.00, D.
- ENG 53. All proposed trees within the public right-of-way and within 10 feet of the public sidewalk and/or curb shall have City approved deep root barriers installed in accordance with City of Palm Springs Standard Drawing No. 904.

MAP

- ENG 54. A Final Map shall be prepared by a California registered Land Surveyor or qualified Civil Engineer and submitted to the Engineering Division for review and approval. A Title Report prepared for subdivision guarantee for the subject property, the traverse closures for the existing parcel and all lots created therefrom, and copies of record documents shall be submitted with the Final Map to the Engineering Division as part of the review of the Map. The Final Map shall be approved by the City Council prior to issuance of building permits.
- ENG 55. A copy of draft Covenants, Conditions and Restrictions (CC&R's) shall be submitted to the City Attorney for review and approval for any restrictions related to the Engineering Division's recommendations. The CC&R's shall be approved by the City Attorney prior to approval of the Final (Parcel) Map, or in the absence of a Final (Parcel) Map, shall be submitted and approved by the City Attorney prior to approval of Final Map.
- ENG 56. Upon approval of a final (parcel) map, the final (parcel) map shall be provided to the City in G.I.S. digital format, consistent with the "Guidelines for G.I.S. Digital Submission" from the Riverside County Transportation and Land Management Agency." G.I.S. digital information shall consist of the following data: California Coordinate System, CCS83 Zone 6 (in U.S. feet); monuments

(ASCII drawing exchange file); lot lines, rights-of-way, and centerlines shown as continuous lines; full map annotation consistent with annotation shown on the map; map number; and map file name. G.I.S. data format shall be provided on a CDROM/DVD containing the following: ArcGIS Geodatabase, ArcView Shapefile, ArcInfo Coverage or Exchange file (e00), DWG (AutoCAD 2004 drawing file), DGN (Microstation drawing file), DXF (AutoCAD ASCII drawing exchange file), and PDF (Adobe Acrobat 6.0 or greater) formats. Variations of the type and format of G.I.S. digital data to be submitted to the City may be authorized, upon prior approval of the City Engineer.

TRAFFIC

- ENG 57. The required signing and striping improvements for the development are identified and shown on the approved signing and striping improvement plans; refer to Drawing Number 5074 on file with the Public Works and Engineering Department.
- ENG 58. All required traffic striping and signage improvements shall be completed in conjunction with required street improvements, to the satisfaction of the City Engineer, and prior to issuance of a certificate of occupancy.
- ENG 59. A minimum of 48 inches of clearance shall be provided on public sidewalks for handicap accessibility. Minimum clearance on public sidewalks shall be provided by either an additional dedication of a sidewalk easement (if necessary) and widening of the sidewalk; or by the relocation of any obstructions within the public sidewalk along the Avenida Caballeros and Alejo Road frontages of the subject property.
- ENG 60. All damaged, destroyed, or modified pavement legends, traffic control devices, signing, and striping associated with the proposed development shall be replaced as required by the City Engineer prior to issuance of a Certificate of Occupancy.
- ENG 61. Construction signing, lighting and barricading shall be provided during all phases of construction as required by City Standards or as directed by the City Engineer. As a minimum, all construction signing, lighting and barricading shall be in accordance with Part 6 "Temporary Traffic Control" of the California Manual on Uniform Traffic Control Devices for Streets and Highways, dated September 26, 2006, or subsequent editions in force at the time of construction.
- ENG 62. This property is subject to the Transportation Uniform Mitigation Fee which shall be paid prior to issuance of building permit.

FIRE DEPARTMENT CONDITIONS

- FID 1. These conditions are subject to final plan check and review. Initial fire department conditions have been determined on the site plan received and stamped 1/11/2010. Additional requirements may be required at that time based on revisions to site plans.
- FID 2. Fire Department Conditions were based on the 2007 California Fire Code. Four complete sets of plans for private fire service mains, fire alarm, or fire sprinkler systems must be submitted at time of the building plan submittal.
- FID 3. **Public Safety CFD:** The Project will bring a significant number of additional residents to the community. The City's existing public safety and recreation services, including police protection, criminal justice, fire protection and suppression, ambulance, paramedic, and other safety services and recreation, library, cultural services are near capacity. Accordingly, the City may determine to form a Community Services District under the authority of Government Code Section 53311 et seq, or other appropriate statutory or municipal authority. Developer agrees to support the formation of such assessment district and shall waive any right to protest, provided that the amount of such assessment shall be established through appropriate study and shall not exceed \$500 annually with a consumer price index escalator. The district shall be formed prior to sale of any lots or a covenant agreement shall be recorded against each parcel, permitting incorporation of the parcel in the district.
- FID 4. **Access During Construction (CFC 503):** Access for firefighting equipment shall be provided to the immediate job site at the start of construction and maintained until all construction is complete. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13'6". Fire Department access roads shall have an all weather driving surface and support a minimum weight of 73,000 lbs.
- FID 5. **Fire Department Access:** Fire Department Access Roads shall be provided and maintained in accordance with (Sections 503 CFC)

