



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF COACHELLA

AND

TWENTY-NINE PALMS OF MISSION INDIANS,

**A FEDERALLY RECOGNIZED INDIAN TRIBE LOCATED IN
THE STATE OF CALIFORNIA (THE “TRIBE”)**

REGARDING

**THE MAINTENANCE OF A PORTION OF DILLON ROAD IN THE CITY OF
COACHELLA, COUNTY OF RIVERSIDE**

**ADJACENT TO THE TRIBE’S TRIBAL LANDS LOCATED AT
46-200 HARRISON PLACE, COACHELLA, CALIFORNIA 92236**

JANUARY __, 2024

MEMORANDUM OF UNDERSTANDING

The Memorandum of Understanding (the “**Agreement**”), dated and effective as of January _____, 2024 (the “**Effective Date**”) is entered into by and between (i) **the City of Coachella, California**; and (ii) the **Twenty-Nine Palms Band of Mission Indians**, a Federally recognized Indian Tribe located in the State of California (the “**Tribe**”) with reference to the following facts (the City and the Tribe are referred to collectively as the “**Parties**” and individually as a “**Party**”):

A. The Tribe’s tribal lands include the real property and improvements which are commonly known as 46-200 Harrison Place, Coachella, California 92236, and which are more particularly described in **Exhibit "A"** attached to this Agreement (collectively, the “**Tribe’s Coachella Complex**”). The Tribe’s Coachella Complex consists of federal trust lands of which the Tribe is the beneficial owner, including approximately 53.02 acres of land, existing buildings containing approximately 248,600 square feet of space, an existing parking garage containing approximately 1,200 automobile parking spaces, paved parking lots for approximately 2,301 vehicles, and related real property improvements.

B. The Tribe is presently engaged in various stages of planning for and development of substantial additional improvements to the Tribe’s Coachella Complex (such additional improvements are referred to collectively, the “**Coachella Complex Improvements**”), including (1) a proposed travel center, convenience store, weigh station, truck wash, and automobile and truck fueling facility; and (2) an expansion of the Tribe’s existing “*Spotlight 29 Casino*” (“**Spotlight 29**”) to include a hotel with approximately two hundred guest rooms, dining facilities, and other amenities.

C. In connection with the proposed Coachella Complex Improvements planned by the Tribe, the City and the Tribe have agreed on certain public improvements to be made by the Tribe (collectively, the “**Dillon Road Improvements**”), at the Tribe’s expense, pursuant to the approved street improvement plans which are more particularly described in **Exhibit “D”** attached to this Agreement. The portion of Dillon Road which fronts the Tribe’s Coachella Complex and Spotlight 29 and which is more particularly described in **Exhibit “B”** attached to this Agreement is referred to as the “**Dillon Road Maintenance Area**”.

D. A portion of the Dillon Road Maintenance Area is presently owned by the City, and a portion of the Dillon Road Maintenance Area presently constitutes part of the Tribe’s tribal lands and the Tribe’s Coachella Complex.

E. It is the Tribe’s desire that the Dillon Road Improvements and the appearance, quality, and utility of the Dillon Road Maintenance Area be maintained at a level which is consistent with the high quality of the Tribe’s Coachella Complex, including the Coachella Complex Improvements proposed by the Tribe.

F. The City and the Tribe desire to enter into this Agreement in order to specify, clarify, and revise the division of responsibility between the Parties as to the maintenance, repair, and upkeep of the Dillon Road Maintenance Area and the Parties' respective responsibilities with regard to the maintenance, repair, and upkeep of City Utilities, Drainage Facilities, Existing Water Main, Landscaping, Lighting, Light Signal Facilities, Light Signal/Lighting Utility Service, Median, Other Utilities/Facilities, Pedestrian Facilities, Retaining Walls, Road Surface, Road Striping, Signage, and other structures and improvements located within the Dillon Road Maintenance Area, all on the terms of this Agreement.

THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

SECTION 1 – CERTAIN DEFINITIONS

For purposes of this Agreement, the following terms shall have the following definitions:

1.1 “**Applicable Laws**” means all local, state, and federal statutes, laws, ordinances, rules, requirements, and regulations affecting the Dillon Road Maintenance Area and/or the improvements installed and/or to be installed thereon.

1.2 “**City Utilities**” means all public water, sewer and other utilities currently owned and operated by the City and associated appurtenances such as but not limited to: valves, fire hydrants, manholes, cleanouts, etc., on, under or about the Dillon Road Maintenance Area.

1.3 “**Drainage Facilities**” means, collectively, curbs gutters, and water drainage facilities installed and/or to be installed by the Tribe in the Dillon Road Maintenance Area.

