

**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 March 1, 2022, the Flagstaff City Council adopted Ordinance 2022-04, which made various amendments to the Flagstaff Zoning Code.
- B. The owner of the following parcel in Flagstaff (“the Residential Sustainable Building Incentive Property”) owned the property on the date of enactment listed above:

	APN	Property Owner	Address/Location
1.	106-08-043	CDR Land Investors II, LLC	Canyon Del Rio Tract Z

- 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. On June 10, 2024, the owner of the Residential Sustainable Building Incentive Property filed with the City a request for just compensation pursuant to Prop 207 (later amended on August 15, 2024, and August 30, 2024).
- 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) Residential Sustainable Building Incentive Property Binding Waiver of Enforcement. That the amendments to the Flagstaff Zoning Code adopted by Ordinance 2022-04 shall be modified for the Residential Sustainable Building Incentive Property as follows:
  - a. Section 10-30.70.040(C) shall be satisfied by the submission of a Waste Reduction and Management plan that includes at least two of the following:
    - i. A plan for the recycling or reuse of all paper, cardboard, plastic and metals,
    - ii. A plan for the recycling or reuse of all lumber scraps so that they are diverted from the landfill, or
    - iii. A plan for the diversion of all masonry, gypsum and cementitious materials so that they are diverted from the landfill.
  - b. Section 10-30.70.040(D) shall be satisfied by the installation of electrical runs, including electrical outlets and a minimum 200 amp electrical box, in each home on the property to enable buyers to elect an all-electric home at the time or purchase or convert the home to all electric in the future, and the property owner will also distribute to prospective buyers prior to the election of electric or natural gas appliances for the home written material provided by the City of Flagstaff regarding the benefits of all-electric homes. The requirement to distribute written materials only applies to the first purchaser of each home in the development and not subsequent purchasers.
- 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 Property.
- 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 2024-35.

City of Flagstaff

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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 Becky Daggett, 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: \_\_\_\_\_

In full satisfaction of the claim for just compensation filed pursuant to Arizona Revised Statutes §12-1134 on June 10, 2024 (as amended on August 15, 2024, and August 30, 2024):

\_\_\_\_\_  
CDR Land Investors II, LLC by its Member and Manager Brian Rhoton

\_\_\_\_\_  
Date