Minimum Access Road Dimensions:

1. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet, a greater width for private streets may be required by the City engineer to address traffic engineering, parking, and other issues. The Palm Springs Fire Department requirements for two-way private streets, is a **minimum width of 24 feet** is required for this project, unless otherwise allowed by the City engineer. No parking shall be allowed in either side of the roadway.

2. Main entrance on Avenida Caballeros will require both left and right turn access into the complex for emergency response vehicles.

- FID 6. **Fire Lane Marking (CFC 503.3):** Approved signs or other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs or notices shall be maintained in a clean and legible condition at all times and is replaced or repaired when necessary to provide adequate visibility.
- FID 7. **Reduced Roadway Width:** Areas with reduced roadway width at entry and exit gates, entry and exit approach roads, traffic calming areas that are under 36 feet wide require red painted curb to maintain minimum 24 foot clear width. Red curb shall be stenciled "NO PARKING" and "FIRE LANE" with white paint.
- FID 8. **Fire Apparatus Access Gates (8.04.260 PSMC):** Entrance gates shall have a clear width of at least 15 feet and be equipped with a frangible chain and padlock during construction.
- FID 9. **Security Gates (CFC 503.6):** The installation of security gates across a fire apparatus access road shall be approved by the fire chief. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained at all times.

Secured automated vehicle gates or entries shall utilize approved Knox access switches as required by the fire code official. Secured non-automated vehicle gates or entries shall utilize an approved padlock or chain (maximum link or lock shackle size of ¼ inch) when required by the fire code official.

Residential complexes using secured automated vehicle entry gates or entries **shall utilize a combination of a Tomar strobe-activated switch and an approved Knox key electric switch.**

Gate arms securing parking lots and parking structures shall be equipped with a fire department approved dual-keyed Knox key electric switch. When activated, the arm or arms shall open to allow fire and law enforcement access.

Approved security gates shall be a minimum of **14 feet** in unobstructed drive width on each side with gate in open position and an unobstructed vertical clearance of not less than 13 feet 6 inches. **The entrance gate shown on the plans does not meet this requirement and will need to be widened.**

In the event of a power failure, the gates shall be defaulted or automatically transferred to a fail safe mode allowing the gate to be pushed open without the use of special knowledge or any equipment. If a two-gate system is used, the override switch must open both gates.

- FID 10. **Buildings and Facilities (CFC 503.1.1):** Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. See FID12 for requirements to meet this condition.
- FID 11. **Additional Access Required (CFC 503.1.2):** The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access to multifamily residential and one or two family dwelling where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access roads. The secondary access at Chelsea Drive and Audrey Drive meets this condition.
- FID 12. **DELETED**
- FID 13. **Dimensions (CFC 503.2.1):** Fire apparatus access roads shall have an unobstructed width of not less than 24 feet except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches.
- FID 14. **Surface (CFC 503.2.3):** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus (73,000 lbs. GVW) and shall be surfaced so as to provide all-weather driving capabilities.
- FID 15. **Turning radius (CFC 503.2.4):** The required turning radius of a fire apparatus access road shall be determined by the fire code official. Fire access road turns and corners shall be designed with a minimum inner radius of 25 feet and an outer radius of 43 feet. Radius must be concentric. Main entrance needs modifications for apparatus movements and inter-connectivity to inner roadways for fire department apparatus access to all private roadways within the development.
- FID 16. **Premises Identification (CFC 505.1):** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their

background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4" high with a minimum stroke width of 0.5".