1.4 “**Emergency Circumstance**” means the existence of a condition on the Dillon Road Maintenance Area resulting from a Party's failure to comply with its maintenance and repair obligations under this Agreement, which failure either (a) reasonably creates an emergency or hazardous condition on the Dillon Road Maintenance Area because of an imminent threat of material damage to property or imminent threat of significant injury to any person; or (b) materially interferes with (i) access, ingress, and egress to and from the Tribe's Coachella Complex or (ii) the use and occupancy of the Tribe's Coachella Complex.

1.5 “**Existing Water Main**” means the existing underground water main, which includes but is not limited to existing main lines, valves, fire hydrants, manholes, and which is owned, maintained, and operated by the City along the easterly border of the Tribe's Coachella Complex which fronts Dillon Road.

1.6 “**Landscaping**” means the landscaping and water irrigation system serving such landscaping installed and/or to be installed in the Dillon Road Maintenance Area.

1.7 “**Lighting**” means the public lighting poles and facilities installed and/or to be installed in the Dillon Road Maintenance Area.

1.8 “**Light Signal Facilities**” means the public traffic and pedestrian light signals installed and/or to be installed in the Dillon Road Maintenance Area, including the light signal facilities at the main entrance to the Tribe’s Coachella Complex at the intersection of Lucky Way and Dillon Road.

1.9 “**Light Signal/Lighting Utility Service**” means the electrical utility service installed and to be installed in the Dillon Road Maintenance Area (including transformers, electrical panels, and conduit lines) serving the Light Signal Facilities and Lighting.

1.10 “**Median**” means the median strip installed and/or to be installed in the Dillon Road Maintenance Area by the Tribe.

1.11 “**Other Utilities/Facilities**” means all public utilities as defined by the Public Utilities Commission including but not limited to: electric, gas, telephone, cable television, internet, power poles, etc. installed and/or to be installed in the Dillon Road Maintenance Area, excluding only the facilities described in Sections 1.7, 1.8, and 1.9 above.

1.12 “**Pedestrian Facilities**” means all sidewalks, and ramps placed behind curb and gutter.

1.13 “**Retaining Walls**” means the retaining walls and similar structures installed and/or to be installed in the Dillon Road Maintenance Area.

1.14 “**Road Surface**” means, the asphalt road surface, and does not include any concrete curbs, gutters, cross gutters or drainage inlets associated with installation of raised medians or raised Pedestrian Facilities.

1.15 “**Road Striping**” means the road striping, lane dividers, curb and pavement markets installed and/or to be installed in the Dillon Road Maintenance Area.

1.16 “**Signage**” means all public traffic and other signage installed and/or to be installed in the Dillon Road Maintenance Area, excluding the Light Signal Facilities.

SECTION 2 – MAINTENANCE OF DILLON ROAD MAINTENANCE AREA

2.1 **Tribe’s Maintenance Responsibilities**. Upon completion of the Dillon Road Improvements by the Tribe, the Tribe, at its expense, shall be responsible for the prompt maintenance, repair, and upkeep of the following improvements in a good, workmanlike, and attractive manner and in accordance with all Applicable Laws:

2.1.1 The Lighting;

2.1.2 The Light Signal Facilities, including the reasonable adjustment and control of such Light Signal Facilities when reasonably necessary to accommodate special events at the Tribe's Coachella Complex;

2.1.3 The Light Signal/Lighting Utility Service;

2.1.4 The Median;

2.1.5 The Landscaping;

2.1.6 The Retaining Walls,

2.1.7 Pedestrian Facilities;

2.1.8 The Striping, including any restriping that may be required in the future;

2.1.9 Drainage Facilities; and

2.1.10 If Tribe's maintenance activities under this Agreement, or failure to fulfill such maintenance obligations, result in damage to the Existing Water Main, Road Surface, Signage, or City Utilities, then Tribe shall promptly repair such damage at its sole cost and expense.

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2.2 City's Maintenance Responsibilities. Upon completion of the Dillon Road Improvements by the Tribe, the City, at its expense, shall be responsible for the prompt maintenance, repair, and upkeep of the following improvements in a good, workmanlike, and attractive manner and in accordance with all Applicable Laws:

2.2.1 The Road Surface, including (a) the prompt repair of future potholes in the Road Surface which may occur following the Tribe's initial completion of the Dillon Road Improvements; and (b) the repaving of the Road Surface which may reasonably be required in the future following the Tribe's completion of the Dillon Road Improvements;

2.2.2 The Signage; and

2.2.3 City Utilities.

2.3 Maintenance of Other Utilities/Facilities. Upon completion of the Dillon Road Improvements by the Tribe, the respective Other Utilities/Facilities in the Dillon Road Maintenance Area shall be maintained and repaired by those respective utility companies to the extent that such companies have or would have responsibility for such maintenance and repair in the absence of this Agreement. Notwithstanding anything to the contrary contained in this

Agreement, nothing in this Agreement constitutes, or shall be construed as, the grant or transfer by the Tribe of any permanent easement, right-of-way, or similar interest in favor of the City or any other person or entity for any existing or future use or purpose over, under, across or through all or any part of the Tribe's Coachella Complex or any other of the Tribe's tribal lands. Any future grant or transfer of such any such permanent easement, easements, or other rights are the subject of the City's discussions with the Bureau of Indian Affairs, as described in Section 4.2.2 below.

