

**PURSUANT TO TITLE 24, ARTICLE 68, C.R.S.
AND FORT COLLINS LAND USE CODE 2.2.11(C),
THIS AGREEMENT IS A SITE SPECIFIC DEVELOPMENT PLAN, THE
APPROVAL OF WHICH CREATES A
VESTED PROPERTY RIGHT, VALID FROM THE EFFECTIVE DATE OF THE
ADOPTING ORDINANCE**



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

DATED _____, 20____

TABLE OF CONTENTS

RECITALS	3
SECTION I. DEVELOPMENT DOCUMENTS	6
SECTION II. VESTED PROPERTY RIGHT.....	8
SECTION III. FEES	11
SECTION IV. SCHOOL DISTRICT	11
SECTION V. MISCELLANEOUS	12

EXHIBITS

Exhibit A – Definitions	
Exhibit B – PUD Master Plan	
Exhibit C – PUD Master Plan Summary	
Exhibit D – Depiction of PUD Property, Foundation Property and School District Property	
Exhibit E – Depiction of Development Property and School Site	
Exhibit F – Description of Foundation Property	
Exhibit G – Description of Development Property	
Exhibit H – Description of School Site	
Exhibit I – Description of PUD Property	
Exhibit J – Description of School District Property	
Exhibit K – Director Vested Property Rights Determination	

**PURSUANT TO TITLE 24, ARTICLE 68, C.R.S.
AND FORT COLLINS LAND USE CODE 2.2.11(C),
THIS AGREEMENT IS A SITE SPECIFIC DEVELOPMENT PLAN, THE
APPROVAL OF WHICH CREATES A VESTED PROPERTY RIGHT
UNDER TITLE 24, ARTICLE 68, C.R.S., VALID FROM
THE EFFECTIVE DATE OF THE ADOPTING ORDINANCE**

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

THIS PUD MASTER PLAN DEVELOPMENT AGREEMENT FOR THE MONTAVA PLANNED UNIT DEVELOPMENT OVERLAY AND MASTER PLAN (the "Agreement") is made and entered into this _____ day of _____, 20____, by and between the CITY OF FORT COLLINS, COLORADO, a municipal corporation of the State of Colorado ("City"); HF2M, INC., a Texas corporation ("Developer"); U.S. BANK AS CORPORATE TRUSTEE OF THE ANHEUSER-BUSCH FOUNDATION, a Missouri charitable trust ("Foundation"); and POUDRE SCHOOL DISTRICT R-1, a political subdivision of the State of Colorado ("School District"); the Foundation and the School District being collectively referred to herein as "Owners."

For and in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby confessed and acknowledged, the parties agree as follows:

RECITALS

This Agreement is made with respect to the following facts:

A. Capitalized terms have the meanings set forth in **Exhibit A** attached hereto and incorporated herein by reference.

B. The Developer has entered into an agreement with the Foundation to acquire ownership of the Foundation Property (the "Foundation Agreement").

C. The Developer and the School District have executed the PSD Agreement which provides for the sale of the School District Property to the Developer, in exchange for the sale of the School Site to the School District.

D. The Developer desires to develop the PUD Property and has caused to be submitted to the City all plans, reports and other documents required for the approval of the PUD Overlay and the PUD Master Plan in accordance with the City's development application submittal master list for a PUD Overlay on the PUD Property, copies of which are on file in the office of the City Development Review Center and made a part hereof by reference.

E. The legislature of the State adopted the Vested Property Rights Statute to provide for the establishment of vested property rights in order to ensure reasonable certainty, stability and fairness in the land use planning process and in order to stimulate economic growth, secure the reasonable investment-backed expectations of landowners and foster cooperation between the public and private sectors in the area of land use planning. The Vested Property Rights Statute authorizes the City to enter into development agreements with landowners providing for a period of vesting of property rights exceeding three (3) years.

F. Pursuant to the PUD Overlay Regulations, the PUD Master Plan is eligible for a vested property right with respect to the Vested Master Plan Components.

G. The PUD Overlay Regulations allow for a term of a vested property right to exceed a three (3) year period if the City and the Developer enter into a development agreement which vests the property right for a period exceeding three (3) years, and further provides that such an agreement may be entered into by the City if the Director determines that (i) it will likely take more than three (3) years to complete all phases of the Project and the associated engineering improvements pursuant to the PUD Master Plan; and (ii) if warranted in light of all relevant circumstances including, but not limited to, the overall size of the PUD Property, and economic cycles and market conditions (the "Vested Property Rights Determination").

H. A vested property rights request was submitted by the Developer to the City requesting vested property rights for a twenty-five (25)-year period in connection with the PUD Master Plan for the Vested Master Plan Components.

I. The granting of a vested property right in connection with the PUD Master Plan for a period of twenty-five (25) years is warranted in view of the following

factors: (1) the large size of the PUD Property; (2) the significant investment in public infrastructure improvements which will be required to be made by the Developer; (3) the mixed-use nature of the PUD Master Plan; (4) the anticipated twenty-five (25)-year build-out of the PUD Master Plan in multiple phases; and (5) expected changes in economic cycles and varying market conditions over such build-out period.

J. On November 15, 2019, the Director made the Vested Property Rights Determination, attached hereto as **Exhibit K**, that extended vesting in excess of three (3) years is appropriate.

K. Development of the PUD Property as proposed will provide substantial benefits for the City including large-scale comprehensive master-planning, implementation of certain New Urbanism principles in the PUD Master Plan, zero energy ready homes, a non-potable water system, attainable and affordable housing, energy and water conservation, natural areas, housing and employment variety, and an opportunity for a working farm, all of which promote the general welfare of the citizens of the City and others.

L. In addition to the benefits described above, development of the PUD Property will require substantial Developer investments in public facilities, including, but not limited to, multi-modal transportation improvements, roads, utilities, storm water facilities, parks, trails, and open spaces, which will serve the needs of the Project and the City. Completion of these facilities and provision of the public benefits will require substantial investments by the Developer. The Developer is willing to make such investments only if the vested property rights as set forth in this Agreement are provided.

M. Development of the PUD Property in accordance with the Development Documents will provide for orderly growth, ensure reasonable certainty in the land use planning process and otherwise achieve the goals and purposes for which the Vested Property Rights Statute and the PUD Overlay Regulations were enacted. In exchange for these benefits and the other benefits to the City contemplated by this Agreement, together with the public benefits served by the orderly development of the PUD Property, the Developer desires to receive the assurance that it may undertake and complete development of the Project pursuant to the Development Documents within the Vesting Term.

N. The City Council has approved, prior to or concurrently with the approval of this Agreement, the PUD Master Plan and a PUD Overlay of the PUD Master Plan.

O. The Parties intend to identify in this Agreement the Vested Master Plan Components all as specified in the approved PUD Master Plan, for which extended vesting is granted; and (2) the rights and obligations of the Developer and its successors and assigns, the City and the Owners appropriate for identification at the master planning level with respect to development of the PUD Property.

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:

I. DEVELOPMENT DOCUMENTS

A. Relationship to City Regulations. The Parties intend that this Agreement, the PUD Master Plan, the City Regulations, and any State or federal laws the City must comply with, collectively, shall govern development of the PUD Property. Except as otherwise stated in this Agreement, if any provision or requirement of the City Regulations that conflict with or otherwise materially impair or abnegate any matters that are specifically addressed in this Agreement, the applicable terms and conditions of this Agreement shall control and govern. In the case of any express or implied conflict between this Agreement and the PUD Master Plan, the provisions of this Agreement shall control.

B. Compliance with PUD Master Plan. All future development of the Development Property shall require an approved Project Development Plan and Final Plan in accordance with the requirements of the Land Use Code and such development shall be in compliance with the PUD Master Plan and any applicable State or federal laws the City must comply with. Prior to the development of any portion of the Development Property, Developer acknowledges that it will be required to submit the applicable plans for that phase of development and enter into a development agreement with the City for, among other obligations imposed therein, the construction and maintenance of public improvements for such phase, including regional improvements as required by applicable provisions of the PUD Master Plan or the City Regulations, or both.

C. Amendment or Termination.

1. Amendments to, or the termination of, the PUD Master Plan shall be governed by the applicable provisions of the PUD Overlay Regulations and this Section I.C.

2. The Developer is acknowledged by the Parties to be authorized to request amendments to the PUD Master Plan pursuant to Section 4.29(l)(2) of the PUD Overlay Regulations, provided the conditions set forth therein are met.

3. Subject to Section 4.29(l)(2)(a)2.b. of the PUD Overlay Regulations regarding ownership or control of PUD Property, the Developer and its successors and assigns to whom the Developer has granted such right in writing, may initiate and process an amendment to the PUD Master Plan without the consent of other owners of property within the PUD Property, with the exception of an amendment which includes any proposed changes to the School Site, if such site is owned by the School District, shall require the consent of the School District.

