

Ordinance No. 11-01

**AN ORDINANCE APPROVING THE FIRST AMENDED HOTEL AND RESIDENCES AT
EMPIRE CANYON RESORT RECORD OF SURVEY PLAT LOCATED AT
9100 MARSAC AVENUE, PARK CITY, UTAH**

WHEREAS, the owners of the property known as the Hotel and Residences at Empire Canyon Resort record of survey plat, Lot C of the Parcel B-2 Empire Village Subdivision, have petitioned the City Council for approval of amendments to the recorded Hotel and Residences at Empire Canyon Resort record of survey plat to Pages 1, 8, and 11; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on December 8, 2010, to receive input on the amendment to the Hotel and Residences at Empire Canyon Resort record of survey plat;

WHEREAS, the Planning Commission, on December 8, 2010, forwarded a positive recommendation to the City Council; and,

WHEREAS, on January 6, 2011, the City Council held a public hearing on the amended Hotel and Residences at Empire Canyon Resort record of survey plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the amended Hotel and Residences at Empire Canyon Resort Record of Survey.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The First Amended Hotel and Residences at Empire Canyon Resort record of survey plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 9100 Marsac Avenue, Lot C of the Parcel B-2 Empire Village Subdivision
2. The Hotel and Residences at Empire Canyon Resort record of survey plat is located in the Residential Development zoning district as part of the Flagstaff Mountain Master Planned Development (RD-MPD).
3. The City Council approved the Flagstaff Mountain Development Agreement/Annexation Resolution 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement sets forth maximum densities, location of densities, and developer-offered amenities.
4. The City Council approved an amendment to the Development Agreement on February 1, 2007, that increased the allowable density by 80 Unit Equivalents, including the 192-room Montage Hotel.
5. The Planning Commission approved the B-2 Master Planned Development on March 14, 2007. The Montage is Phase I, while a second, residential, project will be Phase II.

6. The City Council approved the Parcel B-2 Empire Village Subdivision on March 29, 2007.
7. The Hotel and Residences at Empire Canyon Resort record of survey plat is for a 174 room hotel with an additional 84 condominiums utilizing a total of **182 Unit Equivalents**. In addition, there is 59,765 square feet of Commercial Space (**59.8 Commercial UEs**) and approximately 15,000 square feet of meeting/conference space and lounge areas (up to 39,000 square feet or 5% of building allowed). Total square footage, excluding the garage, is approximately 780,173 square feet. For those elements that were approved by the MPD and are not currently within the project (total rooms, units, commercial space and Unit Equivalents), the applicant retains the vested rights and these may be added in the future following the appropriate review and approval processes.
8. The City Council approved the Hotel and Residences at Empire Canyon Resort record of survey plat on June 18, 2009 and the plat was recorded at Summit County on January 20, 2010.
9. On September 10, 2010 an access easement for JSSD was recorded at Summit County and on July 1, 2010 a Rocky Mountain Power underground right of way easement was recorded at Summit County. These easements have been added to the cover sheet of the amended plat.
10. On October 15, 2010 a complete application was submitted to the Planning Department for amendments to the Hotel and Residences at Empire Canyon Resort record of survey plat. The proposed amendments to document recorded easements on Page 1, renumber Units 1040 to 1042, 1042 to 1040, 1041 to 1043, and 1043 to 1041 on Page 11, and to record a 9 square foot reduction in floor area for Unit 740 on Page 8, are consistent with the recorded Hotel and Residences at Empire Canyon Resort record of survey and are consistent with the approved Master Planned Development and Conditional Use Permit for Pod B-2.
11. The plat amendments do not change the purchase agreements or the approved Master Plan Development or Conditional Use permit conditions of approval.
12. Ten Employee Housing Units (EHUs) totaling 6,235 square feet (**7.8 AUEs**) are provided within the hotel. The EHU units are platted as private space and are proposed to be owned by the Montage, although this is not a requirement. The plat amendments do not change the employee housing agreements.
13. Five ADA units are provided, three owned by the hotel and two within the for sale units. All five are platted as Private and count towards the unit counts and UEs. The plat amendment removes ADA designation from Unit 821 and designates Unit 1021 as an ADA unit. Unit 1021 is on Level 6 which is two stories directly above Unit 821 in the same configuration. There are no other changes to the number or sizes of the ADA units.
14. Parking is provided at less than 75% of the Code requirement consistent with the Development Agreement. No change to parking is proposed with the plat amendments.

