

When recorded, mail to:

City Clerk  
City of Flagstaff  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

SECOND AMENDMENT TO  
MILL TOWN DEVELOPMENT AGREEMENT

This Second Amendment to Mill Town Development Agreement (“**Second Amendment**”) is entered into and effective February \_\_\_\_, 2025, by and between City of Flagstaff, a municipal corporation organized and existing under the laws of the State of Arizona (“**City**”), and Vintage Partners, LLC, an Arizona limited liability company (“**Vintage**”).

RECITALS

A. City and Vintage entered into that certain Mill Town Development Agreement dated June 4, 2018, and recorded in the Official Records of Coconino County as Instrument Number: 3816763 (the “**Agreement**”). Unless otherwise defined in this Second Amendment, initially capitalized terms used herein have the meanings given them in the Agreement.

B. The Agreement was amended on October 22, 2021, as recorded in the Official Records of Coconino County as Instrument Number: 3937357, to provide for the City to assume the obligation to administer the design and construction of the Combined Roadway Project and to extend the Entitlements for an additional two years.

C. Vintage intends to revise the previously approved site plan referenced in the Agreement to reduce the number of residential units that will be developed on the Milltown Property.

D. The Parties desire to amend the Agreement for a second time on the terms and conditions more fully set forth below to clarify the Applicable Rules for development of a revised site plan, which amendment is made pursuant to Section 10.4 of the Agreement.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Section 2 of the Agreement (Entitlements) is amended to read as follows (deleted text is shown with a ~~strike through~~ and new text is **bolded** in red and ALL CAPS):

Entitlements. Vintage hereby agrees to be subject to all the terms, conditions, and stipulations of the Rezoning Ordinance for PZ-16-00239-

02 (City Ordinance No. 2018-13), Site Plan (PZ-16-00239-01), and preliminary plat (PZ-16-00239-03), **AS MAY BE AMENDED OR REPLACED WITH CITY COUNCIL APPROVAL** (collectively, the “Entitlements”). The City acknowledges and agrees that the development rights granted by the **ENTITLEMENTS**, are vested for a term of **SEVEN (57)** years from **AFTER** the Effective Date of this Agreement (the “Vested Rights”) and that Vintage shall have a right to develop the Mill Town Property consistent with the Vested Rights, subject to the Applicable Rules (as defined in Section 3, below) and any changes to the Rules as permitted by this Agreement. Further, the City acknowledges that the recordation of the final plat for the Mill Town Property (“Final Plat”) will occur only after (i) the New ADOT Facilities have been constructed on the Vintage Property pursuant to the Implementation Agreement, (ii) the City has conveyed the City Property to ADOT pursuant to the IGA, and (iii) the Mill Town Property has been conveyed to Vintage by ADOT in exchange for the conveyance by Vintage to ADOT of the Vintage Property with the New ADOT Facilities constructed thereon pursuant to the Implementation Agreement. As a result, the parties agree that the preliminary plat approval will remain valid for three (3) years from the Effective Date to allow sufficient time for the transactions contemplated by clauses (i) through (iii) to be completed.

2. Section 3 of the Agreement (Development Standards) is amended to read as follows (deleted text is shown with a ~~strike through~~ and new text is **bolded in red** and ALL CAPS):

~~Development Standards. The development of Mill Town Property, as well as standards for off-site and on-site public improvements will be governed by the City’s codes, ordinances, regulations, rules, guidelines, and policies controlling permitted uses of the Mill Town Property, design review guidelines, the density and intensity of uses, the maximum height and size of buildings within the Mill Town Property in existence as of the Effective Date of this Agreement (for purposes~~ **CURRENT CITY ENGINEERING STANDARDS, BUILDING CODE, FIRE CODE, REGULATIONS, RULES, GUIDELINES, AND OTHER CODE PROVISIONS SHALL APPLY TO DEVELOPMENT OF THE MILL TOWN PROPERTY, EXCEPT THAT THE MILL TOWN PROPERTY MAY BE DEVELOPED UNDER THE PROVISIONS** of the Zoning Code [Title 10 of the Flagstaff City Code] **IN EFFECT ON MAY 5, 2017** ~~the version in place as of May 5, 2017 will apply),~~ **FOR A PERIOD OF SEVEN (7) YEARS AFTER THE EFFECTIVE DATE.** ~~except as modified herein or otherwise agreed to, in writing, by Vintage and the City (collectively, the “Applicable Rules” or “Rules”);~~ **IF, HOWEVER, THE MILL TOWN PROPERTY IS DEVELOPED IN CONFORMANCE WITH REZONING ORDINANCE FOR PZ-16-00239-02 (CITY ORDINANCE NO. 2018-13), SITE PLAN (PZ-16-**

**00239-01), AND PRELIMINARY PLAT (PZ-16-00239-03), WITHOUT ANY MODIFICATION EXCEPT FOR MINOR MODIFICATIONS ALLOWED UNDER CITY CODE, THEN CITY ENGINEERING STANDARDS, BUILDING CODE, FIRE CODE, REGULATIONS, RULES, GUIDELINES, AND OTHER CODE PROVISIONS IN EXISTENCE ON MAY 5, 2017, INCLUDING THE ZONING CODE, SHALL APPLY.** ~~provided, however, that i~~ If Vintage fails to apply for any Construction Permits for development of the Mill Town Property within five **SEVEN (57)** years following the Effective Date of this Agreement, (and thereafter diligently proceeds with construction pursuant to those Construction Permits), then development of the Mill Town Property will **SHALL** be subject to the City's codes, ordinances, regulations, rules, guidelines, and policies in effect at the time Vintage applies for Construction Permits. "Construction Permits" shall mean **S** any permit issued by the City or other jurisdiction that is required in order to begin construction of any on-site or off-site improvements related to development of the Mill Town Property, including but not limited to public improvements, grading, electrical, gas, plumbing, mechanical, or structural.

3. Section 5.3 is hereby added to the Agreement:

5.3 Outdoor Lighting Standards. Notwithstanding the Development Standards described in Section 3 of this Agreement, the Milltown Property will be developed in accordance with the Outdoor Lighting Standards (Zoning Code Division 10-50.70) in effect at the time of development.

4. Miscellaneous. Except as stated herein, the Agreement shall remain in full force and effect and is hereby ratified and approved. If there is any inconsistency between the terms of the Agreement and the terms of this Amendment, the provisions of this Amendment will govern and control the rights and obligations of the Parties. This Second Amendment may be signed in counterparts.

5. Conflict of Interest. This Amendment and the Development Agreement may be cancelled by the City pursuant to A.R.S. § 38-511.

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IN WITNESS WHEREOF, City and Vintage have executed this Amendment as of the date first set forth above.

**“City”**

City of Flagstaff, an Arizona municipal corporation

\_\_\_\_\_  
\_\_\_\_\_, Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

**“Vintage”**

Vintage Partners, LLC, an Arizona limited liability company

By: Edward & Company, LLC, an Arizona limited liability company  
Its: Administrative Member

By: \_\_\_\_\_  
Mark Ortman, Jr.  
Its: Manager

STATE OF ARIZONA       )  
COUNTY OF COCONINO )

ACKNOWLEDGMENT

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public, personally appeared \_\_\_\_\_, 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 she executed the same on behalf of the City of Flagstaff, for the purposes therein contained.

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

STATE OF ARIZONA       )  
COUNTY OF MARICOPA )

ACKNOWLEDGMENT

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public, personally appeared Mark Ortman, Jr., known to me to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she executed the same on behalf of Vintage Partners LLC, an Arizona limited liability company, for the purposes therein contained.

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_