SECTION 3 – LEGAL RELATIONS AND RESPONSIBILITIES

3.1 Responsibilities to Third Persons or Entities. Nothing contained in this Agreement is intended to or shall be deemed to create duties or obligations on the part of any of the Parties in favor of any third person or entity (each, a "**Non-Party**") or to affect the legal liability of any of the Parties to a Non-Party by imposing any standard of care with respect to the maintenance of the Dillon Road Maintenance Area that is different or varies from the standard of care imposed by Applicable Laws.

3.2 Acts or Omissions by the Tribe. The Tribe shall indemnify, protect, defend (by counsel reasonably acceptable to the City), and hold harmless the City and each of its officers, agents, servants, employees, and independent contractors (the City and all of the other foregoing persons and entities are referred to collectively as the "**City Indemnitees**") from any and all claims, losses, costs, damages, expenses and liabilities (including court costs and reasonable attorneys' fees) (referred to collectively as "**Claims and Liabilities**") arising out of or caused by anything done or omitted to be done by the Tribe under this Agreement, except if and to the extent that any such Claims and Liabilities are proximately caused by the negligence, intentional misconduct, or breach of this Agreement by a City Indemnitee. The provisions of this Section shall survive the termination of this Agreement with respect to any Claims and Liabilities arising in connection with any event occurring prior to such termination.

3.3 Acts or Omissions by the City. The City shall indemnify, protect, defend (by counsel reasonably acceptable to the Tribe), and hold harmless the Tribe and each of its members, officers, agents, servants, employees, and independent contractors (the Tribe and all of the other foregoing persons and entities are referred to collectively as the "**Tribe Indemnitees**") from any and all Claims and Liabilities arising out of or caused by anything done or omitted to be done by the City under this Agreement, except if and to the extent that any such Claims and Liabilities are proximately caused by the negligence, intentional misconduct, or breach of this Agreement by a Tribe Indemnitee. The provisions of this Section shall survive the termination of this Agreement with respect to any Claims and Liabilities arising in connection with any event occurring prior to such termination.

3.4 Tribe - Commercial General Liability Insurance. The Tribe shall at all times maintain commercial general liability insurance on an occurrence basis covering the insured against claims of bodily injury, personal injury and property damage arising out of the Tribe's operations on the Dillon Road Maintenance Area, with a combined general liability policy limit

of at least \$2,000,000.00 per each occurrence and aggregate liability, which combined limit may be satisfied by the limit afforded under the commercial general liability policy, or by such policy in combination with the limits afforded by an umbrella or excess liability policy; provided that the coverage afforded under any such umbrella or excess liability policy is at least as broad in all material respects as that afforded by the underlying commercial general liability policy. Such policy shall name the City as an additional insured, and promptly following the City's written request from time to time, the Tribe shall provide the City with a certificate of liability insurance evidencing the insurance required by this Section.

3.5 City - Commercial General Liability Insurance. The City shall at all times maintain commercial general liability insurance on an occurrence basis form covering the insured against claims of bodily injury, personal injury and property damage arising out of the City's operations on the Dillon Road Maintenance Area, with a combined general liability policy limit of at least \$2,000,000.00 per each occurrence and aggregate liability, which combined limit may be satisfied by the limit afforded under such commercial general liability policy, or by such policy in combination with the limits afforded by an umbrella or excess liability policy; provided that the coverage afforded under any such umbrella or excess liability policy is at least as broad in all material respects as that afforded by the underlying commercial general liability policy. Such policy shall name the Tribe as an additional insured, and promptly following the Tribe's written request, the City shall provide the Tribe with a certificate of liability insurance evidencing the insurance required by this Section.

3.6 General Insurance Requirements. The policies of insurance required to be carried by each of the Parties under this Article 3 (a) shall be issued by an reputable insurance company having a rating of not less than A-X in Best's Insurance Guide (or a comparable rating by another reputable insurance rating service); and (b) be primary insurance as to all claims thereunder and shall be non-contributing with any insurance carried by the other Party. The dollar amounts of insurance coverage to be maintained by each Party pursuant to Sections 3.4 and 3.5 above shall be increased by twenty percent (20%) effective on the tenth (10th) annual anniversary of the Effective Date and every ten (10) years thereafter during the term of this Agreement.