4. The provisions of this Section I.C. shall be a binding covenant upon the Developer, School District, and the Foundation, and their respective successors, heirs, legal representatives and assigns, and shall constitute covenants and/or servitudes which touch, attach to and run with the title to the PUD Property or any portion thereof and, upon recordation of this Agreement, shall be deemed to have met the requirements of Section 4.29(l)(2)(a)2.c. of the PUD Overlay Regulations.

5. An amendment to the PUD Master Plan, to any approved Final Plan or to a condition of approval of any such amendment shall not constitute or require an amendment to this Agreement. Nothing in this Agreement shall limit the ability of the City, in accordance with applicable City Regulations, to approve or deny any such amendment, or to attach conditions to an approval of any such amendment based on applicable City Regulations, provided, however, that no amendment to the PUD Master Plan, or to any condition of approval thereto, shall have the effect of terminating or materially changing the vested property right afforded the Vested Master Plan Components as set forth in Section II below.

D. Incorporation of Recitals. The recitals A – O above are hereby incorporated into the body of this Agreement.

II. VESTED PROPERTY RIGHT

A. Acknowledgements. The Developer and the City acknowledge the following:

1. The Development Property, in its entirety, is estimated to have a build-out period of twenty-five (25) years or more.

2. The Project will require substantial financial commitments and the design and installation of major public infrastructure improvements in the early phases of and throughout the development of the Development Property.

3. A material consideration of the Developer's development of the Development Property under the PUD Master Plan is the City's agreement that the Developer has the right to undertake and complete development of the Development Property in accordance with the terms and conditions of the Development Documents.

4. The Developer has requested a vested property right for a period of twenty-five (25) years from the Effective Date solely with respect to existing permitted uses, densities and Development Standards of the Land Use Code and to the approved modifications of such uses, densities and Development Standards of the Land Use Code, and to the Engineering Design Standards for which variances have been granted pursuant to Section 4.29(L) of the PUD Overlay Regulations, all of which are listed on Appendix C to the PUD Master Plan Summary which is attached hereto as **Exhibit C** and incorporated herein by reference (the "Vested Master Plan Components").

5. For the sole purpose of acquiring a vested property right for the Vested Master Plan Components, the City finds that the PUD Master Plan and this Agreement are each a Site Specific Development Plan eligible for a vested right pursuant to the PUD Overlay Regulations and the Vested Property Rights Statute.

B. Vested Property Right Granted. To the extent consistent with the provisions of this Agreement, the parties intend that the Development Property be granted a vested property right to the fullest extent available under the Vested Property Rights Statute and the PUD Overlay Regulations. The rights identified below shall constitute the vested property right under this Agreement:

1. The right to develop the land uses that are included within the Vested Master Plan Components.

2. The right to develop such land uses in accordance with the Vested Master Plan Components, to the extent set forth in and pursuant to the Development Documents.

3. The right to develop the Development Property in accordance with the Vested Master Plan Components in the order, at the rate and at the time as market conditions dictate, subject to the terms and conditions of the Development Documents.

4. In consideration of the acknowledgements described above in Section II.A., the public benefit to be derived from the development of the Development Property and the obligations and commitments of the Developer pursuant to this Agreement and to the extent permitted by law and not inconsistent with the Vested Property Rights Statute, the City shall be precluded from taking any zoning or land use action by the City, or pursuant to an initiative (including but not limited to any zoning law of general applicability adopted by the City or pursuant to an initiative as well as any zoning or development regulations that have previously been adopted by the City and applicable to the Development Property), that would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the Development Property as set forth in this Agreement, except as otherwise provided in Section 24-68-104 of the Vested Property Rights Statute. Accordingly, and notwithstanding any provision of the Land Use Code to the contrary, the Development Documents shall not lapse, expire or be subject to any form of "staleness" review during the Vesting Term. To the extent that any moratorium or other delay in development or use of the Development Property that is permitted under the Vested Property Rights Statute is imposed on development of the PUD Property, the Vesting Term shall be extended one day for each day that such moratorium is in effect.

C. Term of Vested Property Right.

1. The term of the vested property right granted in the above-referenced Section II.B. shall commence on the Effective Date and shall continue for a period of twenty-five (25) years from the Effective Date ("Vesting Term").

2. The Vesting Term is granted pursuant to the PUD Overlay Regulations and Section 24-68-104 of the Vested Property Rights Statute which authorizes local governments to enter into development agreements granting vested property rights for a period exceeding three (3) years where warranted in light of all relevant circumstances.

3. Individual Site Specific Development Plans within the PUD Overlay shall be afforded vested property rights in accordance with the Vested Property Rights Statute and the Land Use Code, including the PUD Overlay Regulations, at the time such plans are approved by the City. Vested rights for such approved Site Specific Development Plans shall be for a period of up to three (3) years unless otherwise extended pursuant to the Land Use Code and the PUD Overlay Regulations.

4. The expiration of the vested property right granted herein shall not affect (1) the PUD Master Plan; (2) any common-law vested rights obtained prior to such termination; or (3) any right arising from City permits or approved Final Plans within the Development Property or other entitlements for the Development Property which were granted or approved concurrently with or subsequent to the approval of the Development Documents.

D. Subsequent Review and Approvals. Nothing in this Section II shall exempt the PUD Master Plan or Project Development Plans or Final Plans within the Development Property from subsequent reviews and approvals by the City to ensure compliance with the terms and conditions of the approved PUD Master Plan, such Project Development Plans or Final Plans and this Agreement, provided that such subsequent reviews and approvals are not inconsistent with the original approvals of the PUD Master Plan, such Project Development Plans or Final Plans and this Agreement.

E. No Obligation to Develop. The Developer shall have no obligation to develop all or any portion of the PUD Property and shall have no liability under this Agreement to the City or to any other party for its failure to develop all or any part of the PUD Property. The Developer and the City contemplate that the Development Property will be developed in phases and that the Developer shall have the right to determine the timing of the various phases of development within the Development Property. The Developer shall have no obligation to develop all or any portion of any phase, notwithstanding the development or non-development of any other phase, and the Developer shall have no liability under this Agreement

to the City for its failure to develop all or any portion of any phase of the Development Property. Notwithstanding the foregoing, if the Developer commences development of all or any portion or phase of the Development Property, the Developer shall be required to construct the public improvements required to support such development in accordance with the terms and conditions of any development agreement(s) which the Developer and the City may execute in connection with any subsequently approved Final Plan. Nothing in this Agreement shall be construed as relieving the Developer of any obligation or liability for completion of any public improvements required by any development agreement(s) hereafter executed by the Developer.

F. Exceptions to Vested Property Right. The Developer acknowledges that the Vested Property Rights Statute contains certain exceptions which are set forth in C.R.S. 24-68-105 thereof and agrees that such exceptions shall apply to the vested property right granted herein which is based on the Vested Property Rights Statute.

III. FEES

Notwithstanding any language to the contrary in this Agreement, Developer agrees that each Final Plan within the Development Property shall be required to pay in full all applicable fees pursuant to applicable City Regulations in connection with such project.

IV. SCHOOL DISTRICT

A. The School District Property, currently owned by the School District, is depicted on **Exhibit D** attached hereto and incorporated herein by reference. The Developer has entered into the PSD Agreement which provides for the purchase of the School District Property from the School District by the Developer for development as part of the Project. The School Site, currently owned by the Foundation, is generally depicted on **Exhibit E** attached hereto and incorporated herein by reference. The Developer desires to sell the School Site to the School District for use as one or more public schools and related grounds and facilities.

B. Developer shall not be entitled to submit to the City any Project Development Plan within the PUD Property, receive any building permit for a structure within the PUD Property, or otherwise commence any development on the PUD Property as the term development is defined in the Land Use Code, until

the closing of the sale of the School District Property to the Developer and the closing of the sale of the School Site to the School District (the "Closings").

C. If the Closings occur, so that the School District owns the School Site and does not own any of the Development Property, either the Developer or the School District shall thereafter have the right, but not the obligation, to process a minor amendment to remove the School Site from the PUD Master Plan, which minor amendment shall be subject to review and approval by the City pursuant to applicable Land Use Code provisions, and, notwithstanding anything in this Agreement to the contrary, Developer shall thereupon have no rights or obligations in connection with the School Site.

V. MISCELLANEOUS

A. Attorneys' Fees. In the event of any litigation between the Parties concerning the subject matter or enforcement of the terms of this Agreement, the prevailing Party in such litigation shall be entitled to receive from the non-prevailing Party, and shall be awarded, in addition to the amount of any judgment or other award entered therein, all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing Party in such litigation.

B. City Findings. The City hereby finds and determines that the approval and execution of this Agreement are in the best interest of the public health, safety and general welfare of the City.

C. Contingencies.

1. 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 five (5) years after the Effective Date. In the event that 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.

