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BOARD OF SUPERVISORS

Clerk of the Board

219 East Cherry Ave

Flagstaff, AZ 86001

**BOARD OF SUPERVISORS
RESOLUTION NO. 2023-40**

A RESOLUTION OF THE COCONINO COUNTY BOARD OF SUPERVISORS APPROVING A DEVELOPMENT AGREEMENT AMONG COCONINO COUNTY, COCONINO COUNTY FLOOD CONTROL DISTRICT, AND PINE VALLEY RESORT, LLC, RELATED THE PROJECT KNOWN AS VILLAGE CAMP IN BELLEMONT, AND DECLARING AN EMERGENCY.

WHEREAS, the Coconino County Floodplain Regulations Ordinance applies to any man-made change to improved or unimproved real estate in a FEMA Special Flood Hazard Area (SFHA); and

WHEREAS, Pine Valley Resort, LLC (“Pine Valley”) is the owner of real property in Bellemont, which it is developing into a 289-unit Mobile Home Community known as the Village Camp; and

WHEREAS, Pine Valley has constructed 13 units in a FEMA SFHA (the “Permitted Units”); and

WHEREAS, Coconino County (“County”), Coconino County Flood Control District (“District”), and Pine Valley have negotiated a Development Agreement that will allow Pine Valley to apply for Temporary Certificates of Occupancy for the Permitted Units while working with FEMA to have them removed from the SFHS through a Letter of Map Revision (LOMR); and

WHEREAS, through the Development Agreement, Pine Valley agrees to indemnify and hold harmless the County and District against any and all claims arising from use of the Permitted Units prior to the LOMR.

NOW, THEREFORE, BE IT RESOLVED BY THE COCONINO COUNTY BOARD OF SUPERVISORS, as follows:

Section 1. The Development Agreement among Coconino County, Coconino County Flood Control District, and Pine Valley Resort, LLC, related to the project known as Village Camp in Bellemont, is hereby approved in substantially the form and substance on file with the Clerk of the Board.

Section 2. The Chair, the County Manager, and the County Attorney are hereby authorized and directed to execute any documents and take any steps necessary to carry out the purpose and intent of this resolution.

Section 3. The immediate operation of the provisions of this Resolution being necessary for the preservation of the public peace, health, and safety, particularly to secure the immediate indemnification of the County against any and all claims, an emergency is hereby declared to exist and the provisions of this Resolution shall be in full force and effect as of August 22, 2023.

PASSED AND ADOPTED this 22nd day of August 2023.

AYES: 5
NOS: 0
ABSENT: 0



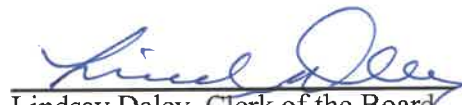
COCONINO COUNTY BOARD OF SUPERVISORS

By: 
Jeronimo Vasquez, Chair

APPROVED AS TO FORM:


Deputy County Attorney

ATTEST:


Lindsay Daley, Clerk of the Board

DEVELOPMENT AGREEMENT

This Development Agreement (“Agreement”) is made and entered into on this 22 day of August, 2023, by and between PINE VALLEY RESORT, LLC (“Pine Valley”), an Arizona limited liability company, COCONINO COUNTY (the “County”), a political subdivision of the State of Arizona, and COCONINO COUNTY FLOOD CONTROL DISTRICT (the “District”), a political subdivision of the State of Arizona. Pine Valley, the County, and the District may be referred to herein collectively as the “Parties” or individually as a “Party.”

Recitals

A. Pine Valley owns certain property located in the County in Bellemont, Arizona, located at 5560 Forest Service 171 Rd., Bellemont, Arizona 86015, APN # 20340001 (the “Property”).

B. Pine Valley is developing the Property into a Mobile Home Community known as the “Village Camp,” containing 289 individual spaces (individually, a “Space” or collectively, the “Spaces”) for Recreational Vehicle Units and Park Model Units (individually, a “Unit” or collectively, the “Units”).

