

**FIRST AMENDMENT TO THE
"AGREEMENT TO SECURE PUBLIC BENEFITS FOR MULBERRY DEVELOPMENT
AS PROVIDED IN SERVICE PLAN FOR MULBERRY METROPOLITAN DISTRICT
NOS. 1 THROUGH 6."**

THIS FIRST AMENDMENT TO THE "AGREEMENT TO SECURE PUBLIC BENEFITS FOR MULBERRY DEVELOPMENT AS PROVIDED IN SERVICE PLAN FOR MULBERRY METROPOLITAN DISTRICT NOS. 1 THROUGH 6" (the "First Amendment") is made and entered into on the date of the last signature below, by and between the CITY "F FORT COLLINS, COLORADO, a municipal corporation ("City"); and MULBERRY DEVELOPMENT, LLC, a Colorado limited liability company ("Developer"). The City and the Developer may be referred to individually, each as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, on March 23, 2021, the City and the Developer entered into the Agreement to Secure Public Benefits for Mulberry Development as Provided in Service Plan for Mulberry Metropolitan District Nos. 1 Through 6 (the "Public Benefits Agreement");

WHEREAS, the Parties wish to enter into this First Amendment for the purpose of clarifying a term in the Public Benefits Agreement relating to high quality and smart growth elements; and

WHEREAS, under Subsection II.F. of the Public Benefits Agreement the City and the Developer may amend the Public Benefits Agreement by an instrument in writing signed by the City and the Developer.

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

TERMS AND CONDITIONS

1. Incorporation of Recitals. The foregoing Recitals are incorporated herein as material terms and conditions.
2. Capitalized Words and Terms. Capitalized words and terms not otherwise defined in this First Amendment shall retain the meaning given to them in the Public Benefits Agreement.
3. Amendment of Subsection I.B.3(ii) regarding securing the public benefits of High-Quality and Smart Growth Elements. Subsection I.B.3(ii) of the Public Benefits Agreement is amended and replaced to read as follows:

(ii) non-street-facing garages must be provided for at least 45% of the Total Dwelling Units,

4. Amendment of Subsection II.L. regarding Notices. Subsection II.L. of the Public Benefits Agreement is amended to replace the Developer’s attorney contact information to read as follows:

With a copy to:

Coan, Payton & Payne, LLC
ATTN: Bob Choate
103 W. Mountain Avenue, Suite 200
Fort Collins, CO 80524
Email: BChoate@cp2law.com

5. Original Agreement. The Public Benefits Agreement remains in full force and effect, as amended by this First Amendment.

6. First Amendment Effective Date: This First Amendment shall be effective after all of the following have occurred: (a) the City Council has adopted a resolution approving this First Amendment, (b) the City and the Developer have executed this First Amendment with their signatures below, and (c) the Developer has recorded this First Amendment with the Larimer County Clerk and Recorder, with the Developer paying the cost of recording.

7. Counterparts. This First Amendment may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same amendment.

[Remainder of page left intentionally blank. Signature page follows.]

