

Memorandum of Understanding

This Memorandum of Understanding (MOU) is entered into by and between the City Manager of Fort Collins and the City of Fort Collins’ Social Sustainability Department hereinafter referred to as “Parties” when referenced together. The Parties agree as follows:

Whereas, the City of Fort Collins received \$28.1 million from the U.S. Department of the Treasury under the American Rescue Plan Act’s State and Local Fiscal Recovery Fund (ARPA-SLFRF); and

Whereas, ARPA-SLFRF requires funding to be obligated by December 31, 2024, otherwise it must be returned to the U.S. Department of the Treasury; and

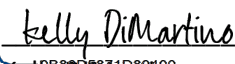
Whereas, the U.S. Department of the Treasury considers funds obligated through an interagency agreement, if the agreement: imposes conditions on the use of funds by the part of government receiving funds to carry out the program; sets forth specific requirements, such as a scope of work and project deliverables; is signed by the parties; and it does not disclaim any binding effect or state that it does not create rights or obligations; and

Whereas, in its 2023-2024 budget, the City Council appropriated \$1 million of ARPA-SLFRF funds for use by the City’s Affordable Housing Land Bank Program within the Social Sustainability Department to acquire five acres of developable real estate in Fort Collins.

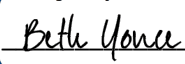
It is therefore agreed between the Parties:

The Department shall use the \$1 million appropriation for Affordable Housing Land Bank Expansion from the 2023-2024 City budget to exercise the option attached hereto as Exhibit A to acquire five acres of developable real estate in northeast Fort Collins. The Department shall exercise the option and acquire the property by December 5, 2026.

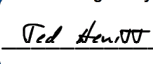
CITY MANAGER OF THE CITY OF FORT COLLINS

DocuSigned by:

Kelly DiMartino
9/12/2024
Date

DIRECTOR OF SOCIAL SUSTAINABILTY DEPT

Signed by:

Beth Yonce
9/10/2024
Date

Approved as to Form

DocuSigned by:

Asst City Attorney
9/10/2024
Date

WHEN RECORDED RETURN TO:
Real Estate Services Department
City of Fort Collins
P.O. Box 580
Fort Collins, CO 80522-0580

FOURTH AMENDMENT TO
OPTION TO PURCHASE REAL PROPERTY

This Fourth Amendment to Option to Purchase Real Property (“Amendment”) is made and entered into by and between **Montava Partners, LLC, a Colorado limited liability company (“Seller”)**, and **the City of Fort Collins, Colorado, a Municipal Corporation, (“Purchaser”)** and shall be effective as of the date both parties execute this Amendment.

RECITALS:

1. Seller and Purchaser are parties to that Option to Purchase Real Property dated September 4, 2018 (“**Effective Date**”) and recorded in the real property records of the Larimer County Clerk and Recorder on September 14, 2018, at Reception No. 20180057012, as amended by a First Amendment to Option to Purchase Real Property dated October 10, 2020 and recorded in the real property records of the Larimer County Clerk and Recorder on December 23, 2020, at Reception Number 20200109457, by a Second Amendment to Option to Purchase Real Property dated *nunc pro tunc* December 31, 2022 and recorded in the real property records of the Larimer County Clerk and Recorder on March 23, 2023, at Reception Number 20230010495, and by a Third Amendment to Option to Purchase Real Property dated November 21, 2023 and recorded in the real property records of the Larimer County Clerk and Recorder on November 30, 2023, at Reception Number 20230051437 (“**Option**”).
2. The Option grants Purchaser an option to purchase the Property, as defined in the Option, during the Option Term, through December 31, 2024.
3. The parties wish to amend the Option to extend the Option Term by an additional year.

NOW THEREFORE, for TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby confessed and acknowledged, the parties agree that the Option is hereby amended as described herein.

1. Paragraph 3.B. of the Option is amended to read as follows:

- B. The term of the Option shall be from the Effective Date until December 31, 2025 ("**Option Term**").
- 2. Paragraph 3.D. of the Option is amended to read as follows:
 - D. Purchaser's right to exercise the Option is contingent on Seller or another entity managed or controlled by Seller acquiring the Development Parcel, including the Property (and/or the substitution property contemplated in Paragraph 2). If this contingency is not met by September 30, 2025, Purchaser may elect to either (i) exercise a one-time right to extend the date of such contingency for a period of up to six (6) months by delivering notice of such extension to Seller not later than October 10, 2025, in which case the Option Term shall be extended to the date that is three (3) months after the extended contingency date; or (ii) elect to terminate this Agreement by sending notice of such termination to Seller not later than October 10, 2025, and upon such election to terminate, this Agreement shall terminate, both parties shall be released from their obligations hereunder, and Seller will return or cause to be returned the earnest money deposit previously paid by Purchaser within thirty (30) days.
- 3. The Option remains in full force and effect, except as modified by this Amendment.

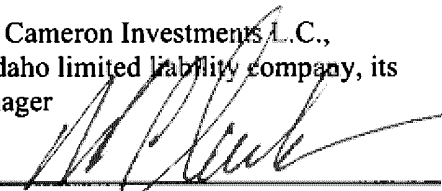
[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the date and year first stated above.

SELLER:

Montava Partners, LLC
a Colorado limited liability company

By: Cameron Investments L.C.,
an Idaho limited liability company, its
Manager

By: 
Richard Clark, Manager

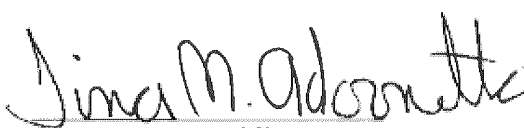
Date: August 6, 2024

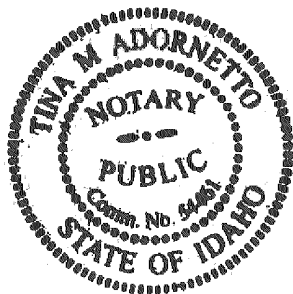
STATE OF IDAHO)
) ss
COUNTY OF ADA)

The foregoing instrument was acknowledged before me this 6th day of August, 2024, by Richard Clark, as Manager of Cameron Investments L.C., an Idaho limited liability company, the Manager of Montava Partners, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My Commission expires: May 7, 2027


Notary Public



PURCHASER:

**THE CITY OF FORT COLLINS,
COLORADO, a Municipal Corporation**

Date: 8-30-24

By: Kelly DiMartino
Kelly DiMartino, City Manager

ATTEST:

Delyna Calderon
City Clerk

Delyna Calderon
(print name)



APPROVED AS TO FORM:

Ed Hewitt
Assistant City Attorney

TEO HEWITT
(print name) Asst. City Atty