C. Some of the Spaces are currently located in an existing Special Floodplain Hazard Area (“SFHA”) according to the Flood Insurance Rate Maps (“FIRM”) published by the Federal Emergency Management Agency (“FEMA”).

D. In connection with the entitlement process for the Property, Pine Valley applied for a Floodplain Use Permit and submitted a drainage report (the “Drainage Report”) to the County, prepared by Shepard Wesnitzer, Inc. The Drainage Report identified various drainage improvements Pine Valley intended to make to the Property that would alter the existing floodplain.

E. The County approved the Drainage Report for the Property. Pine Valley has since completed the improvements required by the approved Drainage Report. Thereafter, the County recommended that Pine Valley apply for a Conditional Letter of Map Revision (“CLOMR”) before applying for a Letter of Map Revision (“LOMR”) through FEMA that officially changes the FIRM, the SFHA, and the National Flood Insurance Program (“NFIP”) Map, as well as certain other maps and reports related to the Property. Pine Valley chose not to pursue a CLOMR and instead pursued a LOMR.

F. After FEMA approves the LOMR, only Spaces 6-13, 72-74, and 282-289 will be located in the SFHA (the “NFIP Spaces”).

G. The County issued permits and passed site or final inspections for 13 Units located in the existing SFHA, including Units on Space numbers 120, 127, 128, 129, 130, 131, 148, 149, 150, 151, 152, 153, and 154 (the “Permitted Units”), as shown on Exhibit A, attached hereto and incorporated herein by reference.

H. Pine Valley has not yet constructed Units on the remaining Spaces located in the existing SFHA, including Space numbers 1-3, 175-182, 205-208, 229, 233, and 268-281 (the “Undeveloped Spaces”) and the NFIP Spaces.

I. Pine Valley has completed construction of the Permitted Units; however, the County has not issued Certificates of Occupancy for the Permitted Units.

J. The Parties desire to enter into this Agreement pursuant to Arizona Revised Statutes (“A.R.S.”) § 11-1101 to: (i) allow, until the LOMR is approved, for (a) the continued development and construction of the Permitted Units, and (b) issuance of Temporary Certificates of Occupancy for and use of the Permitted Units; and (ii) set forth the Parties’ understanding of Pine Valley’s indemnification of the County and the District with respect to the temporary use of the Permitted Units.

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

Agreement

1. **Recitals.** The above introduction and Recitals are incorporated into and shall constitute a part of this Agreement.

2. **Indemnification; Hold Harmless.** Pine Valley shall defend, indemnify and hold the County and the District, and their officers, officials, and employees, harmless for, from and against any and all claims, injuries, damages, losses, lawsuits, demands, causes of action, liability, sanctions, penalties, costs, attorneys’ fees, and damages, of any kind whatsoever, arising out of (a) use of the Permitted Units prior to issuance of Final Certificates of Occupancy and approval of the LOMR and/or (b) allegations that the Permitted Units do not comply with the applicable NFIP floodplain management standards or regulations. The amount and type of insurance coverage required herein shall in no way be construed as limiting the scope of the indemnity in this section.

3. **Waiver of Claims.** Pine Valley agrees and understands that the County and the District are entering into this Agreement and the County agreeing to issue Temporary Certificates of Occupancy for the Permitted Units in good faith and with the understanding that, if the County revokes a Temporary Certificate of Occupancy subject to Section 4 below, the County and the District will not be subject to claims for diminished value of the Property from Pine Valley or other parties having an interest in the Property. Pine Valley agrees and consents to all the conditions imposed as part of any such Temporary Certificate of Occupancy for Permitted Units on the Property and, by signing this Agreement, hereby waives any and all claims, suits, damages, compensation and causes of action Pine Valley may have now or in the future under the provisions of A.R.S. §§ 12-1134 through and including § 12-1136 (but specifically excluding any provisions included therein relating to eminent domain) and resulting solely from actions relating to the Agreement. Pine Valley acknowledges and agrees that any stipulations imposed by the County as part of issuance of a Temporary Certificate of Occupancy will not result in a reduction of the fair market value of the Property as defined in A.R.S. § 12-1136. Pine Valley agrees and understands