3.7 Prevailing Wage Requirements.

3.7.1 Tribe acknowledges that the City has made no representation, express or implied, to Tribe or any person associated with Tribe regarding whether or not laborers employed relative to the Tribe's maintenance responsibilities described in Section 2 of this Agreement must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to California Labor Code Sections 1720, et seq. Tribe agrees with the City that Tribe shall assume the responsibility and be solely responsible for determining whether or not laborers employed relative to any of the Tribe's maintenance responsibilities described in Section 2 of this Agreement must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to California Labor Code Sections 1720, et seq.

3.7.2. Tribe, on behalf of itself, its successors, and assigns, waives and releases the City from any right of action that may be available to any of them pursuant to California Labor Code Sections 1726 and 1781. Tribe acknowledges the protections of California Civil Code Section 1542 relative to the waiver and release contained in this Section which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

BY INITIALING BELOW, OWNER KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 SOLELY IN CONNECTION WITH THE WAIVERS AND RELEASES OF THIS SECTION:

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3.7.3. Additionally, Tribe shall indemnify, defend with counsel acceptable to the City and hold harmless the City against any claims pursuant to California Labor Code Section 1781 arising from this Agreement, including the maintenance of any improvements on or in the Dillon Road Maintenance Area by the Tribe, in accordance with the terms of Section 3.2 of this Agreement, except if and to the extent that any such claims are caused by the willful and intentional misconduct, or breach of this Agreement by a City Indemnitee.

3.7.4. If Civil Code sections 9550 *et seq.* require contractors to procure a payment bond, then the Tribe shall ensure that its contractors deliver the required bond.

SECTION 4 – MISCELLANEOUS TERMS

4.1 Term of Agreement. This Agreement shall become effective as of the Effective Date and shall remain in full force and effect until terminated upon mutual written agreement executed by each of the Parties.

4.2 Existing Water Main.

4.2.1 The City shall maintain and repair at its sole expense the Existing Water Main, including the prompt repair of any damage to the Road Surface, Drainage Facilities, or Pedestrian Facilities located above Existing Water Main, which damage is caused by the City's maintenance and/or repair of the Existing Water Main.

4.2.2 The Tribe acknowledges that the City is working with the Bureau of Indian Affairs on issues relating to ownership of permanent easement access rights for the City Utilities, including the Existing Water Main. Until such discussions establish an alternative written and binding arrangement for permanent ownership of an easement or easements providing access to the City Utilities, the Tribe agrees that the City shall have an unrestricted license to access, maintain, and repair the City Utilities during the term of, and on the conditions contained in, this Agreement.

4.3 Remedies for Breach of Agreement. Each Party acknowledges and agrees that the loss to such Party which would arise from a breach of this Agreement by the other Party (the “**Breaching Party**”) cannot reasonably or adequately be compensated in monetary damages in an action at law. Therefore, each Party agrees that, in addition to any other rights or remedies it may possess, it shall be entitled to injunctive relief and/or specific performance of the terms of this Agreement to prevent or cure any Party’s breach of its obligations under this Agreement, without posting a bond or other security therefor.

4.4 Remedies of Parties in Emergency Circumstances. If (a) there is an Emergency Circumstance resulting from a Party’s failure to perform any of its maintenance obligations under this Agreement in a timely or reasonably prompt manner; and (b) such Breaching Party does not in fact cure such failure within fifteen (15) days after receipt of written notice to cure from the other Party, which notice reasonably specifies the failure to perform by the Breaching Party and the resulting Emergency Circumstance, then (i) the non-Breaching Party shall have the right to perform such maintenance obligations of the Breaching Party, but without any obligation on the part of the non-Breaching Party to do so; and (ii) the Breaching Party shall reimburse the non-Breaching Party for all reasonable costs incurred by the non-Breaching Party in effectuating such cure within ten (10) days after written demand from the non-Breaching Party for payment, which demand shall be accompanied by reasonable supporting documentation for such costs.

4.5 Reasonable Rights of Access. Each Party shall have reasonable rights of access to the Dillon Road Maintenance Area in order for such Party to perform its obligations under this Agreement; provided, however, that each of Party in performing such obligations shall use its commercially reasonable efforts to not unreasonably interfere with (a) the flow of traffic in the Dillon Road Maintenance Area; (b) access, ingress, and egress to and from the Tribe’s Coachella Complex; and (c) the use and occupancy of the Tribe’s Coachella Complex.

4.6 Notice of Major Repairs by a Party. If a Party, in performing its obligations under this Agreement, proposes to undertake major acts of maintenance or repair which may reasonably be foreseen to result in material disruption to (a) the flow of traffic in the Dillon Road Maintenance Area; OR (b) access, ingress, and egress to and from the Tribe’s Coachella Complex; OR (c) the use and occupancy of the Tribe’s Coachella Complex (such maintenance or repairs are referred to as “**Major Repair Work**”), then such Party shall use its commercially reasonable efforts to give prior written notice of the Major Repair Work (including the nature of the Major Repair Work and the expected dates and duration of the Major Repair Work) to the

other Party not less than fifteen (15) days prior to the commencement of the Major Repair Work, except that such notice shall not be required under emergency circumstances in which the Party performing the Major Repair Work in good faith determines that it is not reasonably practicable to give such prior written notice. Nothing in this Section shall be deemed to require any notification to a Party by the other Party with respect to normal and routine maintenance performed by such Party which does not constitute Major Repair Work.