2. Utilities' Contingency. There are ongoing negotiations between the City, the Developer and certain special districts in connection with water and sewer service issues affecting the PUD Property. In the event that such utility issues are not resolved to the satisfaction of the Developer in its sole discretion within five (5) years after the Effective Date, the parties

acknowledge and agree that the Developer shall have the right at any time to terminate this Agreement and/or to initiate termination of the PUD Master Plan pursuant to the PUD Overlay Regulations. In the event that the Developer exercises either of such termination rights, it shall give notice thereof to the City and the date of such termination shall be, in the case of termination of the Agreement, the date of delivery of any such notice to the City in accordance with Section VII.Q. of this Agreement and, in the case of termination of the PUD Master Plan, the date of approval, if any, by the City of any such termination. The Developer acknowledges that the City does not have any obligation to provide water or sewer service to the PUD Property.

D. Cooperation in Defending Legal Actions. If any Legal Challenge occurs, the Developer shall have the option, in its sole discretion, to defend such Legal Challenge. In the event that the Developer elects to defend any such Legal Challenge, the Developer, with the consent of the City, shall take the lead role in defending any such Legal Challenge, including, but not limited to, preparing all pleadings and other required documents, accomplishing any necessary service of process, generating necessary correspondence among the Parties and paying one hundred percent (100%) of both court filing fees and the costs of any expert witnesses, depositions, interrogatories, transcripts or other similar costs. The City and the Developer shall each pay its own attorney fees. Unless the City at its option decides to take a more active role in defending any such Legal Challenge, the Parties agree that the role of the City and the Developer therein shall be limited to the following:

1. In the event of any Legal Challenge, the City agrees to cooperate in the review and signing of pleadings and other documents reasonably required to defend such Legal Challenge and in forms reasonably acceptable to the City Attorney of the City; and

2. In the event the Developer decides to appeal any negative judicial decision in connection with any Legal Challenge, the City agrees to be named as an appellant along with the Developer and to cooperate in the review and signing of pleadings and other documents reasonably required in connection with such appeal and in forms reasonably acceptable to the City Attorney of the City.

3. Although it is the intent of this provision that, consistent with its commitments given to the Developer in this Agreement, the City shall cooperate with the Developer in defending any Legal Challenge as long as the Developer determines to continue such defense, it is expressly agreed

by the City and the Developer that in the event there is controlling legal precedent established by either the Colorado Court of Appeals or Supreme Court or the United States Court of Appeals or Supreme Court supporting one or more of the positions taken by a party or parties challenging any of the items described herein above, then to the extent of such precedent as it applies to those positions, the City shall not be obligated to defend or continue the defense of any such positions.

E. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

F. Covenants/Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors, heirs, legal representatives and assigns, and shall constitute covenants and/or servitudes, which touch, attach to and run with title to the PUD Property.

G. Default.

1. Notice; Cure. If any Party defaults under this Agreement, the non-defaulting Party shall deliver written notice to the defaulting Party of such default in accordance with Section V.Q., and the defaulting Party shall have thirty (30) days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such thirty (30) day period and the defaulting Party gives written notice to the non-defaulting Party within such thirty (30) day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable period of time given the nature of the default following the end of such thirty (30) day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure and provided further that in no event shall such cure period exceed a total of six (6) months. Notwithstanding the cure period set forth in this Section V.G.1., Developer, its successors and assigns, shall have the right to include a claim for breach of this Agreement in any action brought under C.R.C.P. Rule 106 if Developer, its successors and assigns, believes that the failure to include such claim may jeopardize its ability to exercise its remedies with respect to this Agreement at a later date. Any claim for breach of this Agreement brought before the expiration of the applicable cure period set forth in this Section V.G.1. shall not be prosecuted by Developer, its successors and assigns, until the expiration of such cure period except as set forth in this Agreement, and shall be dismissed by Developer, its successors and assigns, if the default is cured in accordance with this

Section V.G.1. In the event of a default by the Developer, the City reserves the right to withhold approval of any pending development application for the Project to the extent that the subject matter of such default is directly related to such pending application.

2. Remedies. If any default under this Agreement is not cured as described above, the non-defaulting Party shall have the right to enforce the defaulting Party's obligation hereunder by an action at law or in equity, including, without limitation, injunction and/or specific performance, and shall be entitled to an award of any damages available at law or in equity. In the event of a default by the Developer, the City reserves the right to withhold approval of any pending development application for the Project to the extent that the subject matter of such default is directly related to such pending application.

H. Governing Law. This Agreement shall be construed under and governed by the laws of the State of Colorado.

I. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS § 24-10-101 et seq., or under any other law.

J. Integration; Amendment. This Agreement represents the entire agreement between the Parties with respect to the subject matter hereof and there are no oral or collateral agreements or understandings. The Parties agree that this Agreement may be amended only by an instrument in writing signed by the City and the Developer, or any successor or assign of the Developer to whom the Developer has granted in writing the right to consent to any such amendment, it being expressly acknowledged by the parties that consent of Developer's successors or assigns to an amendment of this Agreement shall not be required unless such right is granted in writing by the Developer.

K. Jurisdiction and Venue. The City and the Developer, its successors and assigns, stipulate and agree that in the event of any dispute arising out of this Agreement, the courts of the State of Colorado shall have exclusive jurisdiction over such dispute and venue shall be proper in Larimer County, Colorado. All Parties hereby submit themselves to jurisdiction of the State District Court, 8th Judicial District, County of Larimer, State of Colorado.

L. Non-Liability of the Foundation. The Foundation is made a party to this Agreement solely for the purpose of subjecting the Foundation Property to the covenants contained in this Agreement and the Foundation specifically consents to all of the terms and conditions of this Agreement and agrees that the Foundation Property shall be subject to the covenants contained herein. The Parties expressly acknowledge and agree that the Foundation shall not be liable for any obligations of the Developer under this Agreement and the Foundation further acknowledges that it shall not assume any rights of the Developer to develop any portion of the PUD Property.

M. Non-Liability of the School District. The School District is made a party to this Agreement solely for the purpose of subjecting the School District Property, as a development parcel shown on the PUD Master Plan, to the covenants contained in this Agreement, subject to the provisions of Section V hereof. The Parties expressly acknowledge and agree that the School District shall not be liable for any obligations of the Developer under this Agreement and that the School District is entitled to develop any site it may own within the PUD Master Plan as a school site at such time and in such manner as the School District customarily develops its schools.

N. Multi-Fiscal Year Obligations. To the extent that any of the obligations of the City contained in this Agreement are or should be considered multi-fiscal year obligations, such obligations shall be subject to annual appropriation by the City Council, in its sole discretion, and the Developer shall not be entitled to rely on a future appropriation in furtherance of any such obligation.

O. No Joint Venture or Partnership. No form of joint venture or partnership exists between the Developer, the Owners and the City, and nothing contained in this Agreement shall be construed as making the Developer, the Owners and the City joint venturers or partners.

P. No Third Party Beneficiaries. Except as otherwise provided in this Agreement, enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City, the Developer, its successors and assigns, and the Owners and nothing contained in this Agreement shall give or allow any such claim or right of action by any third party. Except as otherwise provided in this Agreement, it is the express intention of the City, the Developer, its successors and assigns, and the Owners that any other person receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

If to Developer: HF2M, Inc.
ATTN: Max Moss
430 N. College Ave. Suite 410
Fort Collins, CO 80524
Email: max@hf2m.com

With copies to: Liley Law Office, LLC
ATTN: Lucia A. Liley
419 Canyon Avenue, Suite 220
Fort Collins, CO 80521
Email: lliley@lileylaw.com

If to Foundation: Anheuser-Busch Foundation
ATTN: Jerrie House Plegge
c/o Anheuser-Busch Companies—Legal Depart.
One Busch Place
St. Louis, MO 63118

With a copy to: Anheuser-Busch Foundation
c/o U.S. Bank
ATTN: Sophia Flynn
505 North 7th Street
St. Louis, MO 63101

If to School District: Poudre School District R-1
ATTN: Brendan Willits, Planning Manager
2407 LaPorte Avenue
Fort Collins, CO 80521
Email: bwillits@psdschools.org

With a copy to: Semple, Farrington, Everall & Case., P.C.
ATTN: Darryl L. Farrington
1120 Lincoln Street, Suite 1308
Denver, CO 80203
Email: dfarrington@semplelaw.com

R. Paragraph Captions. The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

S. Recordation. The City shall record this Agreement in the Larimer County Records, and the Developer shall pay the cost of the same.