that its waiver of claims as set forth in this Section shall be deemed to extend to cover any changes to the Temporary Certificate of Occupancy and all stipulations thereto approved by the County unless, not later than three business days following such County approval, Pine Valley notifies the County, in writing, of its disagreement with such stipulations. In the event that Pine Valley timely notifies the County of such disagreement, Pine Valley shall not be deemed to have waived claims with respect to only the stipulations imposed or revised by the County prior to approval of this Agreement; provided, however, that if Pine Valley does not submit a separate waiver of such claims, in a form acceptable to the County and the District, prior to close of business on the fifth business day following approval of the Agreement by the County, then the County may rescind the Temporary Certificate of Occupancy, and if rescinded by the County acting in its sole discretion, this waiver shall act as a bar to a claim for diminished value based upon the rescinded Temporary Certificate of Occupancy. The foregoing waiver of claims shall be of no further force and effect with respect to the Temporary Certificate of Occupancy in the event the County disapproves the Temporary Certificate of Occupancy, except that it shall serve as a bar to a claim for diminished value based upon denial of the Temporary Certificate of Occupancy.

4. **Certificates of Occupancy.** Subject to applicable County regulations, the County agrees to issue Temporary Certificates of Occupancy for the Permitted Units. Upon FEMA's approval of the LOMR and subject to applicable County regulations, the County will issue Final Certificates of Occupancy for those Permitted Units that are no longer within the SFHA. If the LOMR is not approved, or if it is approved with modifications, Pine Valley shall, as a condition to the issuance of a Final Certificate of Occupancy, complete all modifications to the Permitted Units that may be necessary or required to meet NFIP floodplain management standards and regulations. If Pine Valley fails to, or for any reasons elects not to, perform any such improvements within 12 months following the rejection of the LOMR, the County may revoke the Temporary Certificate of Occupancy for any affected Permitted Unit.

5. **Undeveloped Spaces.** Pine Valley will not seek permits for, or otherwise construct, the Undeveloped Spaces until after FEMA formally accepts or rejects the LOMR, unless Pine Valley complies with all applicable NFIP floodplain management standards or regulations.

6. **NFIP Spaces.** Pine Valley may obtain permits for and construct the NFIP Spaces upon receipt of all necessary County approvals required for compliance with all applicable NFIP floodplain management standards or regulations for placing Units on such NFIP Spaces.

7. **Term.** This Agreement and the rights, privileges, and obligations of the Parties contained herein shall automatically terminate and be of no further force or effect, without requiring the execution or recording of any further document or instrument, upon 180 days following the earliest of the following to occur: (a) FEMA's acceptance of the LOMR for the Property; or (b) either the issuance of a Final Certificate of Occupancy or a revocation of a Temporary Certificate of Occupancy according to the terms of this Agreement for all of the Permitted Units.

8. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one instrument binding upon the Parties, notwithstanding that all the Parties are not signatories to the

same counterpart. To facilitate the finalization of this Agreement, the Parties agree that signatures transmitted by facsimile machine or transmitted via e-mail in a "PDF" format may be used in place of original signatures on this Agreement. Each Party intends to be bound by such Party's facsimile or "PDF" format signature on this Agreement, is aware that the other Parties are relying on such Party's facsimile or "PDF" format signature, and hereby waives any defenses to the enforcement of this Agreement based upon the form of signature.

9. **Entire Agreement; Amendments.** This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein and supersedes any and all other prior written or verbal agreements or understandings with respect to this transaction. No course or prior dealings between the Parties and their respective officers, managers, members, employees or agents shall be relevant or admissible to supplement, explain or vary any of the express terms of this Agreement. This Agreement may not be modified in any respect except by instruments signed in writing by all of the Parties.