4.7 Relocation of City Utilities. Subject to the requirements articulated below, the Tribe shall have the right to relocate any or all of the City Utilities (“**Existing Utilities Location**”) while performing the Dillon Road Improvements (such relocation is referred to as the “**City Utility Relocation**,” such relocated utilities are referred to as the “**Relocated City Utilities**”, and such abandoned utilities are referred to as the “**Abandoned City Utilities**”).

4.7.1 The Tribe shall be one hundred percent (100%) financially responsible for the payment of all direct and indirect costs of accomplishing the City Utility Relocation, including engineering design costs and all labor, services, and materials required for the City Utility Relocation.

4.7.2 The Relocated City Utilities must continue to function and provide utility services comparable to the City Utilities service prior to such relocation.

4.7.3 The Tribe will provide written notice to the City (the “**Relocation Notice**”) requesting the ability to relocate the City Utilities. The Relocation Notice shall be accompanied by engineering plans and specifications for the Relocated City Utilities and a schedule for the completion of the work reasonably required to accomplish City Utility Relocation (collectively, the “**Relocation Plans**”) which are acceptable to the City, and the City shall not unreasonably withhold, condition, or delay such acceptance of the Relocation Plans. The City shall provide written notice of its approval or disapproval of the Relocation Plans after the City’s receipt of the Relocation Plans. If the City disapproves the Relocation Plans, the City’s disapproval notice shall include a reasonably detailed description of the changes to the Relocation Plans that the City requires in order for the City to approve and accept the Relocation Plans. The Tribe agrees to revise the Relocation Plan pursuant to City revisions and resubmit the Relocation Plans.

4.7.4 The Relocation Plans shall provide for the City Utility Relocation to be accomplished in a manner that does not unreasonably and adversely disrupt the services provided by the Relocated City Utilities.

4.7.5 Upon the completion of the City Utility Relocation, the City shall continue to have the same rights and obligations under this Agreement with respect to access, repair, and maintenance of the Relocated City Utilities that the City had prior to the City Utility Relocation.

4.7.6 Upon the completion of the City Utility Relocation, the City shall have no further rights of access to or use of the Existing Utility Location. The City will not maintain and/or repair any Abandoned City Utilities located at the Existing Utility Location. The Tribe will be responsible for any remaining Abandoned City Utilities located at the Existing Utility Location. No amendment to this Agreement shall be necessary to effectuate the City Utility Relocation or the terms of this Section 4.7.

4.7.7 The Tribe with indemnify and hold harmless the City for any and all claims relating to the City Utility Relocation and Relocation Plan.

4.8 **Attorneys' Fees.** If either Party institutes an action or proceeding to enforce or interpret the terms or conditions of this Agreement, or arising out of any breach of this Agreement, the prevailing Party in such action shall be entitled to recover from the other Party all reasonable costs and expenses incurred in such action or proceeding, including reasonable attorneys' fees and costs, in addition to any other relief awarded by the court.

4.9 **Entire Agreement; No Waiver.** This Agreement constitutes the entire agreement and understanding between the Parties concerning the subject matter of this Agreement. No waiver by either Party of any of its rights and remedies under this Agreement shall be effective unless such waiver is in writing and signed by the Party charged with the waiver.

4.10 **Modifications by Parties.** This Agreement may be modified only by a written agreement signed by each of the Parties.

4.11 **Governing Law; Limited Waiver.** This Agreement shall be governed by and interpreted under the laws of the State of California, without regard to its conflict of laws provisions. Any dispute, claim, controversy, counterclaim or adjudication directly or indirectly arising out of, in relation to, under or involving this Agreement (“**Dispute**”) shall be governed by Exhibit C.

4.12 **Notices.** All notices given by either Party under this Agreement shall be in writing and shall be delivered personally, by recognized next business day courier service, by facsimile transmission, or by registered or certified mail, return receipt requested at the respective addresses for notice for each Party as set forth in this Agreement. Notice shall be effective on the date of actual delivery (or if actual delivery occurs on other than a business day, on the first (1st) business day following actual delivery, or if delivery is refused, on the date of attempted delivery (or if attempted delivery is on other than a business day, on the first (1st) day after attempted delivery). Each Party may change its addresses for notices by notifying the other Party in accordance with this Section.