Conclusions of Law:

1. There is good cause for this record of survey.
2. The record of survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats and with the approved Master Planned Development and Conditional Use Permit for the Montage Resort and Spa at Pod B-2.
3. Neither the public nor any person will be materially injured by the proposed record of survey.
4. Approval of the record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the record of survey plat for compliance with State law, the Land Management Code, the recorded plat, and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the record of survey plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. All conditions of approval of the Montage Resort Master Planned Development and the Parcel B-2 Empire Village Subdivision plat shall continue to apply.
4. All conditions of approval of the Hotel and Residences at Empire Canyon Resort record of survey plat shall continue to apply.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 6th day of January, 2011.

PARK CITY MUNICIPAL CORPORATION



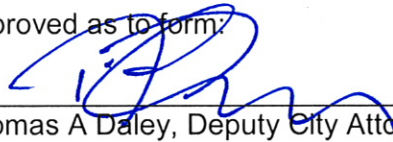
Mayor Dana Williams

Attest:

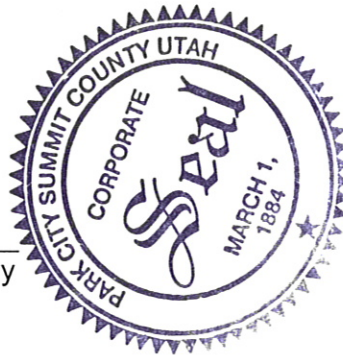


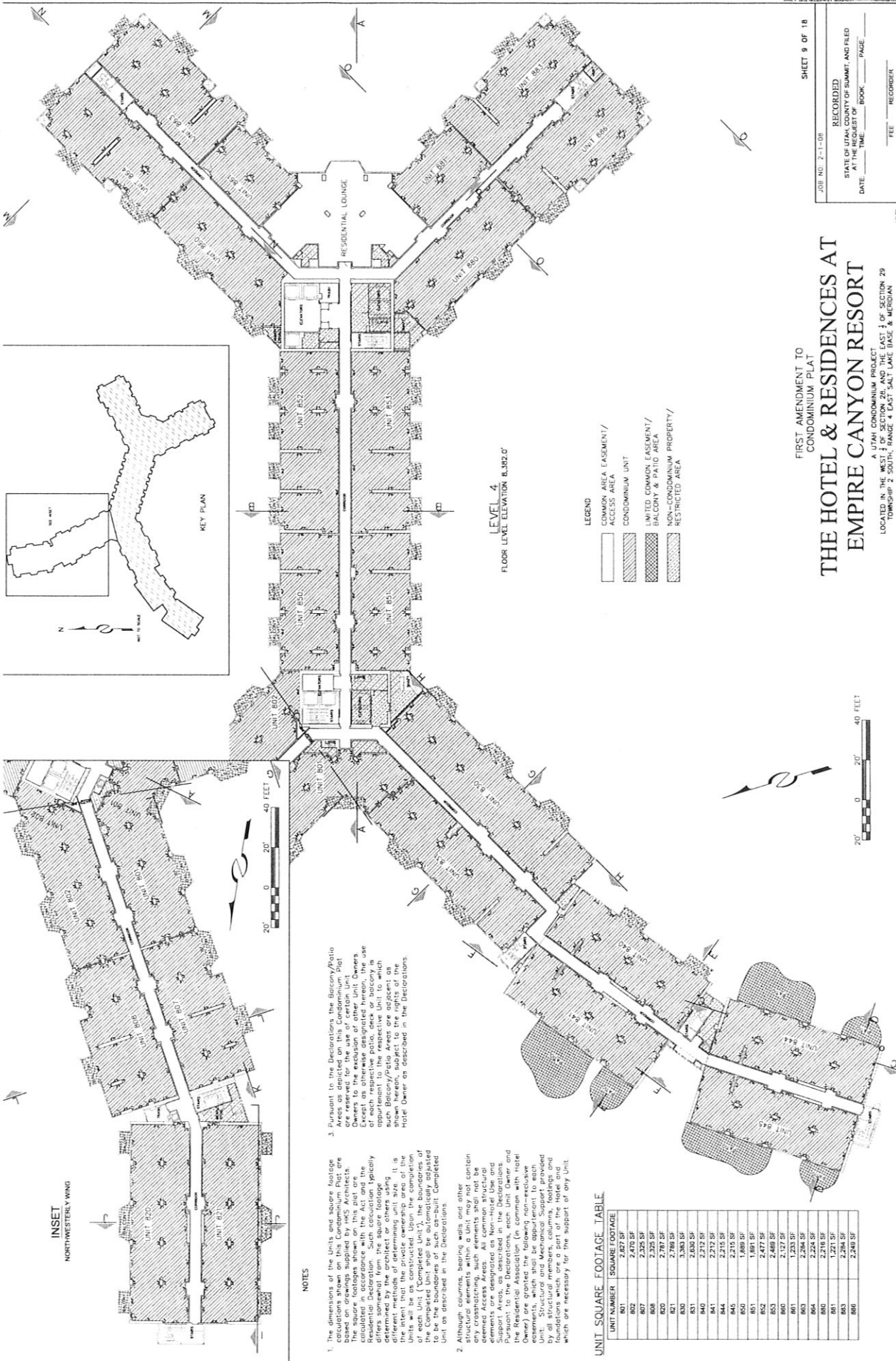
Janet M. Scott, City Recorder

Approved as to form:



Thomas A Daley, Deputy City Attorney





JOB NO. 2-1-08
 SHEET 9 OF 18
 RECORDED
 STATE OF UTAH, COUNTY OF SUMMIT, AND FILED
 AT THE REQUEST OF _____ PAGE _____
 DATE _____ TIME _____ BOOK _____

FIRST AMENDMENT TO
 CONDOMINIUM PLAT
**THE HOTEL & RESIDENCES AT
 EMPIRE CANYON RESORT**
 A UTAH CONDOMINIUM PROJECT
 LOCATED IN THE WEST 1/4 SECTION 29
 TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN

LEVEL 4
 FLOOR LEVEL ELEVATION 8,382.0'

- LEGEND
- COMMON AREA EASEMENT/
ACCESS AREA
 - CONDOMINIUM UNIT
 - LIMITED COMMON EASEMENT/
BALCONY & PATIO AREA
 - NON-CONDOMINIUM PROPERTY/
RESTRICTED AREA