10. **Successors and Assigns.** It is agreed that all covenants and agreements herein contained shall be binding upon, and inure to the successors, heirs, executors, administrators and assignees of the Parties.

11. **Authority.** The person signing this Agreement on behalf of any Party represents the person has all requisite power and authority to execute and deliver this Agreement and to bind the respective Party to this Agreement and no other approval or consent is required in connection with the execution and delivery of this Agreement or any instrument delivered in connection herewith.

12. **Recording; Runs with Land.** Within 10 days after the execution of this Agreement, the Clerk of the Board shall file this Agreement in the Official Records of the County Recorder's Office, Coconino County, Arizona, but a failure to timely do so shall not invalidate this Agreement. This Agreement runs with the land and is binding upon all present and future owners of the above-referenced Property.

13. **Cancellation by County or District.** This Agreement may be cancelled by the County or the District pursuant to A.R.S. § 38-511.

14. **Insurance**

Pine Valley will provide and maintain and cause its sub-contractors to provide and maintain appropriate insurance acceptable to the County and District.

A. In no event will the total coverage be less than the minimum insurance coverage specified below:

1. Commercial General Liability occurrence version in an amount not less than One Million Dollars (\$1,000,000) per occurrence/Two Million Dollars (\$2,000,000) aggregate. The policy shall include coverage for bodily injury, property damage,

personal injury, and products and completed operations and shall include the following:

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Fire Legal Liability	\$50,000
Each Occurrence	\$1,000,000

2. Automobile Liability in an amount not less than One Million Dollars (\$1,000,000) combined single limit (CSL) per occurrence to include either "any auto" or "scheduled, owned, hired, and or non-owned vehicles." Such insurance shall include coverage for loading and unloading hazards.
 3. A Certificate of Insurance for workers' compensation coverage or Sole Proprietor Waiver, if Pine Valley has no employees. If a Certificate of Insurance is provided, the insurer must agree to waive all rights of subrogation against the County and District, their officers, agents, employees and volunteers for losses arising from work performed by Pine Valley.
 4. Professional Liability (if applicable) in an amount not less than One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate with a retroactive liability date (if applicable to claims made coverage) the same as the effective date of the contract or earlier. The policy shall contain an Extended Claim Reporting Provision of not less than two years following termination of the policy.
- B. Pine Valley shall name the County and District, their agents, officials and employees as additional insureds for general liability including premises/operations, personal and advertising injury, products/completed operations, and as additional insured for automobile liability, and will specify that the insurance afforded by Pine Valley is primary insurance and that any insurance coverage carried or self-insurance by the County and District, any department or any employee will be excess coverage and not contributory insurance to that provided by Pine Valley. Said policies must contain a severability of interest provision. County and District reserve the right to continue payment of premium for which reimbursement will be deducted from amounts due or subsequently due Pine Valley.
- C. If a policy does expire during the life of the Contract, a renewal certificate must be sent to the County and District fifteen (15) days prior to the expiration date.
- D. Upon the execution of this Agreement by Pine Valley, Pine Valley will furnish the County and District with copies of the Certificates of Insurance drawn in conformity with the above insurance requirements. The County and District reserve the right to request and receive certified copies of any or all of the above policies and/or endorsements. Failure on the part of Pine Valley to procure and maintain the required

liability insurance and provide proof thereof to the County and District within ten (10) days following the commencement of a new policy, will constitute a material breach of the Agreement upon which the County or District may immediately terminate the Agreement.

