

**FIRST AMENDMENT TO
PUD MASTER PLAN DEVELOPMENT AGREEMENT FOR
THE MONTAVA PLANNED UNIT DEVELOPMENT OVERLAY
AND MASTER PLAN**

THIS FIRST AMENDMENT TO PUD MASTER PLAN DEVELOPMENT AGREEMENT FOR THE MONTAVA PLANNED UNIT DEVELOPMENT OVERLAY AND 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

A. City and HF2M entered into the PUD Master Plan Development Agreement for the Montava Planned Unit Development Overlay and Master Plan on May 23, 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 R-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 13, 2020.

B. HF2M assigned all of its obligations, rights, title, interest in and to the Original Agreement to Montava effective March 8, 2021.

C. The closing of the sale of the Foundation Property to Montava has been delayed by unforeseen complications thus creating a risk that the Foundation Contingency in Subsection V.C.1 of the Original Agreement cannot be satisfied within the time frame originally envisioned.

D. 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 sale of the Foundation Property to Montava must occur.

E. The Original Agreement may only be amended 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 contained herein, such consideration being acknowledged as sufficient and of significant value to the Parties, the Parties agree as follows.

AMENDMENT TO ORIGINAL AGREEMENT

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

B. Definitions. Capitalized terms not otherwise defined herein shall retain the meanings set forth in the Original Agreement.

C. Foundation Contingency. The Parties acknowledge that the Original Agreement provides that should the Foundation Contingency not occur within five (5) years after the Effective Date, or by March 13, 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.

D. Amendment of Foundation Contingency. The Parties therefore agree to amend Subsection V.C.1 of the Original Agreement to read as follows:

Foundation Contingency. The Parties hereto expressly agree that this Agreement is contingent upon the closing of the sale of substantially all of the Foundation Property to the Developer pursuant to the terms of the Foundation Agreement within seven (7) years after the Effective Date. 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.

E. Amendment of Notices. The Parties agree to amend Subsection V.Q. of the Original Agreement to replace the Developer’s contact information to read as follows:

If to Developer:

Montava Partners, LLC
ATTN: Max Moss
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 15th Street, Suite 2900
Denver, CO 80202
Email: chavelda@bhfs.com

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

G. First Amendment Effective Date: This First Amendment shall be effective on the tenth day following final passage by the City Council of the ordinance approving the First Amendment.

H. 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.

I. Recordation. The City shall record this Agreement in the Larimer County Records, 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

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