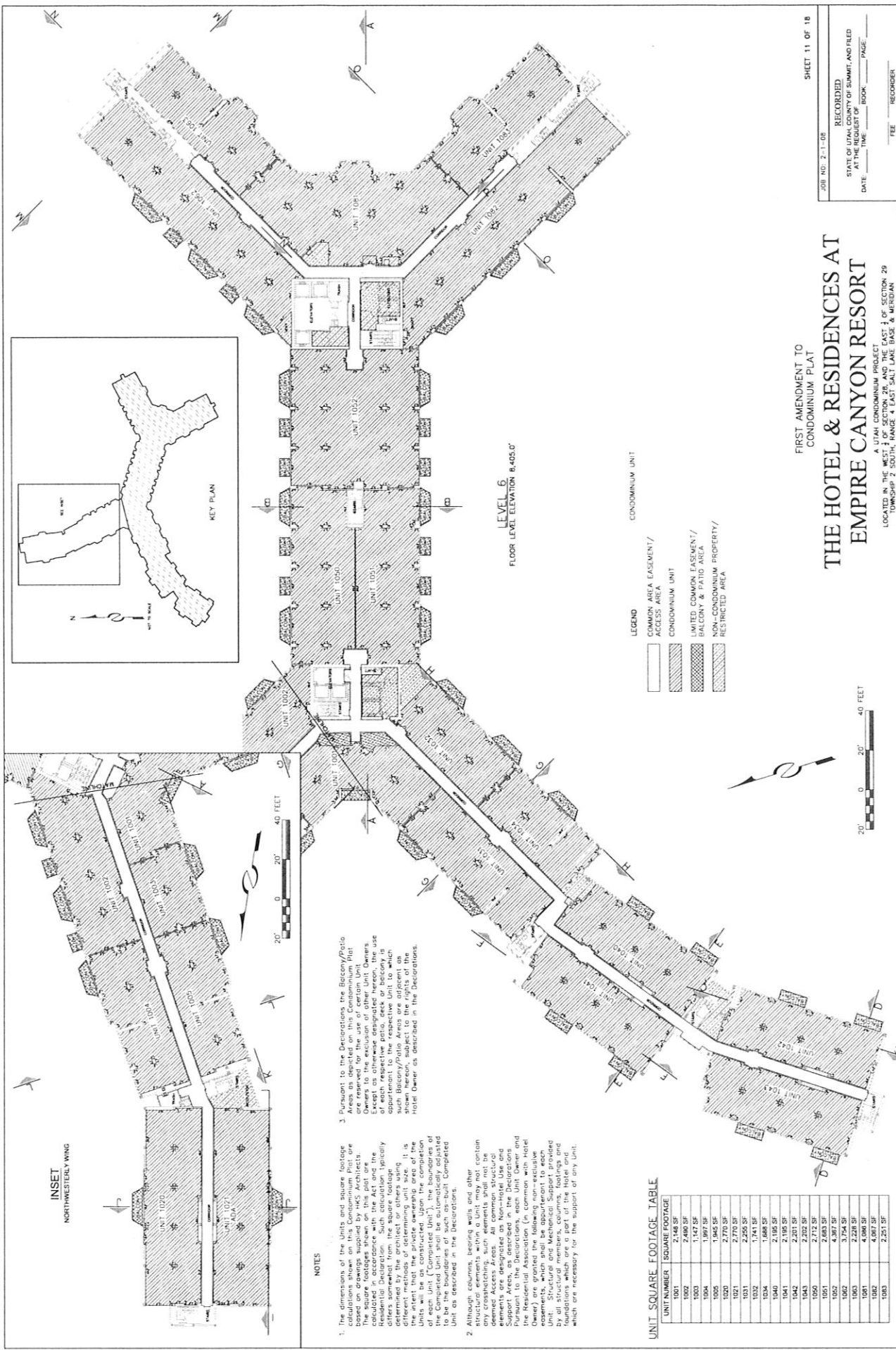
3. Pursuant to the Declarations the Balcony/Patio Areas as depicted on this Condominium Plat are to be used for the exclusive use of the Unit Owners to the exclusion of other Unit Owners. Except as otherwise designated hereon, the use of each respective patio, deck or balcony is to be for the exclusive use of the Unit Owner of such Balcony/Patio Areas as adjacent as shown hereon, subject to the rights of the Hotel Owner as described in the Declarations.

1. The dimensions of the Units and square footage calculations shown on this Condominium Plat are to be used for the exclusive use of the Unit Owners. The square footages shown on this plat are calculated in accordance with the Act and the rules promulgated thereunder. The square footages shown on this plat are not to be used for any other purpose. The determination of the square footages shown on this plat is based on the most accurate information available at the time of construction. It is the responsibility of the architect or others using different methods of determining unit size to verify the square footages shown on this plat. Units will be as constructed. Upon the completion of each Unit ("Completed Unit"), the boundaries of the Unit as shown on this plat shall be conclusively established to be the boundaries of the Unit as Completed Unit as described in the Declarations.

