

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT TO  
SECURE PUBLIC BENEFITS FOR  
MONTAVA PLANNED UNIT DEVELOPMENT MASTER PLAN**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT TO SECURE PUBLIC BENEFITS FOR MONTAVA PLANNED UNIT DEVELOPMENT MASTER PLAN (the “First Amendment”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the CITY OF FORT COLLINS, COLORADO, a municipal corporation of the State of Colorado (“City”); and MONTAVA PARTNERS, LLC, a Colorado limited liability company (“Montava”), as successor to HF2M, INC., a Texas corporation (“HF2M”). City and Montava may be referred to individually, each as a “Party,” or collectively, the “Parties.”

**RECITALS**

WHEREAS, City and HF2M entered into the Development Agreement to Secure Public Benefits for Montava Planned Unit Development Master Plan on December 11, 2020 (the “Original Agreement”), together with U.S. BANK NATIONAL ASSOCIATION, as successor in interest to U.S. BANK, AS CORPORATE TRUSTEE OF THE ANHEUSER-BUSCH FOUNDATION, a Missouri charitable trust (“Foundation”) and POU DRE SCHOOL DISTRICT T-1, a political subdivision of the State of Colorado (“School District”); the Foundation and School District being collectively referred to herein as “Owners.” The Effective Date of the Original Agreement was March 25, 2020;

WHEREAS, HF2M assigned all of its obligations, right, title, interest in and to the Original Agreement to Montava effective March 8, 2021;

WHEREAS, the closing of the sale and conveyance of the Foundation Property to Montava has been delayed by unforeseen complications thus creating a risk that the Foundation Contingency in Subsection II.G of the Original Agreement cannot be satisfied within the time frame originally envisioned;

WHEREAS, the Parties wish to enter into this First Amendment for the purpose of amending the Foundation Contingency to extend by two (2) years the time period within which the fee-title conveyance of the Foundation Property to Montava must occur; and

WHEREAS, the Original Agreement may be amended only by the City and Montava without the consent of the Owners; Montava has not granted the right to consent to this First Amendment to any successor or assigns.

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.

### AMENDMENT TO ORIGINAL AGREEMENT

1. Incorporation of Recitals. The foregoing Recitals are incorporated herein as material terms.

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 Original Agreement or in the Service Plan.

3. Foundation Contingency. The Parties acknowledge that the Original Agreement provides that should the fee-title conveyance of the Foundation Property to Montava not occur within five (5) years after the Effective Date, or by March 25, 2025, the Original Agreement shall automatically terminate, and the Parties agree that it is reasonable and in the best interests of the general welfare of the City to extend the deadline for satisfaction of the Foundation Contingency by an additional two (2) years.

4. Amendment of Foundation Contingency. The Parties therefore agree to amend Subsection II.G of the Original Agreement to read as follows:

Foundation Contingency. The Parties hereto expressly agree that this Agreement is contingent upon the Foundation's fee-title conveyance of record of the Foundation Property to the Developer pursuant to the terms of the Foundation Agreement within seven (7) years after the Effective Date. Because the legal description of the Foundation Property in Exhibit A has not been surveyed, it may need to be further verified by survey before the Foundation conveys the Foundation Property to the Developer; therefore, the Parties acknowledge and agree that the exact number of acres and boundaries of the Foundation Property to be conveyed under the Foundation Agreement may change and any such reasonable changes shall not affect the satisfaction of this contingency so long as substantially all of the Foundation Property currently described in Exhibit A is conveyed by the Foundation to the Developer. If such closing does not occur by such date, this Agreement shall thereupon automatically terminate and thereafter be of no force or effect, and the Parties hereto shall be released from all obligations hereunder.

5. Amendment of Notices. The Parties agree to amend Subsection II.P. of the Original Agreement to replace the Developer's contact information to read as follows:

If to Developer:

Montava Partners, LLC  
ATTN: Max Moss

EXHIBIT A TO RESOLUTION 2025-004

430 N. College Ave. Suite 410  
Fort Collins, CO 80524  
Email: max@montava.com

With copies to:

Brownstein Hyatt Farber Schreck, LLP  
ATTN: Claire N.L. Havelda  
675 15<sup>th</sup> Street, Suite 2900  
Denver, CO 80202  
Email: chavelda@bhfs.com

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

7. First Amendment Effective Date: This First Amendment shall be effective upon the adoption of a resolution of the City Council approving the First Amendment.

8. 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.

9. Recordation. The City shall record this First Amendment with the Larimer County Clerk and Recorder, and Montava shall pay the cost of the same.

IN WITNESS WHEREOF, the Parties agree to the terms and conditions of this First Amendment described above effective as of the First Amendment Effective Date.

CITY:

CITY OF FORT COLLINS, COLORADO,  
a Municipal Corporation

By: \_\_\_\_\_  
Jeni Arndt, Mayor

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Heather N. Jarvis, Assistant City Attorney

ATTEST:

\_\_\_\_\_  
Delynn Coldiron, City Clerk

EXHIBIT A TO RESOLUTION 2025-004

MONTAVA:

MONTAVA PARTNERS, LLC, a Colorado  
Limited liability company

By: CAMERON INVESTMENTS L.C., an  
Idaho limited liability company, Manager

By: \_\_\_\_\_  
Richard P. Clark, Manager

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Printed name, Title