

**EXEMPT PURSUANT TO
GOVERNMENT CODE §27383**

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City of Vacaville

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WHEN RECORDED MAIL TO:
Michelle Thornbrugh
City Clerk
City of Vacaville
650 Merchant Street, Vacaville, CA 95688

APNs 0128-060-110
0128-070-020
0128-070-030

**SECOND AMENDMENT TO DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF VACAVILLE AND
MONTESSA VACAVILLE, LLC, a California limited liability company
[successor in interest to Five Plus, L.P.]
REGARDING THE DEVELOPMENT OF REAL
PROPERTY COMMONLY REFERRED TO AS**

“MONTESSA”

September 22, 2021
DATE

This version printed on September 21, 2021.
File No.: 21-191 Montessa Development Agreement Amendment

**SECOND AMENDMENT TO DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF VACAVILLE AND MONTESSA VACAVILLE, LLC [successor in interest
to Five Plus, L.P.] REGARDING THE DEVELOPMENT OF REAL PROPERTY
COMMONLY REFERRED TO AS “MONTESSA”**

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (hereinafter the “Second Amendment”) is entered into this 22 day of September, 2021, by and between **MONTESSA VACAVILLE, LLC**, a California corporation (“Developer”) and the **CITY OF VACAVILLE**, a municipal corporation (“City”), pursuant to the authority of Sections 65864 through 65869.5 of the California Government Code, and Division 14.17 of the Vacaville Municipal Code. City and Developer are also referred to hereinafter individually as “party” or collectively as the “parties.”

RECITALS

This Second Amendment is made with reference to the following facts:

- A. On August 23, 2016, the prior owner, Five Plus, L.P. (“Five Plus”) entered into an agreement entitled “Development Agreement By and Between the City of Vacaville and Five Plus, L.P. Regarding the Development of Real Property Commonly Referred to as Montessa”. The real property that is the subject of the August 23, 2016, Agreement (hereinafter “Agreement”) is generally depicted in Exhibit A of the Agreement and more particularly described in Exhibit B of the Agreement. The Agreement was recorded on September 2, 2016 (Doc #201600075612). All capitalized words and phrases in this First Amendment shall have the same meaning as in the Agreement.
- B. On or about February 7, 2018, City and Five Plus recorded the First Amendment (the “First Amendment”) to the Agreement, modifying the Tentative Map and making other changes to the Agreement (Doc #201800009148).
- C. On or about August 12, 2020, Five Plus and Developer completed the sale of the Montessa property and recorded a Grant Deed with the Solano County Recorder’s Office (Doc #202000067115).
- D. Pursuant to Section 1 of the Agreement, the Term of the Agreement is 10 years commencing on the Effective Date, September 22, 2016, and is subject to a performance milestone of recording a Final Map on or before the fifth (5th) anniversary of the Agreement’s Effective Date.
- E. Notwithstanding Developer’s best efforts, Developer will not be able to record the Final Map on or before the fifth (5th) anniversary of the Agreement’s Effective Date, as required by Section 1.C of the Agreement.
- F. Subsection 12.D of the Agreement provides that the Agreement may be amended by mutual consent of the parties and that the Director of Community Development (“Director”) is authorized to execute such amendments on behalf of City as an Administrative Amendment when the amendment does not relate to Term of the

Agreement, permitted uses of the Project Site, provisions for the reservation or dedication of land, the conditions, terms, restrictions and requirements relating to subsequent discretionary approvals of City, or monetary exactions of Developer.

- G. The Director of Community Development has the authority to approve this Second Amendment as an administrative amendment because an extension of the time to record the Final Map is not an extension of the Term of the Agreement.

NOW, THEREFORE, in consideration of the promises, covenants, and provisions set forth herein, the parties agree as follows:

SECTION 1. REAFFIRMATION

Developer, by and through the undersigned, does hereby reaffirm the terms of the Agreement and the First Amendment and further agrees to be bound by all terms of the Agreement and the First Amendment other than as modified herein.

SECTION 2. DEFINITIONS

As used herein, and except as modified herein, the capitalized words and phrases shall have the same meaning as the capitalized words and phrases in the Agreement.