T. Representations and Warranties.

1. Representations and Warranties by the City. The City represents and warrants that:

a. The City is a home rule municipality and has the power to enter into and has taken all actions to date required to authorize this Agreement and to carry out its obligations hereunder including, but not limited to (i) all actions necessary to adopt and approve the land use regulations and other provisions set forth in the Development Documents in a manner that such regulations shall legally govern the development of the PUD Property; and (ii) all actions necessary to grant the vested property rights described in this Agreement;

b. The City knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of the City or its officials with respect to this Agreement that has not been disclosed in writing to the Developer;

c. The execution and delivery of this Agreement and the documents required hereunder and the consummation of the transactions contemplated by this Agreement will not: (a) conflict with or contravene any law, order, rule or regulation applicable to the City or to the City's governing documents, or (b) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the City is a party or by which it may be bound or affected;

d. This Agreement constitutes a valid and binding obligation of the City, enforceable according to its terms. Pursuant to Section V.D., the City will cooperate in defending the validity of this Agreement in the event of any litigation arising hereunder that names the City as a party or challenges the authority of the City to enter into or perform its obligations hereunder; and

e. Subject to Section V.G. of this Agreement relating to default and remedies, should the foregoing representations and warranties of the City prove to be materially inaccurate, in whole or in part, such inaccuracy shall constitute a default by the City under this Agreement. The City recognizes that the Developer intends to expend substantial monies to undertake and complete development of the Project in accordance with the Development Documents in reliance upon the accuracy of the representations and warranties of the City as set forth in this Section V.T.1.

2. Representations and Warranties by the Developer. The Developer represents and warrants that:

a. The Developer is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas and qualified to do business in the State; has the legal capacity and the authority to enter into and perform its obligations under this Agreement and the documents to be executed in connection herewith;

b. The execution and delivery of this Agreement and the documents required hereunder and the performance and observance of their terms, conditions and obligations have been duly and validly authorized by all necessary action on its part to make this Agreement and such documents valid and binding upon the Developer;

c. The execution and delivery of this Agreement and the documents required hereunder and the consummation of the transactions contemplated by this Agreement will not: (a) conflict with or contravene any law, order, rule or regulation applicable to the Developer or to the Developer's governing documents, or (b) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the Developer is a party or by which it may be bound or affected;

d. The Developer knows of no litigation, proceeding, initiative, referendum, or investigation or threat or any of the same contesting the powers of the City, the Developer or any of its principals or officials with respect to this Agreement that has not been disclosed in writing to the City;

e. The Developer has the necessary legal ability to perform its obligations under this Agreement. This Agreement constitutes a valid and binding obligation of the Developer, enforceable according to its terms; and

f. Subject to Section V.G. of this Agreement relating to default and remedies, should the foregoing representations and warranties of the Developer prove to be materially inaccurate, in whole or in part, such inaccuracy shall constitute a default by the Developer under this Agreement.

U. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, all remaining terms, provisions, covenants and conditions of this Agreement shall continue in full force and effect.

V. Waiver. No waiver of one or more of the terms of this Agreement shall constitute a waiver of other terms. No waiver of any provision of this Agreement in any instance shall constitute a waiver of such provision in other instances.

W. Waiver of Defects. In executing this Agreement, the Developer and Owners waive all rights they may have concerning defects, if any, of the form or substance of this Agreement and the formalities whereby it is executed, concerning the power of the City to impose conditions as set forth herein and concerning the procedure, substance and form of the ordinances or resolutions adopting this Agreement and approving the PUD Master Plan contemplated herein. Similarly, the City, to the extent legally permissible, waives all rights it may have concerning defects, if any, of the form or substance of this Agreement and the formalities whereby it is executed as well as defects, if any, concerning the procedure, substance and form of the ordinances or resolutions adopting this Agreement and approving the PUD Master Plan.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written above.

CITY:

CITY OF FORT COLLINS, COLORADO,
a Municipal Corporation

By: _____
Wade Troxell, Mayor

Date: _____, 2020

APPROVED AS TO FORM:

Brad Yatabe, Assistant City Attorney

ATTEST:

Delynn Coldiron, City Clerk

DEVELOPER: HF2M, INC., a Texas corporation

By: Jeffrey N. Drinkard, President

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this ____ day of _____, 20____, by Jeffrey N. Drinkard, President of HF2M, Inc., a Texas corporation.

WITNESS my hand and official seal.

Notary Public

My commission expires: _____

OWNERS:

POUDRE SCHOOL DISTRICT R-1,
a political subdivision of the State of
Colorado

By: _____

Printed Name:

Title:

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing Agreement was acknowledged before me this ____ day of _____, 20____, by _____, _____ of the Poudre School District R-1, a political subdivision of the State of Colorado.

WITNESS my hand and official seal.

Notary Public

My commission expires: _____

U.S. BANK AS CORPORATE TRUSTEE
OF THE ANHEUSER-BUSCH
FOUNDATION, a Missouri charitable trust

By: Sophia Flynn

Printed Name: SOPHIA FLYNN

Title: Vice President

STATE OF MISSOURI)
) ss.
CITY OF ST. LOUIS)

The foregoing Agreement was acknowledged before me this 16 day of March, 2022 by Sophia Flynn, Vice President of U.S. Bank as Corporate Trustee of the Anheuser-Busch Foundation, a Missouri charitable trust.

WITNESS my hand and official seal.

[Signature]
Notary Public

My commission expires: 6/13/23

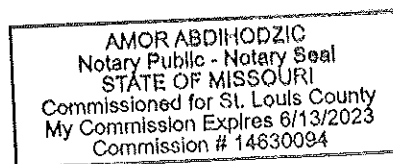


Exhibit A Definitions

Initialized capitalized terms used in this Agreement have the meanings set forth below:

Agreement: as defined in the introductory paragraph of this Agreement.

City: as defined in the introductory paragraph of this Agreement.

City Council: means the elected governing body of the City as established in the City's Charter.

City Regulations: mean the Municipal Code, the Land Use Code and other general ordinances, resolutions, regulations, policies and plans of the City, as the same may be amended from time to time, to the extent any such amendment is consistent with the terms of this Agreement including, but not limited to, the vested property right granted in this Agreement.

Developer: as defined in the introductory paragraph of this Agreement.

Development Documents: means this Agreement and the PUD Master Plan.

Development Property: means the PUD Property less the School Site. The Development Property is an approximately 891-acre parcel, more particularly described on **Exhibit G** attached hereto and incorporated by reference and generally depicted on **Exhibit E** attached hereto and incorporated herein by reference.

Development Standards: means the development standards set forth in Article 3 of the Land Use Code and the development standards of Article 4 of the Land Use Code.

Director: means the Director of the Community Development and Neighborhood Services Department of the City.

Effective Date: means the effective date of the ordinances of the City Council approving this Agreement and the PUD Master Plan or the latest effective date of either of such ordinance if approved on separate dates.

Engineering Design Standards: means the engineering design standards described in Section 3.3.5 of Article 3 of the Land Use Code.

Final Plan: means a final plan as described in the Land Use Code as such description may be amended from time to time, to the extent any such amendment is consistent with the terms of this Agreement including, but not limited to, the vested property right granted in this Agreement.

Foundation: as defined in the introductory paragraph of this Agreement.

Foundation Property: means the approximately 844 acres of real property owned by the Foundation and described on **Exhibit F** attached hereto and incorporated herein by this reference, and generally depicted on **Exhibit D** attached hereto and incorporated herein by this reference.

Land Use Code: means the Land Use Code of the City, as the same may be amended from time to time, to the extent any such amendment is consistent with the terms of this Agreement including, but not limited to, the vested property right granted in this Agreement.

LCUASS: means the Larimer County Urban Area Street Standards originally adopted by City Council on January 2, 2001, by Ordinance No. 186, together with all amendments thereto subsequently adopted by ordinance or resolution of City Council, except as otherwise provided in this Agreement.

Larimer County Records: means the real estate records of the Clerk and Recorder of Larimer County, Colorado.

Legal Challenge: means any third party commencement of any legal proceeding or other action that directly or indirectly challenges this Agreement, the PUD Overlay, the PUD Master Plan or any of the City's resolutions or ordinances approving this Agreement, the PUD Overlay and the PUD Master Plan.

Municipal Code: means the Municipal Code of the City, as the same may be amended from time to time, to the extent any such amendment is consistent with the terms of this Agreement including, but not limited to, the vested property right granted in this Agreement.

Owners: means the Foundation and the School District, collectively.

Party(ies): means each and collectively, the Developer and its successors and assigns, the School District, the Foundation, and the City.

Project: means the development pursuant to the PUD Master Plan of the PUD Property.

Project Development Plan: means a project development plan as described in the Land Use Code as such description may be amended from time to time, to the extent any such amendment is consistent with the terms of this Agreement including, but not limited to, the vested property right granted in this Agreement.

PSD Agreement: means that Real Estate Exchange Agreement dated June 27, 2019, between the School District and the Developer.

PUD Master Plan: means the planned unit development master plan for development of the PUD Property entitled the "Montava - PUD Master Plan," as the same may from time to time be amended, the components of which are set forth on **Exhibit B**, attached hereto and incorporated herein by reference.