- FID 17. **Key Box Required to be Installed (CFC 506.1):** Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location.
- FID 18. **Location of Knox boxes:** A Knox box shall be installed at every locked gate. Boxes shall be mounted at 5 feet above grade. Show location of boxes on plan elevation views. Show requirement in plan notes.
- FID 19. **Operational Fire Hydrant(s) (CFC 508.1, 508.5.1 & 1412.1):** Operational fire hydrant(s) shall be installed within 250 feet of all combustible construction. They shall be installed and made serviceable prior to and during construction. No landscape planting, walls, or fencing is permitted within 3 feet of fire hydrants, except ground cover plantings.
- FID 20. **Fire Flow (CFC 508.3):** Fire flow requirements for buildings or portions of buildings and facilities are estimated to be 1,500 GPM with the installation of fire sprinklers based on Appendix B of the 2007 CFC.
- FID 21. **Identification (CFC 510.1):** Fire protection equipment shall be identified in an approved manner. Rooms containing controls for air-conditioning systems, sprinkler risers and valves, or other fire detection, suppression or control elements shall be identified for the use of the fire department. Approved signs required to identify fire protection equipment and equipment location, shall be constructed of durable materials, permanently installed and readily visible.
- FID 22. **Fire Sprinklers Required:** An automatic fire sprinkler system is required. Only a C-16 licensed fire sprinkler contractor shall perform system design and installation. The contractor should submit fire sprinkler plans as soon as possible. No portion of the fire sprinkler system may be installed prior to plan approval.
- Exception:** Units 30 – 53 have are single family detached residence under 3,600 SF and will not require fire sprinklers. Applicant has met with the fire department and stated that the covered patios/carports that connected the dwellings is no longer a design component for these units.
- FID 23. **Audible Water Flow Alarms (CFC 903.4.2):** An approved audible sprinkler flow alarm (Wheelock horn/strobe # MT4-115-WH-VFR with WBB back box or equal) shall be provided on the exterior of the building in an approved location. An approved audible sprinkler flow alarm (Wheelock horn/strobe # MT4-115-WH-VFR with WBB back box or equal) to alert the occupants shall be provided in the interior of the building in a normally occupied location.

- FID 24. **Valve and Water-Flow Monitoring (CFC 903.4):** All valves controlling the fire sprinkler system water supply, and all water-flow switches, shall be electrically monitored. All control valves shall be locked in the open position. Valve and water-flow alarm and trouble signals shall be distinctly different and shall be automatically transmitted to an approved central station.
- FID 25. **Fire Alarm System:** Fire alarm system is required and installation shall comply with the requirements of NFPA 72, 2002 Edition.

END OF CONDITIONS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING TRACT MAP 34165 FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF AVENDIA CABALLEROS AND ALEJO ROAD, IN SECTION 14, TOWNSHIP 4 SOUTH, RANGE 4 EAST, AND APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT WITH O & M, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

WHEREAS, the Planning Commission, at its meeting of March 24, 2010, recommended approval of Amended Tentative Tract Map 34165, prepared by Alan C. Hillwig of Hillwig-Goodrow, Inc., representing O & M, LLC, a California Limited Liability Company, for the above described property; and

WHEREAS, the City Council at its meeting of April 7, 2010, approved Amended Tentative Tract Map 34165 subject to conditions; and

WHEREAS, the owners offer for dedication to the City of Palm Springs, easements for public utility purposes with the right of ingress and egress of emergency vehicles over Lots "A" and "B"; an easement for street and public utility purposes over Lot "C"; and abutters rights of access to Avenida Caballeros and Alejo Road.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

1. That Final Map 34165 is in substantial conformance with approved Amended Tentative Tract Map 34165; and
2. That requisite conditions associated with Amended Tentative Tract Map 34165 have been satisfied; and
3. That Final Map 34165 is in conformance with the General Plan; and
4. That Final Map 34165 conforms to all requirements of the Subdivision Map Act of the State of California; and
5. That all offers of dedication to the public on Final Map 34165 shall be accepted by the City Clerk of the City of Palm Springs; and
6. That the City Manager is hereby authorized to enter into a Subdivision Improvement Agreement with the subdivider and to accept subdivision improvement security in conformance with the requirements therein for construction of required public improvements; and
7. That the City Clerk shall cause to have recorded with the Riverside County Recorder the Subdivision Improvement Agreement; and
8. That Final Map 34165 is hereby approved for purposes therein defined.

Resolution No.

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ADOPTED THIS 17th day of November, 2010.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on November 17, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California