Except as stated herein, all references to Five Plus, L.P. or Five Plus, L.P., Inc., in the Agreement, whether in the title or the body of the Agreement, are hereby amended to read Montessa Vacaville, LLC, a California limited liability company.

SECTION 3. TIMING OF FINAL MAP

Section 1.C of the Agreement shall be modified by replacing “fifth (5th) anniversary” with “sixth (6th) anniversary” thereby extending the time to record a Final Map by one year.

SECTION 4. OTHER TERMS AND CONDITIONS

All other terms and conditions of the Agreement and the First Amendment not expressly amended by this Second Amendment shall remain in full force and effect.

SECTION 5. SIGNATORY’S AUTHORITY

Each party warrants to each other party that he or she is fully authorized and competent to enter into this Second Amendment in the capacity indicated by his or her signature and agrees to be bound by this Second Amendment.

Signatures on following page

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the day and year first above written.

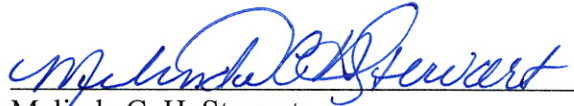
“CITY”

CITY OF VACAVILLE,
a municipal corporation

APPROVED AS TO FORM
Melinda C. H. Stewart, City Attorney



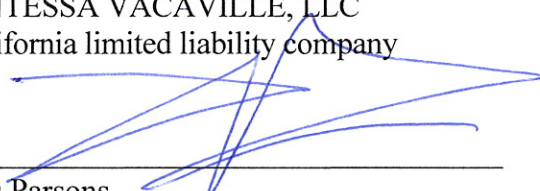
Erin Morris, AICP
Director of Community Development



Melinda C. H. Stewart
City Attorney

“DEVELOPER”

MONTESSA VACAVILLE, LLC
a California limited liability company



Louis Parsons
Authorized Signatory

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

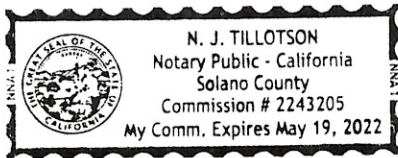
State of California }
County of Solano County

On September 23, 2021 before me, Nancy J. Tillotson , Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Louis Parsons
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature Nancy J. Tillotson
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Second Amendment to Development Agreement (Montessa)

Document Date: September 22, 2021 Number of Pages: 4

Signer(s) Other Than Named Above: Melinda H. Stewart, City Attorney

Capacity(ies) Claimed by Signer(s)

Signer's Name: Louis Parson

Signer's Name: _____

Corporate Officer – Title(s): _____

Corporate Officer – Title(s): _____

Partner – Limited General

Partner – Limited General

Individual Attorney in Fact

Individual Attorney in Fact

Trustee Guardian of Conservator

Trustee Guardian of Conservator

Other: Authorized Signatory

Other: _____

Signer is Representing: Developer

Signer is Representing: _____

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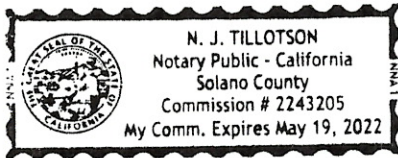
State of California }
County of Solano County }

On September 23, 2021 before me, Nancy J. Tillotson, Notary Public,
Date Here Insert Name and Title of the Officer
personally appeared Erin Morris, AICP
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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Signature Nancy J. Tillotson
Signature of Notary Public

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Description of Attached Document

Title or Type of Document: Second Amendment to Development Agreement (Montessa)

Document Date: September 22, 2021 Number of Pages: 5

Signer(s) Other Than Named Above: Melinda H. Stewart, City Attorney

Capacity(ies) Claimed by Signer(s)

Signer's Name: Erin Morris, AICP

Signer's Name: _____

Corporate Officer – Title(s): _____

Corporate Officer – Title(s): _____

Partner – Limited General

Partner – Limited General

Individual Attorney in Fact

Individual Attorney in Fact

Trustee Guardian of Conservator

Trustee Guardian of Conservator

Other: Director of Community Development

Other: _____

Signer is Representing: City of Vacaville

Signer is Representing: _____