PUD Master Plan Summary: as defined in Section II.A.4. of this Agreement.

PUD Overlay: means the overlay of the approved PUD Master Plan entitlements and restrictions upon the underlying zone district requirements.

PUD Overlay Regulations: means the planned unit development overlay regulations adopted by City Council on July 17, 2018, by Ordinance No. 091, 2018, and codified as Division 4.49 of the Land Use Code, as such regulations may be amended from time to time to the extent any such amendment is consistent with the terms of this Agreement including, but not limited to, the vested property right granted in this Agreement.

PUD Property: means the approximately 999 acres of real property upon which the PUD Overlay pursuant to the PUD Master Plan has been imposed and comprised of the Foundation Property, the School District Property and various rights of way, and described on **Exhibit I** attached hereto and incorporated herein by this reference, and generally depicted on **Exhibit D** attached hereto and incorporated herein by this reference.

School District: as defined in the introductory paragraph of this Agreement.

School District Property: means the approximately 108 acres of real property owned by the School District and described on **Exhibit J** attached hereto and incorporated herein by this reference, and generally depicted on **Exhibit D** attached hereto and incorporated herein by this reference.

School Site: means the approximately 108-acre parcel within the PUD Master Plan owned by the Foundation and generally described on **Exhibit H** attached hereto and incorporated by reference, and generally depicted on **Exhibit E** attached hereto and incorporated herein by reference.

Shall, Will or Must: means that compliance is mandatory, unless the context requires otherwise.

Site Specific Development Plan: means a site specific development plan as defined in the Land Use Code as such definition may be amended from time to time but only to the extent that any such amendment is consistent with the terms of this Agreement including, but not limited to, the vested property right granted in this Agreement.

State: means the State of Colorado.

Vested Master Plan Components: as defined in Section II.A.4. of this Agreement.

Vested Property Rights Determination: as defined in Recital J of this Agreement.

Vested Property Rights Statute: means Section 24-68-101, et seq., of the Colorado Revised Statutes, in effect on the Effective Date.

Vesting Term: as defined in Section II.C.1. of this Agreement.

**Exhibit B
PUD Master Plan**

**[The documents listed below are identical to the documents contained in
Exhibit A to Ordinance No. 14, 2020]**

The PUD Master Plan includes the following documents, on file in the City's Development Review Center and incorporated herein by reference:

1. PUD Master Plan Summary
2. Montava PUD Master Plan PUD Design Narrative
3. Sheets 1 through 7 of the Montava – PUD Master Plan:

Sheet 1	Cover Sheet
Sheet 2	Existing Conditions & Natural Features Map
Sheet 3	Illustrative Master Plan
Sheet 4	Annotated Illustrative Master Plan
Sheet 5	Existing Zoning
Sheet 6	PUD Transect Districts and Special Districts
Sheet 7	Development Phasing Plan
4. Montava PUD Master Plan Uses, Densities and Development Standards
5. Development Standards of the Land Use Code, Appendix A to the PUD Master Plan Summary
6. Variances from Engineering Design Standards and Proposed Alternate Designs submitted with such variances, Appendix B to the PUD Master Plan Summary

Exhibit C
PUD Master Plan Summary

[Final approved PUD Master Plan Summary to be inserted prior to recording this Agreement. The PUD Master Plan Summary to be inserted will be identical to the PUD Master Plan Summary contained in Exhibit A to Ordinance No. 014, 2020.]