- E. Pine Valley will comply with statutory requirements for both workers' compensation and unemployment insurance coverage during the term of this Agreement. A Certificate of Insurance for workers' compensation coverage, or Sole Proprietor Waiver, will be provided within ten (10) days of signing this Agreement. The insurer must agree to waive all rights of subrogation against the County and District, and their officers, agents, employees and volunteers for losses arising from work performed by Pine Valley.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

PINE VALLEY RESORT, LLC, an Arizona limited liability company

By [Signature]
Its Managing member

(ACKNOWLEDGMENT)

STATE OF Arizona)
)ss.
COUNTY OF Maricopa)

On Sept. 1, 2023, before me personally appeared Scott Roberts, the manager of Pine Valley Resort, LLC, an Arizona limited liability company, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document on behalf of Pine Valley Resort, LLC.



(affix notary seal here)

[Signature]
Notary Public

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

COCONINO COUNTY, a Political Subdivision of the State of Arizona


Jeronimo Vasquez, Chairman of the Coconino County Board of Supervisors

ATTEST:


Lindsay Daley, Clerk of the Board of Supervisors

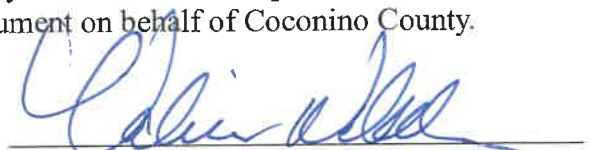
Approved as to form:


Attorney

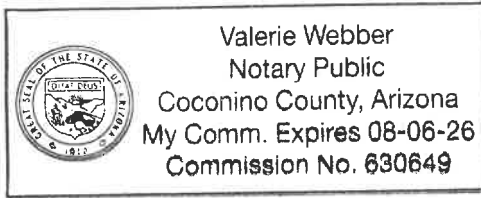
(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

On August 22, 2023, before me personally appeared Jeronimo Vasquez, Chair, the Board of Supervisors of Coconino County, a Political Subdivision of the State of Arizona, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document on behalf of Coconino County.


Notary Public

(affix notary seal here)



COCONINO COUNTY FLOOD CONTROL DISTRICT, a Political Subdivision of the State of Arizona

[Signature]
Jeronimo Vasquez, Chairman of the Coconino County Flood Control District Board of Directors

ATTEST:

Approved as to form:

[Signature]
Lindsay Daley, Clerk of the Board of Directors

[Signature]
Attorney

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

On August 22, 2023, before me personally appeared Jeronimo Vasquez, Chair, the Board of Supervisors of Coconino County Flood Control District, a Political Subdivision of the State of Arizona, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document on behalf of the Coconino County Flood Control District.

[Signature]
Notary Public

(affix notary seal here)