All Notices to Owner shall be sent to:

**Twenty-Nine Palms Band of Mission Indians
Attention: Chairman Darrell Mike
46-200 Harrison Place
Coachella California 92236
Fax: 760-863-2449**

-and-

**Twenty-Nine Palms Band of Mission Indians
Attention: Anthony Madrigal, SVP Operations
46-200 Harrison Place, Coachella, CA 92236
Fax: 760-863-2449**

-and-

**Twenty-Nine Palms Band of Mission Indians
Attention: George Nicholas, Jr., Chief Administrative Officer
46-200 Harrison Place, Coachella, CA 92236
Fax: 760-863-2449**

All Notices to the City shall be sent to:

**City of Coachella
Coachella Civic Center
53990 Enterprise Way
Coachella, CA 92236
Fax: (760) 888-1943
Attention: Andrew Simmons, P.E., City Engineer**

4.13 Time of the Essence. Time is of the essence of each provision of this Agreement.

4.14 Authority. Each Party warrants and represents to the other that it has the power and authority to execute, deliver, and perform its obligations under this Agreement, and the person or persons executing this Agreement on behalf of such Party is or are authorized to do so.

4.15 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, voidable or unenforceable for any reason, such provision shall be deemed to be severable from the remaining provisions of this Agreement, and the remaining provisions of this Lease shall continue in full force and effect.

4.16 Descriptive Headings. The headings to sections of this Agreement are for convenient reference only, and they do not in any way limit or amplify any of the terms of this Agreement and shall not be used in interpreting this Agreement. For purposes of this Agreement, the term "including" shall be deemed to mean "including without limitation;" and (b) the term "business day" shall mean any calendar day other than a Saturday, Sunday, or national holiday that is recognized by the United States Federal Government. Whenever the context of this Agreement reasonably requires, all words used in the singular shall be deemed to have been used in the plural, and the neuter gender shall be deemed to include the masculine and feminine gender, and vice versa. The terms and conditions of this Agreement shall be construed according to their fair meaning and not strictly for or against either of the Parties as the party that prepared this Agreement.

4.17 Cumulative Remedies. The Parties' respective rights and remedies under this Agreement are cumulative with and in addition to all other legal and equitable rights and remedies which the parties may have under Applicable Laws.

4.18 Counterparts; Electronic Delivery. The Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Signed copies of the Agreement may be faxed and e-mailed by any Party with the same force and effect as if the originally executed Agreement by such Party had been delivered to the other Party.

[Signatures appear on next page.]

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This Agreement is entered into as of the Effective Date.

TRIBE:

Twenty-Nine Palms Band of Mission Indians

By: _____
Darrell Mike, Chairman

CITY:

City of Coachella

By: _____
**Dr. Gabriel Martin,
City Manager**

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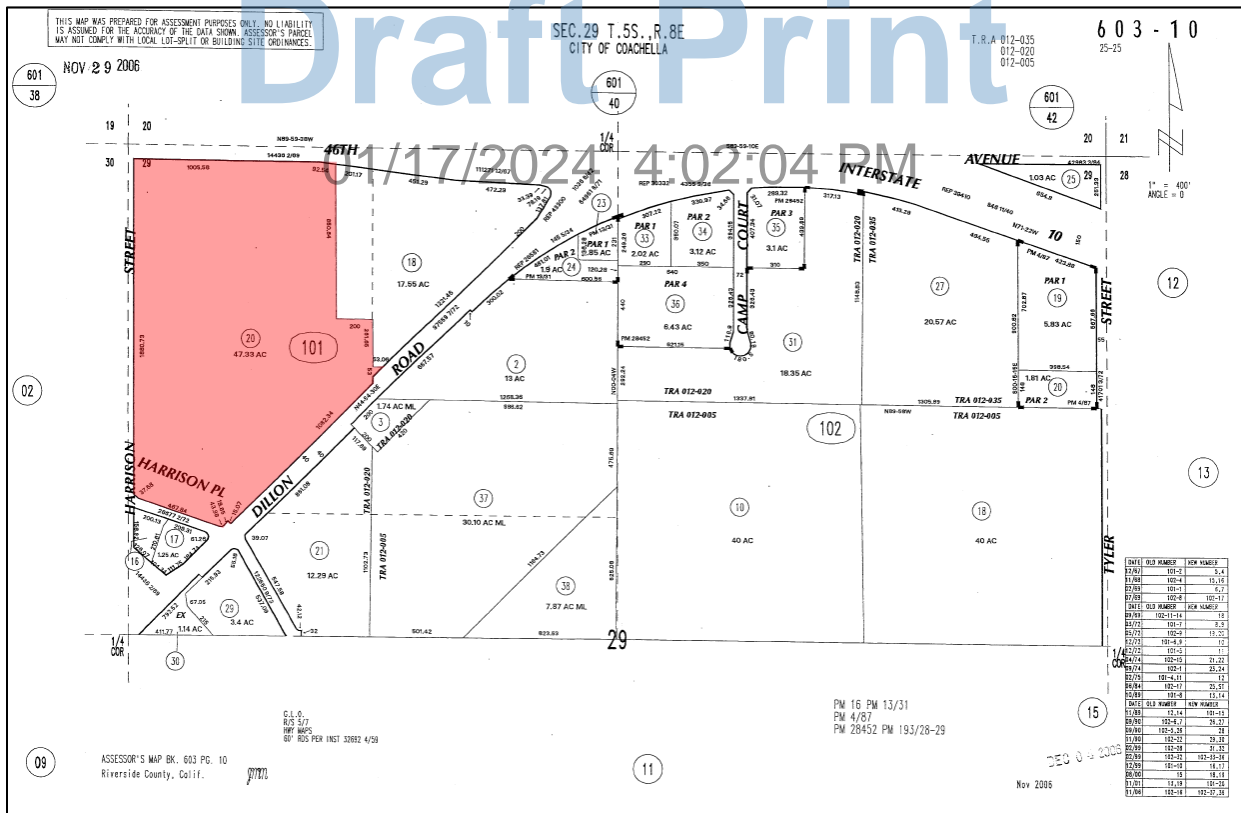
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MEMORANDUM OF UNDERSTANDING