Exhibit D

Depiction of PUD Property, Foundation Property and School District Property

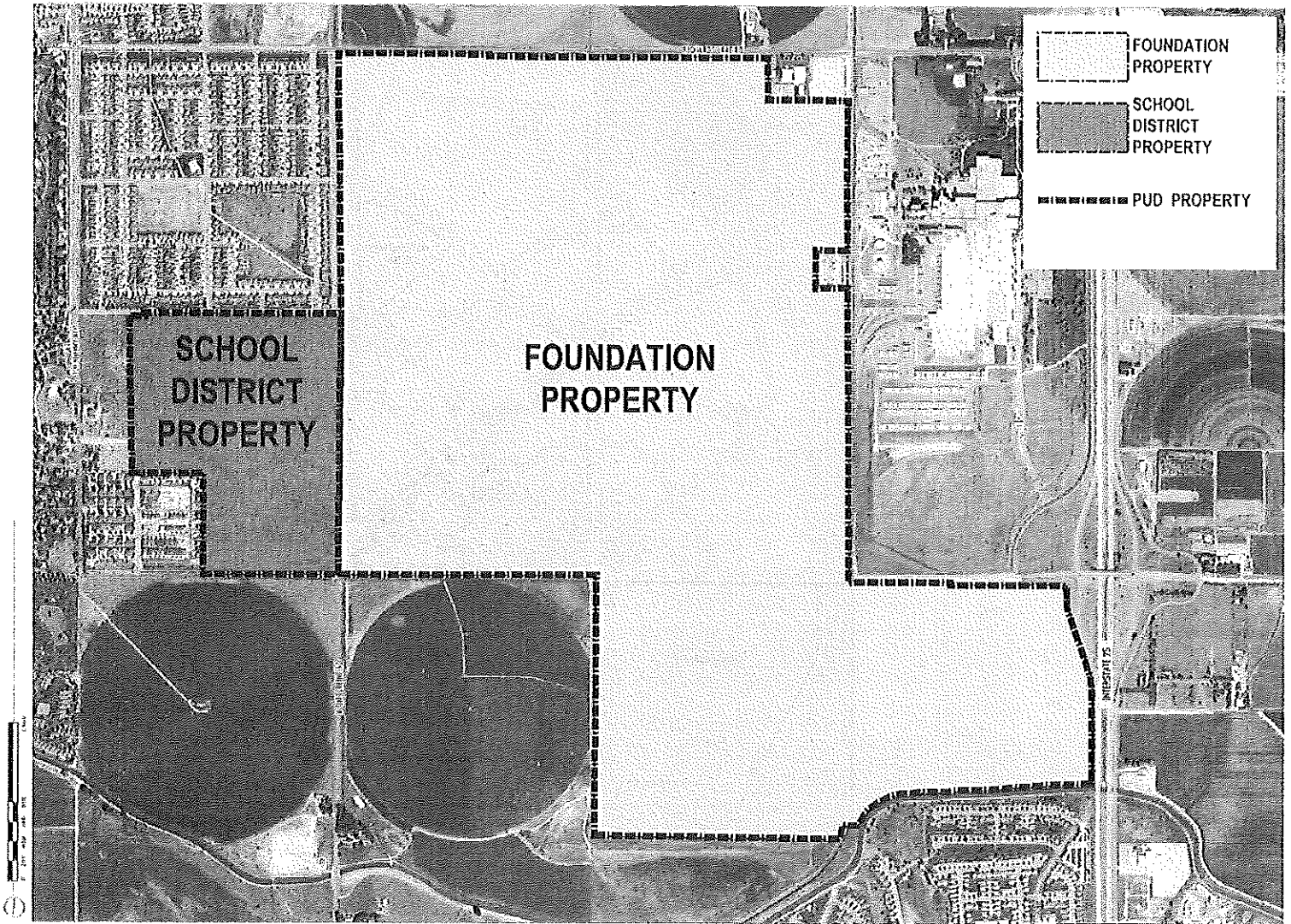


EXHIBIT E
Depiction of Development Property and School Site

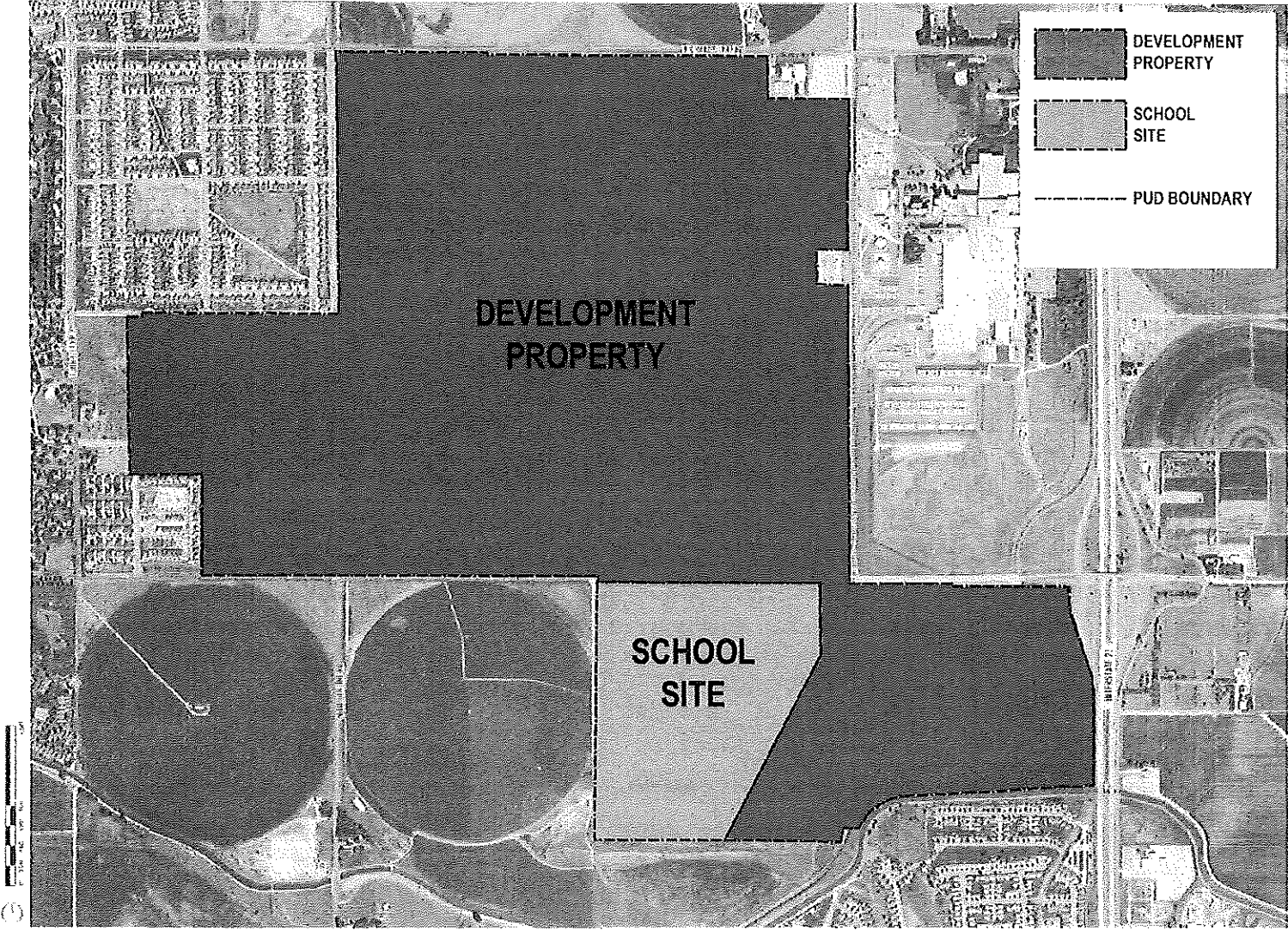


Exhibit F

Description of Foundation Property

The land referred to is situated in the County of Larimer, State of Colorado and is described as follows:

Parcel 1:

A parcel of ground 200 feet in length North and South and 60 feet in width East and West in the NW¼ of Section 33, Township 8 North, Range 68 West, more particularly described as follows:

Commencing at a point on the West line of right-of-way of The Colorado Railroad Company (formerly the Fort Collins Development Railway Company) 1000 feet South of the North line of said NW¼ of said Section 33, thence South along the West line of said Colorado Railroad Company's right-of-way 200 feet, thence West parallel with the North line of said NW¼ of said Section 33 60 feet, thence North parallel with the West line of said Railroad Company's right-of-way 200 feet, thence East 60 feet to the Place of Beginning,

County of Larimer,
State of Colorado.

For informational purposes only: APN - 88330-00-003

Parcel 2:

A portion of the Northwest ¼ of Section 33, Township 8 North, Range 68 West of the 6th P.M. as described in deeds recorded in the following books and pages of the records on file in the office of the Clerk and Recorder of Larimer County: Book 580 at Page 564, Book 677 at Page 119, and Book 246 at Page 22, and being more particularly described as follows:

Considering the North-South centerline of said Section 33 as bearing N00°20'41"W and with all bearings contained herein relative thereto, Begin at a point on the North line of said Northwest ¼ which point bears N89°53'24"W 50.00 feet from the North ¼ of said Section 33, and run thence N89°53'24"W 60.00 feet; thence S00°20'41"E 1000.00 feet; thence S89°53'24"E 60.00 feet; thence N00°20'41"W 1000.00 feet to the Point of Beginning, EXCEPT the North 30.00 feet thereof presently used for County Road No. 52,

LESS AND EXCEPT that portion thereof conveyed to The City of Fort Collins by Special Warranty Deed recorded September 14, 1984 in Book 2289 at Page 1283,

County of Larimer,
State of Colorado.

For informational purposes only: APN - 88330-00-009

Parcel 3:

A portion of the Northwest ¼ of Section 33, Township 8 North, Range 68 West of the 6th P.M. described as follows:

Considering the North-South centerline of said Section 33 as bearing N00°20'41"W and with all bearings contained herein relative thereto, begin at a point on the North line of said Northwest ¼ which point bears N89°53'24"W 125 feet from the North ¼ corner of said Section 33 and runs thence S00°20'41"E 1200 feet; thence S89°53'24"E 75 feet; thence N00°20'41"W 200 feet; thence N89°53'24"W 60 feet; thence N00°20'41"W 1000 feet; thence N89°53'24"W 15 feet to the Point of Beginning,

County of Larimer,
State of Colorado.

For informational purposes only: APN - 88330-00-011

Parcel 4:

A portion of the Northwest ¼ of Section 33, Township 8 North, Range 68 West of the 6th P.M. as described in deeds recorded in the following books and pages of the records on file in the office of the Clerk and Recorder of Larimer County: Book 580 at Page 564, Book 677 at Page 119, and Book 246 at Page 22, and being more particularly described as follows:

Considering the North-South centerline of said Section 33 as bearing N00°20'41"W and with all bearings contained herein relative thereto, Begin at a point on the North line of said Northwest ¼ which point bears N89°53'24"W 125.00 feet from the North ¼ corner of said Section 33 and run thence N89°53'24"W 135.00 feet along said North line; thence S00°20'41"E 914.50 feet; thence S17°16'41"E 141.60 feet; thence S29°40'41"E 293.44 feet to a point on the westerly right-of-way line of the Colorado and Southern Railroad; thence along such right-of-way line on the following courses and distances: N00°20'41"W 104.31 feet, and again N89°53'24"W 50.00 feet, and again N00°20'41"W 1200 feet to the Point of Beginning, EXCEPT the North 30.00 feet thereof presently used as a right-of-way for County Road No. 52,

County of Larimer,

State of Colorado.

For informational purposes only: APN - 88330-00-008

Parcel 5:

A portion of the NW¼ of Section 33, Township 8 North, Range 68 West of the 6th P.M., which considering the West line of said NW¼ as bearing N00°35'40"W and with all bearings contained herein relative thereto, is contained within the boundary lines which begin at the point of intersection of the South line of said NW¼ with the East right-of-way line of County Road No. 9, which point bears S89°48'27"E 30.00 feet from the W¼ corner of said Section 33 and run thence N00°35'40"W 1097.74 feet along said right-of-way line to a point on the South line of that parcel of land as described in Deed recorded in Book 1277 at Page 96;

thence along the southerly and easterly lines of that parcel described in Deed recorded in Book 1277 at Page 96, and along the easterly lines of that parcel described in Deed recorded in Book 1336 at Page 298 the following eleven courses and distances:

S82°29'40"E 306.91 feet;

thence N59°51'20"E 38.29 feet;

thence S88°54'40"E 35.66 feet;

thence N00°35'40"W 215.30 feet;

thence N38°54'40"W 27.43 feet;

thence N54°36'10"W 277.55 feet;

thence N11°38'40"W 80.90 feet;

thence N02°34'40"W 16.92 feet;

thence N14°22'40"W 95.50 feet;

thence N29°56'40"W 114.42 feet;

thence N35°00'40"W 64.22 feet to a point on the East right-of-way line of County Road No. 9;

thence N00°35'40"W 792.76 feet along said East right-of-way line to its point of intersection with the South right-of-way line of County Road No. 52;

thence S89°53'24"E 2346.02 feet along said South right-of-way line to its point of intersection with the West line of land presently owned by Great Western Sugar Company, as described in Deed recorded in Book 580 at Page 564;

thence along this present boundary line of Great Western Sugar Company as described in Deeds recorded in Book 580 at Page 564 and in Book 677 at Page 119 on the following courses and distances:

S00°20'41"W 884.50 feet, and again

S17°16'41"E 141.60 feet, and again

S29°40'41"E 293.44 feet to a point on the West right-of-way line of the Colorado & Southern Railroad as described in Deed recorded in Book 302 at Page 236;
thence S00°20'41"E 1336.00 feet along said West right-of-way line as described in Deed recorded in Book 302 at Page 236 to its point of intersection with the South line of said NW¼;
thence N89°48'27"W 2519.69 feet along said South line to the Point of Beginning,
LESS AND EXCEPT those portions conveyed to The City of Fort Collins, Colorado by Special Warranty Deed recorded September 14, 1984 in Book 2289 at Page 1283, Warranty Deed recorded March 8, 1985 at Reception No. 85010962 and Warranty Deed recorded July 21, 1986 at Reception No. 86039152,
AND LESS AND EXCEPT that portion known as Lot 1, Block 1, of "Final Plat B.A.R.I. Barley Research Facility" recorded March 22, 1989 at Reception No. 89012104,

County of Larimer,
State of Colorado.