2. Although columns, bearing walls and other structural elements within a Unit may not contain any encroaching, such elements shall not be considered as part of the Unit. The boundaries of the Unit shall be the boundaries of the structural elements as described in the Declarations. Pursuant to the Declarations, each Unit Owner and the Hotel Owner (the "Owner") are granted the following non-exclusive easements, which shall be appurtenant to each Unit. The easements shall be appurtenant to the Unit and shall be used for the structural and mechanical support of the Unit and the Hotel. The easements shall be appurtenant to the Unit and shall be used for the support of the Unit.

UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
801	2,877 SF
802	2,877 SF
803	2,335 SF
804	2,335 SF
805	2,787 SF
806	2,787 SF
807	3,363 SF
808	2,830 SF
809	2,737 SF
810	2,737 SF
811	2,215 SF
812	2,215 SF
813	1,885 SF
814	1,885 SF
815	2,477 SF
816	2,477 SF
817	1,253 SF
818	1,253 SF
819	2,224 SF
820	2,224 SF
821	1,221 SF
822	1,221 SF
823	2,245 SF
824	2,245 SF



KEY PLAN

FLOOR LEVEL ELEVATION 8,405.0'

- LEGEND**
- CONDOMINIUM UNIT
 - COMMON AREA EASEMENT/ ACCESS AREA
 - CONDOMINIUM UNIT
 - LIMITED COMMON EASEMENT/ BALCONY & PATIO AREA
 - NON-CONDOMINIUM PROPERTY/ RESTRICTED AREA

FIRST AMENDMENT TO CONDOMINIUM PLAT

THE HOTEL & RESIDENCES AT EMPIRE CANYON RESORT

LOCATED IN THE WEST 1/4 OF SECTION 28, AND THE EAST 1/4 OF SECTION 29 TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN



SHEET 11 OF 18

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NOTES

1. The dimensions of the Units and square footage calculations shown on this Condominium Plat are based on the dimensions of the Units as shown on the square footages shown on this Plat are calculated in accordance with the Act and the Support Areas, as described in the Declarations. The square footages shown on this Plat are not intended to be construed as a warranty of accuracy and shall not be construed as a warranty of accuracy. The square footages shown on this Plat are not intended to be construed as a warranty of accuracy and shall not be construed as a warranty of accuracy. The square footages shown on this Plat are not intended to be construed as a warranty of accuracy and shall not be construed as a warranty of accuracy.

2. Although columns, beams, walls and other structural elements within a Unit may not contain any encroachment, such elements shall not be considered as part of the Unit. The square footages shown on this Plat are not intended to be construed as a warranty of accuracy and shall not be construed as a warranty of accuracy.

3. Pursuant to the Declarations, the Balcony/Patio Areas as depicted on this Condominium Plat are the property of the Unit Owner. The Unit Owner shall be responsible for the maintenance and repair of such Balcony/Patio Areas. The Unit Owner shall be responsible for the maintenance and repair of such Balcony/Patio Areas. The Unit Owner shall be responsible for the maintenance and repair of such Balcony/Patio Areas.

UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
1001	2,148 SF
1002	2,492 SF
1003	1,997 SF
1004	1,945 SF
1005	1,945 SF
1006	2,770 SF
1007	2,770 SF
1008	2,255 SF
1009	1,741 SF
1010	1,988 SF
1011	2,115 SF
1012	2,195 SF
1013	2,202 SF
1014	2,712 SF
1015	2,683 SF
1016	4,367 SF
1017	3,754 SF
1018	2,238 SF
1019	2,238 SF
1020	4,897 SF
1003	2,251 SF