EXHIBIT "A"

DESCRIPTION OF TRIBE'S COACHELLA COMPLEX

THE TRIBE'S COACHELLA COMPLEX CONSIST OF THE FEDERAL TRUST LANDS, OF WHICH THE TRIBE IS THE BENEFICIAL OWNER, COMMONLY KNOWN AS 46-200 HARRISON PLACE, COACHELLA, CALIFORNIA 92236, ASSESSOR'S PARCEL NO. 603-020-008, AND MORE PARTICULARLY SHOWN IN THE MAP SET FORTH BELOW, INCLUDING APPROXIMATELY 53.02 ACRES OF LAND, A MAIN BUILDING CONTAINING APPROXIMATELY 248,600 SQUARE FEET OF SPACE, A PARKING GARAGE CONTAINING APPROXIMATELY 1,200 AUTOMOBILE PARKING SPACES, PAVED PARKING LOTS FOR APPROXIMATELY 2,301 VEHICLES, AND ALL OTHER REAL PROPERTY IMPROVEMENTS, APPURTENANCES, RIGHTS, PRIVILEGES AND EASEMENTS BENEFITING, APPURTENANT TO, OR BELONGING OR PERTAINING TO ANY OR ALL OF THE FOREGOING:

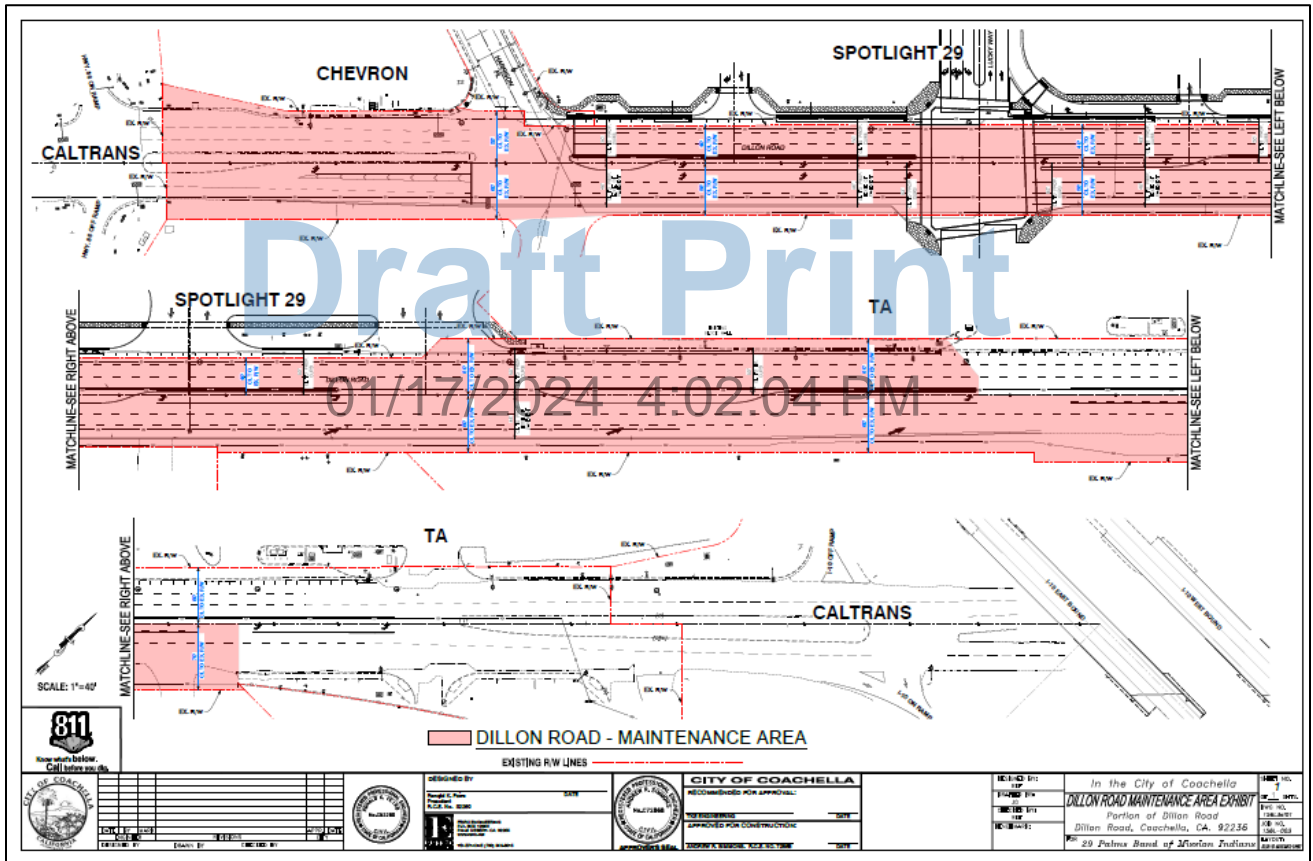


MEMORANDUM OF UNDERSTANDING

EXHIBIT "B"

DESCRIPTION OF DILLON ROAD MAINTENANCE AREA

The Dillon Road Maintenance Area is the "**SITE**" identified in the map below:



MEMORANDUM OF UNDERSTANDING

EXHIBIT “C”

DISPUTE RESOLUTION/LIMITED WAIVER OF SOVEREIGN IMMUNITY

1.1 Each Party shall designate a senior representative with authority to resolve any dispute arising under this Agreement. All Disputes shall initially be referred to the Parties’ representatives designated herein. Unless otherwise mutually agreed, they shall meet and confer in good faith on each such Dispute within fourteen (14) business days after either Party refers the Dispute to them. The Parties shall (a) attempt to resolve all Disputes arising hereunder promptly, equitably and in a good faith manner; and (b) provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data reasonably material to any such Dispute.

1.2 The Parties agree that any action or proceeding pertaining to any Disputes that are not resolved through Section 1.1 above within thirty (30) days after a Party’s receipt of notice referring the Dispute to the Parties’ designated senior representatives may be brought only in the following courts or forums: (i) The Superior Court of Riverside County, (ii) California Court of Appeal, Fourth District, and (iii) the California Supreme Court or Supreme Court of California. (“**Approved Court**”).

