

RESOLUTION 2025-004
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT
AGREEMENT TO SECURE PUBLIC BENEFITS FOR
DEVELOPMENT OF THE MONTAVA PLANNED UNIT
DEVELOPMENT MASTER PLAN

A. Montava is a Planned Unit Development (PUD) established under Transitional Land Use Code Divisions 2.15 and 4.29 for a section of rural and agricultural land next to the Anheuser-Busch facility in northeast Fort Collins, modeled after a village-style development for the wide variety of land uses planned. The development intends to include a variety of housing, amenities and public spaces. The proposal calls for a complete, connected community with new neighborhoods, parks, schools, a town center, urban agriculture, businesses, and transportation connections.

B. On September 25, 2018, Council approved the Consolidated Service Plan for Montava Metropolitan District Nos. 1-7 (Service Plan) to govern the Montava Metro Districts by Resolution 2018-083. Thereafter, on February 18, 2020, Council approved the Montava PUD Master Plan and Montava PUD Overlay by Ordinance No. 014, 2020, and the PUD Master Plan Development Agreement by Ordinance No. 015, 2020, for the development of approximately 844 acres to be acquired from the Anheuser-Busch Foundation and an additional 108 acres to be obtained via an exchange with the Poudre School District.

C. In connection with the approval of the PUD Master Plan, Council approved by Resolution 2020-007 the Development Agreement to Secure Public Benefits for Montava Planned Unit Development Master Plan (Public Benefits Agreement, at Reception No. 20220022462) for the purpose of securing the Montava developer's (the "Developer") delivery of certain "Public Benefits" described in the Service Plan as: (i) large-scale comprehensive master planning; (ii) new urbanism; (iii) agri-urban development; (iv) zero energy ready homes; (v) non-potable water system; and (vi) affordable/workforce housing. The Public Benefits Agreement meets both the spirit of the Metro District Policy and helps the City achieve its strategic objectives.

D. The Public Benefits Agreement at Subsection II.G. contains a contingency requiring the closing of the Developer's purchase from the Anheuser-Busch Foundation within five (5) years after the Public Benefits Agreement's effective date of March 25, 2020, and if the closing does not occur before the end of the five (5) years, the Development Agreement shall automatically terminate and thereafter be of no force or effect.

E. The Developer has encountered complicated issues in finalizing long-term solutions for ditch crossings, ditch modifications and stormwater management causing years of delay and erosion of the original five (5)-year contingency period.

F. The Developer has submitted four (4) development applications for phases within the PUD Master Plan, one (1) of which must be approved before the Anheuser-Busch Foundation closing.

G. While the Developer continues to pursue resolution, it is also requesting that the Council grant a two (2)-year extension of the five (5)-year contingency period to allow additional time to resolve the issues and close on the purchase to prevent a termination of the Public Benefits Agreement.

H. Under Section II.H. of the Development Agreement, the City and the Developer are authorized to amend the Development Agreement without the consent of the Anheuser-Busch Foundation or the Poudre School District; although, both entities are advised of this request.

I. There will not be financial impact on the City for extending the existing deadline.

J. The City Council finds and determines that the adoption of this resolution advances the public's health, safety, and welfare by ultimately facilitating the Developer's delivery of the agreed upon Public Benefits.

In light of the foregoing Recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS:

Section 1. The First Amendment to the Public Benefits Agreement to extend the contingency period upon the closing of the Developer's purchase from the Anheuser-Busch Foundation from five (5) years after the effective date of the Public Benefits Agreement to seven (7) years after the effective date of the Public Benefits Agreement is hereby approved by the City Council.

Section 2. The Mayor is authorized to execute the First Amendment to the Public Benefits Agreement on behalf of the City in substantially the same form attached to this resolution as Exhibit A.

Section 3. A copy of this resolution with all attachments shall be recorded in the Office of the Larimer County Clerk and Recorder promptly after the effective date of this resolution with all recording fees paid by the Developer.

Passed and adopted on January 21, 2025.

Mayor

ATTEST:

City Clerk

Effective Date: January 21, 2025

Approving Attorney: Heather N. Jarvis