For informational purposes only: APN - 88330-00-001

Parcel 6:

A tract of land situate in the NW¼ of Section 33, Township 8 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado, which considering the West line of said NW¼ as bearing due South and with all bearings contained herein relative thereto is contained within the boundary lines which begin at a point which bears S. 832.13 feet from the Northwest corner of said Section 33 and run thence E. 30.00 feet; thence S. 34°25' E. 64.22 feet; thence S. 29°21' E. 114.42 feet; thence S. 13°47' E. 95.50 feet; thence S. 01°59' E. 16.92 feet; thence West 145.72 feet to a point on the West line of said NW¼; thence North 262.37 feet along said West line to the Point of Beginning, EXCEPT right of way for County Road #9 over the westerly 30 feet thereof,

County of Larimer,
State of Colorado.

For informational purposes only: APN - 88330-00-005

Parcel 7:

A portion of the NW¼ of Section 33, Township 8 North, Range 68 West of the 6th P.M., being that parcel of land as described in Deed recorded in Book 1277 at Page 96 and which, considering the West line of said NW¼ as bearing S00°35'40"E with all bearings contained herein relative thereto, is contained within the boundary lines which begin at a point which bears S00°35'40"E 1085.50 feet and again N89°24'20"E 30.00 feet from the Northwest corner of said Section 33, said Point of Beginning lying on the East right-of-way line of County Road No. 9, and run thence N89°24'20"E 115.72 feet; thence S11°38'40"E 80.90 feet;

thence S54°36'10"E 277.55 feet;

thence S38°54'40"E 27.43 feet;

thence S00°35'40"E 215.30 feet;

thence N88°54'40"W 35.66 feet;

thence S59°51'20"-- 38.29 feet;

thence N82°29'40"W 306.91 feet to a point on the East right-of-way line of County Road No. 9;

thence N00°35'40"W 453.92 feet along said East right-of-way line to the Point of Beginning,

LESS AND EXCEPT that portion conveyed to The City of Fort Collins by Special Warranty Deed recorded September 14, 1984 in Book 2289 at Page 1283,

County of Larimer,
State of Colorado.

For informational purposes only: APN - 88330-00-006

Parcel 8:

A portion of the NE¼ of Section 32, Township 8 North, Range 68 West of the 6th P.M., which considering the East line of said NE¼ as bearing S00°35'40"E and with all bearings contained herein relative thereto, is contained within the boundary lines which begin at the point of intersection of the South line of said NE¼ with the West right-of-way line of County Road No. 9, said Point of Beginning bearing N89°49'24"W 30.00 feet from the E¼ corner of said Section 32, and run thence N89°49'24"W 2534.49 feet along said South line to its point of intersection with the East right-of-way line of the No. 8 Outlet Ditch as described in Deed recorded in Book 187 at Page 178;
thence N00°33'14"W 2611.39 feet along said East right-of-way line to its point of intersection with the South right-of-way line of County Road No. 52; thence S89°43'08"E 2532.70 feet along said South rightof-

way line to its point of intersection with the West right-of-way line of County Road No. 9;
thence S00°35'40"E 2606.80 feet along said West right-of-way line to the Point of Beginning,
EXCEPT a strip of land 20 feet in width across the NE¼NE¼ of Section 32, Township 8 North, Range 68 West conveyed to W.C. Alford by Jacob Armstrong, Jr. in the Deed recorded May 15, 1886 in Book 44 at Page 253, described as:

Commencing at a point on the North line of Section 32, about 60 rods West from the Northeast corner of said Section and running thence in a southeasterly direction to a point on the East line of Section 32 about 60 rods South of the Northeast corner of said Section,
LESS AND EXCEPT that portion conveyed to The City of Fort Collins by Special Warranty Deed recorded September 14, 1984 in Book 2289 at Page 1283,
County of Larimer,
State of Colorado.

For informational purposes only: APN - 88320-00-001

Parcel 9:

A portion of the SE¼ of Section 32, Township 8 North, Range 68 West of the 6th P.M., which considering the East line of said SE¼ as bearing S00°33'21"E and with all bearings contained herein relative thereto, is contained within the boundary lines which begin at the point of intersection of the North line of said SE¼ and the West right-of-way line of County Road No. 9, said Point of Beginning bearing N89°49'24"W 30.00 feet from the E¼ corner of said Section 32 and run thence N89°49'24"W 2534.49 feet along said North line to its point of intersection with the East right-of-way of the No. 8 Outlet Ditch as described in Deed recorded in Book 187 at Page 163;
thence S00°33'14"E 2618.38 feet along said East right-of-way line to its point of intersection with the North right-of-way line of County Road No. 50;
thence S89°57'46"E 2534.51 feet along said North right-of-way line to its point of intersection with the West right-of-way line of County Road No. 9;
thence N00°33'21"W 2612.21 feet along said West right-of-way line to the Point of Beginning,
LESS AND EXCEPT that portion conveyed to The City of Fort Collins by Special Warranty Deed recorded September 14, 1984 in Book 2289 at Page 1283,
County of Larimer,
State of Colorado.

For informational purposes only: APN - 88320-00-002

Parcel 10:

A portion of the SW¼ of Section 33, Township 8 North, Range 68 West of the 6th P.M., which considering the West line of said SW¼ as bearing N00°33'21"W and with all bearings contained herein relative thereto, is contained within the boundary lines which begin at the point of intersection of the North line of said SW¼ with the East right-of-way line of County Road No. 9, said Point of Beginning bearing S89°48'27"E 30.00 feet from the W¼ corner of said Section 33 and run thence S00°33'21"E 2612.02 feet along said East right-of-way line to its point of intersection with the North right-of-way line of County Road No. 50;

thence N89°58'52"E 2509.99 feet along said North right-of-way line to its point of intersection with the West right-of-way line of the Colorado and Southern Railroad Company as described in Deed recorded in Book 289 at Page 118;
thence N00°20'41"W 2602.65 feet along said West right-of-way line to its point of intersection with the North line of said SW¼;
thence N89°48'27"W 2519.69 feet to the Point of Beginning,
LESS AND EXCEPT that portion conveyed to The City of Fort Collins by Special Warranty Deed recorded September 14, 1984 in Book 2289 at Page 1283,
County of Larimer,
State of Colorado.
For informational purposes only: APN - a portion of 88330-00-002

Parcel 11:

A portion of the NW¼ of Section 4, Township 7 North, Range 68 West of the 6th P.M., which considering the West line of said NW¼ as bearing N00°20'02"E and with all bearings contained herein relative thereto, is contained within the boundary lines which begin at a point of intersection of said West line with the South right-of-way line of County Road No. 50 said Point of Beginning bearing S00°20'02"W 30.00 feet from the Northwest corner of said Section 4, and run thence N89°58'52"E 2535.02 feet along said South right-of-way line to its point of intersection with the West right-of-way line of the Colorado and Southern Railroad Company as described in Deed recorded in Book 171 at Page 301;
thence S00°03'25"W 2198.00 feet along said West right-of-way line;
thence S11°04'43"W 392.24 feet along said West right-of-way line to its point of intersection with the South line of said NW¼;
thence N89°15'23"W 2472.54 feet along said South line to the W¼ corner of said Section 4;
thence N00°20'02"E 2550.04 feet along the West line of said NW¼ to the Point of Beginning,
LESS AND EXCEPT that portion conveyed to The City of Fort Collins by Special Warranty Deed recorded September 14, 1984 in Book 2289 at Page 1283,
County of Larimer,
State of Colorado.
For information purposes only: APN - 87040-00-002

Parcel 12:

All that portion of the NE¼ of Section 4, Township 7 North, Range 68 West of the 6th P.M., lying North of the Larimer and Weld Canal contained within the boundary lines which, considering the North line of said NE¼ as bearing N89°51'W and with all bearings contained herein relative thereto, is contained within the boundary lines which begin at a point on the West line of said NE¼, which point bears N00°03'25"E 140.00 feet from the Center ¼ corner of said Section 4, and run thence N89°34'15"E 15.00 feet;
thence N36°54'15"E 200.00 feet;
thence N55°54'15"E 200.00 feet;
thence N68°34'15"E 100.00 feet;
thence N86°34'15"E 1900.00 feet;
thence S88°25'45"E 92.96 feet to a point on the westerly right-of-way line of Highway I-25; thence along the West and South right-of-way lines of Highway I-25 as described in Deed recorded in Book 1276 at Page 251 on the following courses and distances:
N00°26'E 1948.98 feet, and again N84°38'W 769.70 feet to its point of intersection with the South right-of-way line of County Road No. 50; thence N89°51'W 1629.32 feet along said South right-of-way line to its point of intersection with the West line of said Northeast ¼; thence S00°03'25"W 2444.97 feet along said West line to the Point of Beginning, EXCEPTING parcels conveyed to the Colorado Department of Highways in Book 873 at Pages 119 and 124 and in Book 1276 at Page 251,

LESS AND EXCEPT that portion conveyed to The City of Fort Collins by Special Warranty Deed recorded September 14, 1984 in Book 2289 at Page 1283,
AND LESS AND EXCEPT those portions conveyed to The State Department of Highways, State of Colorado by Warranty Deed recorded July 28, 1986 at Reception No. 86040655,

County of Larimer,
State of Colorado.