1.3 Without limiting the foregoing and pertaining to any Disputes not resolved under Section 1.1 above, the Parties (a) irrevocably and voluntarily submit to the personal and subject matter jurisdiction of the Approved Court; (b) waive any claim that an Approved Court is an inconvenient forum and (c) agree not to commence or permit to be maintained any action or proceeding in a Tribal Court without the express written consent thereto by the City.

1.4 The Tribe acknowledges and agrees that in entering in the Agreement, it may secure obligations to the City and may become liable to the City for injunctive or declaratory relief or for damages. The Tribe further acknowledges that the City would not enter in the Agreement with the Tribe if the Tribe could defeat or hinder enforcement against it of the rights grants to the City pursuant to the Agreement by claiming sovereign immunity. The Tribe hereby expressly waives all protection that may be afforded to it by tribal sovereign immunity for the limited purposes of enforcement of the Agreement and resolving Disputes. This waiver of sovereign immunity is (a) limited to jurisdiction of the Approved Court as set forth in Section 1.2 and (b) granted only to the City and not for the benefit of any third person or entity. The waiver of sovereign immunity is irrevocable and shall continue until the expiration of the applicable statutes of limitation governing the Dispute between the Parties. The limited waiver applies to any assertion that any claim must be addressed in Tribal Court before it may be subject to the dispute resolution procedures of this Exhibit C. Notwithstanding anything to the contrary in this Agreement, the limited waiver by the Tribe contained in this Exhibit C shall not be construed as a waiver of any immunity of any elected or appointed officer, official, members, manager, employee or agent of the Tribe.

MEMORANDUM OF UNDERSTANDING

EXHIBIT “D”

DILLON ROAD IMPROVEMENTS

THOSE CERTAIN STREET IMPROVEMENT PLANS FOR A PORTION OF DILLON ROAD IN THE CITY OF COACHELLA, CALIFORNIA, DATED DECEMBER 13, 2023 PREPARED BY FIERO ENGINEERING (JOB NO. 156L-003) CONSISTING OF PAGES 1 THROUGH 22, INCLUSIVE.

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