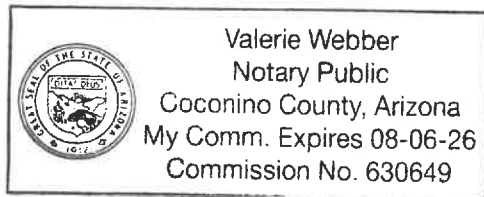
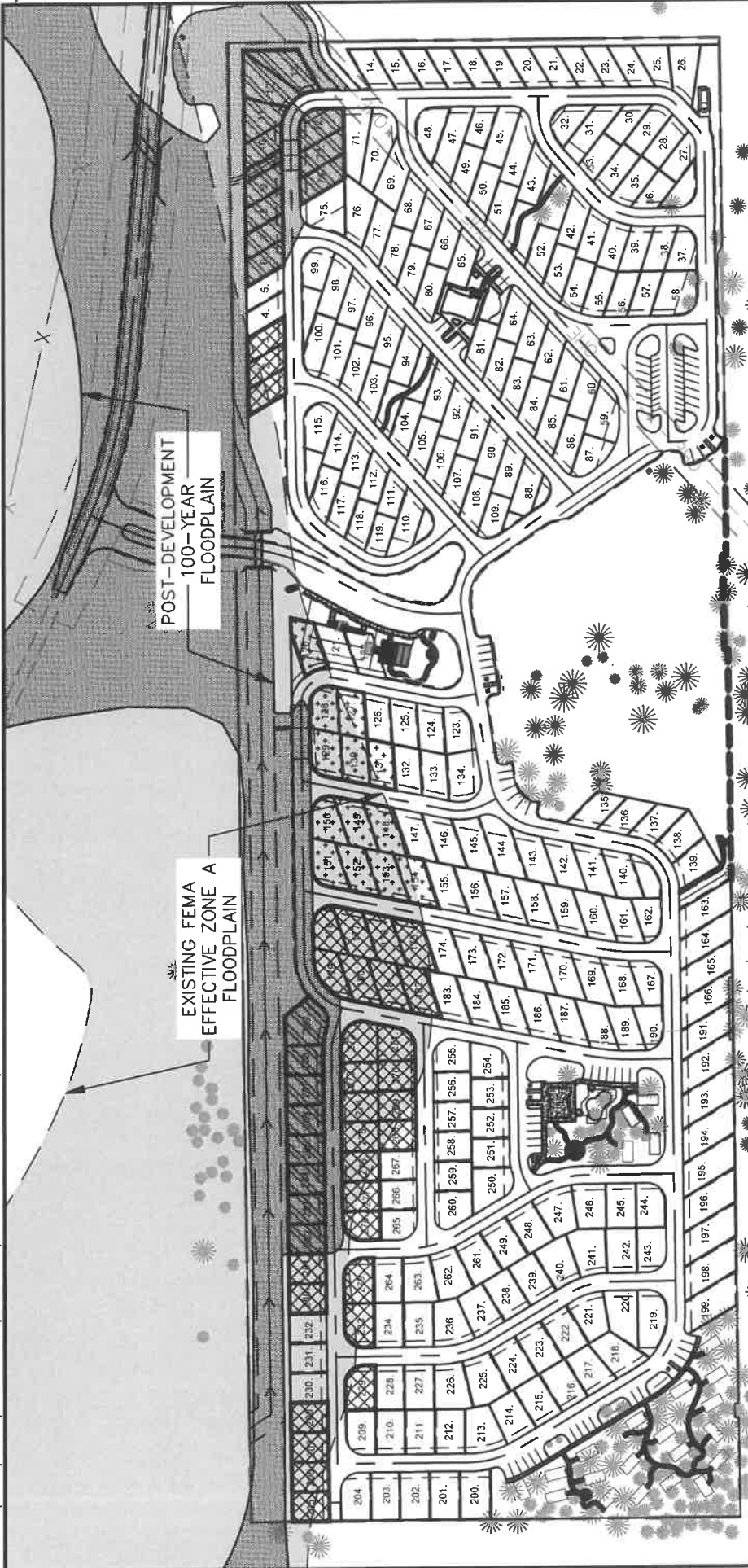





EXHIBIT A
TO
DEVELOPMENT AGREEMENT
AMONG
COCONINO COUNTY
COCONINO COUNTY FLOOD CONTROL DISTRICT
AND
PINE VALLEY RESORT, LLC

[Map of Permitted Units]

See following page.

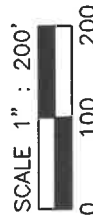


LEGEND

-  NFIP SPACES
(6-13, 72-74 & 282-289)
-  PERMITTED UNITS
(120, 127-131 & 148-154)
-  UNDEVELOPED SPACES
(1-3, 175-182, 205-208, 229, 233 & 268-281)

PRELIMINARY

**NOT FOR CONSTRUCTION,
BIDDING OR RECORDING**



SWI		Shephard & Wesnitzer, Inc.
110 W. Dale Avenue Flagstaff, AZ 86001 928.773.0354 928.774.8934 fax www.swiaz.com		
JOB NO. 19100	DATE SEP 23	
SCALE AS SHOWN		
DESIGN		
CHECKED		
VILLAGE CAMP		COCOONINO ARIZONA
EXHIBIT A		SHEET 1 OF 1