

WHEN RECORDED, MAIL TO:

Flagstaff City Clerk
Stacy Saltzburg
211 W. Aspen Avenue
Flagstaff, AZ 86001

BINDING WAIVER OF ENFORCEMENT

THIS BINDING WAIVER OF ENFORCEMENT (this “Waiver”) is granted by the City of Flagstaff, an Arizona municipal corporation (the “City”).

RECITALS:

- A. On November 17, 2020, the Flagstaff City Council adopted a land use law, Ordinance 2020-28, which made various amendments to the Flagstaff Zoning Code.
- B. The respective owners of the following parcels in Flagstaff, (collectively “the Properties”) owned the Properties on the date of enactment listed above:

	APN	Property Owner	Address
1.	112-24-009	Bruce D. Sidlinger	1650 South Plaza Way
2.	112-24-010A	Bruce D. Sidlinger	None [a portion of Lot 10, Woodlands Village Unit 1]
3.	111-02-004T	Bruce D. Sidlinger	2251 North Kramer Street
4.	103-03-020	Vestar University Plaza, LLC	1107 South Plaza Way
5.	103-20-063	Vestar University Plaza, LLC	1300 South Plaza Way
6.	101-28-005H	Axxo Holdings LLC	None [Section 15, Township 21N, Range 7E]
7.	112-24-010B	Axxo Holdings LLC	1580 South Plaza Way
8.	106-07-033C	Matthew Peace	1911 South Herold Ranch Road
9.	101-22-001B	522 Route 66, LLC	418 East Route 66
10.	101-25-001B	522 Route 66, LLC	402 North Switzer Canyon Drive
11.	114-11-019	Henderson Revocable Trust DTD 11-18-11	651 North Inland Shores Drive

12.	107-30-014	Henderson Revocable Trust DTD 11-18-11	2133 North Walgreens Street
13.	113-26-003W	Henderson Revocable Trust DTD 11-18-11	4366 East Huntington Drive
14.	106-01-003	Franciszek Turza	1580 East Route 66
15.	100-08-009	Bonito Partners, LLC	516 West Cherry Avenue
16.	109-05-081A	Cedar West Capital, LLC	1500 East Cedar Avenue #1
17.	109-05-001G	Cedar West Capital, LLC	1500 East Cedar Avenue #1
18.	112-01-156	VP 66 & Woody Mountain, LLC	None [Timber Sky Block 1]
19.	112-01-157	VP 66 & Woody Mountain, LLC	None [Timber Sky Block 2]
20.	Tract ZZ of 112-01-166	VP 66 & Woody Mountain, LLC	None [Timber Sky Tract ZZ]
21.	104-14-003C	JP325, LLC	None [Juniper Point]
22.	104-14-001B	JP325, LLC	2000 East John Wesley Powell Boulevard

- C. Arizona Revised Statutes §12-1134 (“Prop 207”) allows a property owner to seek just compensation when a city adopts a land use law that reduces the property owner’s existing rights to use, divide, sell, or possess private real property and such action reduces the fair market value of the property.
- D. In November and December 2021, the owners of the Properties filed with the City a request for just compensation pursuant to Prop 207.
- E. In response to a claim for just compensation under Prop 207, a city may reach an agreement to issue to the property owner a binding waiver of enforcement of the land use law on the owner’s specific parcels.

NOW, THEREFORE, the City of Flagstaff does hereby declare as follows:

- 1) Incorporation of Recitals. The recitals stated above are true and correct and are incorporated herein.
- 2) Binding Waiver of Enforcement. That the amendments to the Flagstaff Zoning Code adopted by Ordinance 2020-28 shall not be enforced nor applicable to the entirety, or any portion of the Properties.
- 3) Recordation. This Binding Waiver of Enforcement shall be adopted by Resolution of the Flagstaff City Council and recorded in its entirety in the Official Records of Coconino County, Arizona, not later than ten (10) days after this Waiver takes effect.

- 4) Covenants Running with Land; Inurement. The covenants, conditions, terms, and provisions of this Waiver relating to use of the Properties shall run with the Properties.
- 5) Governing Law. This Waiver, and all rights and obligations created hereby, shall be determined and governed by the laws of the State of Arizona.

IN WITNESS WHEREOF, this Waiver is approved by the Flagstaff City Council through the adoption of Resolution 2022-__.

City of Flagstaff

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

STATE OF ARIZONA)
COUNTY OF COCONINO)

ACKNOWLEDGMENT

On this _____ day of _____, 202__, before me, a Notary Public, personally appeared Paul Deasy, Mayor of the City Flagstaff, known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same on behalf of the City of Flagstaff, for the purposes therein contained.

Notary Public

My Commission Expires: _____