

ORDINANCE NO. 005, 2025
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING THE FIRST AMENDMENT TO THE PUD MASTER
PLAN DEVELOPMENT AGREEMENT FOR THE MONTAVA
PLANNED UNIT DEVELOPMENT OVERLAY AND 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 February 18, 2020, Council approved the Montava PUD Master Plan and Montava PUD Overlay by Ordinance No. 014, 2020. On February 18, 2020, Council also approved, in connection with the PUD Master Plan, the PUD Master Plan Development Agreement (Development Agreement) by Ordinance No. 015, 2020.

C. The Development Agreement primarily addresses an extension from three (3) to twenty-five (25) years of the vested rights period, because vested property rights are normally valid for up to three (3) years under Transitional Land Use Code Section 2.2.11(C)(2) unless an extended period of vested rights is granted as memorialized in a development agreement City Council adopts by ordinance.

D. The Development Agreement also addresses other terms of development within the Montava PUD Overlay and Master Plan. The Development Agreement envisions the Montava developer's (the "Developer") acquisition of approximately 844 acres from the Anheuser-Busch Foundation and an additional 108 acres via an exchange with the Poudre School District, with the resulting property being developed in phases subject to the PUD Master Plan, the Development Agreement and the accompanying Public Benefits Agreement.

E. The Development Agreement at Subsection V.C.1. contains a contingency requiring the closing of the Developer's purchase from the Anheuser-Busch Foundation within five (5) years after the agreement's effective date of March 13, 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.

F. 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.

G. 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.

H. While the Developer continues to pursue resolution, the Developer requests 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 Development Agreement.

I. Under Section V.J. 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.

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

K. It is in the best interest of the City to extend the contingency upon the closing of the Developer's purchase from the Anheuser-Busch Foundation, because extending the contingency upon the closing time should facilitate development pursuant to the Development Agreement and ultimately the Developer's significant investments in public infrastructure improvements.

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

Section 1. The First Amendment to the Development 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 Development Agreement to seven (7) years after the effective date of the Development Agreement is hereby approved by the City Council.

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

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

Introduced, considered favorably on first reading on January 21, 2025, and approved on second reading for final passage on February 4, 2025.

Mayor

ATTEST:

City Clerk

Effective Date: February 14, 2025

Approving Attorney: Heather N. Jarvis

**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.

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