For informational purposes only: APN - 87040-00-001

LESS AND EXCEPT any portion of the foregoing Parcels 1 -12 contained in the lands described in the final amended plat/replat of Lot 1, Block 1, of "Final Plat B.A.R.I. Barley Research Facility" recorded March 22, 1989 at Reception No. 89012104, which amended plat/replat is to be recorded upon approval by the City of Fort Collins, Colorado, a draft of such amended plat/replat labeled B.A.R.I. BARLEY RESEARCH FACILITY AMENDMENT NO. 1 MINOR PLAT, is attached hereto as Exhibit F-1.

Exhibit F-1

Copy of draft B.A.R.I. BARLEY RESEARCH FACILITY AMENDMENT NO. 1 MINOR PLAT, a proposed replat of Lot 1, Block 1, of "Final Plat B.A.R.I. Barley Research Facility" recorded March 22, 1989 at Reception No. 89012104

[two pages attached]

B.A.R.I. BARLEY RESEARCH FACILITY AMENDMENT NO. 1 MINOR PLAT A PARCEL OF LAND SITUATED IN THE NW 1/4 OF SECTION 33, TOWNSHIP 8 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPLE MERIDIAN CITY OF FORT COLLINS, COUNTY OF COLLINS, STATE OF COLORADO SHEET 2 OF 2

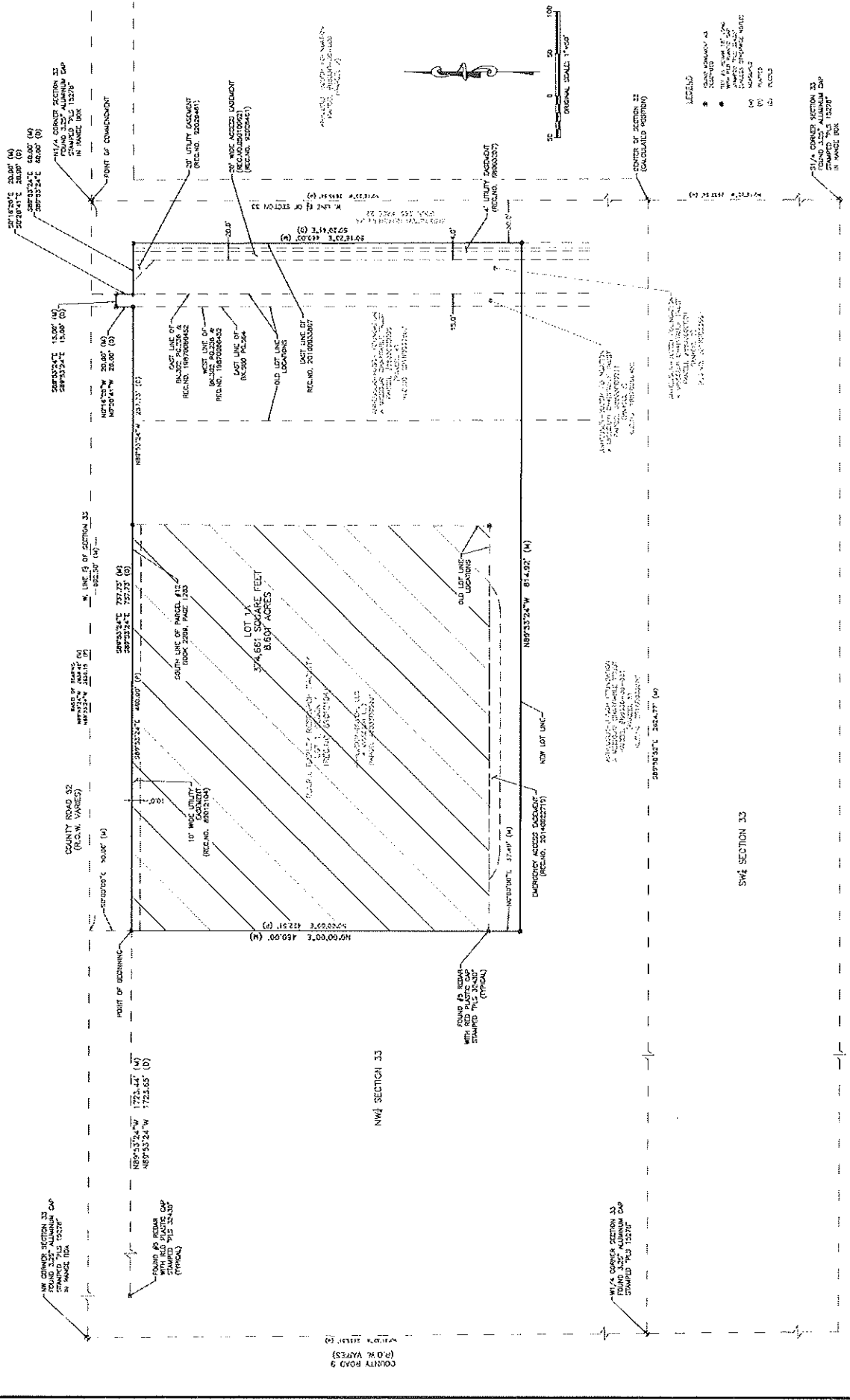


Exhibit "G"
Description of Development Property

A PARCEL OF LAND SITUATE IN THE EAST HALF OF SECTION 32, A PORTION OF THE SOUTHWEST CORNER OF SECTION 32, AND THE WEST HALF OF SECTION 33, TOWNSHIP 8 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, AND THE NORTH HALF OF SECTION 4, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER CORNER OF SECTION 32 WHENCE THE SOUTH QUARTER CORNER BEARS S00°29'18"E A DISTANCE OF 5289.91 FEET AND CONSIDERING ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE S89°35'02"E A DISTANCE OF 2638.10 FEET;
THENCE S89°53'24"E A DISTANCE OF 1773.90 FEET;
THENCE S00°00'00"E A DISTANCE OF 510.00 FEET;
THENCE S89°53'24"E A DISTANCE OF 864.98 FEET;
THENCE S00°16'21"E A DISTANCE OF 1475.57 FEET;
THENCE S89°59'54"E A DISTANCE OF 397.54 FEET;
THENCE S00°20'11"E A DISTANCE OF 380.10 FEET;
THENCE S89°59'31"E A DISTANCE OF 397.12 FEET;
THENCE S00°16'21"E A DISTANCE OF 2906.93 FEET;
THENCE S00°06'47"E A DISTANCE OF 50.00 FEET;
THENCE S89°47'00"E A DISTANCE OF 945.36 FEET;
THENCE S00°00'50"E A DISTANCE OF 15.00 FEET;
THENCE N89°59'10"E A DISTANCE OF 1022.26 FEET;
THENCE S84°33'41"E A DISTANCE OF 150.45 FEET;
THENCE S00°31'28"E A DISTANCE OF 220.49 FEET;
THENCE S19°10'52"E A DISTANCE OF 716.33 FEET;
THENCE S06°01'40"E A DISTANCE OF 296.08 FEET;
THENCE S00°30'00"W A DISTANCE OF 783.98 FEET;
THENCE N88°21'45"W A DISTANCE OF 92.96 FEET;
THENCE S86°38'15"W A DISTANCE OF 1900.01 FEET;
THENCE S68°38'10"W A DISTANCE OF 99.99 FEET;
THENCE S55°58'15" W A DISTANCE OF 200.00 FEET;
THENCE S36°58'15"W A DISTANCE OF 199.96 FEET;
THENCE S89°38'15"W A DISTANCE OF 15.00 FEET;
THENCE S00°06'47"W A DISTANCE OF 139.93 FEET;
THENCE N89°11'06"W A DISTANCE OF 2627.63 FEET;
THENCE N00°23'56"E A DISTANCE OF 2580.05 FEET;
THENCE N89°53'45W A DISTANCE OF 2639.82 FEET;
THENCE S89°44'44"W A DISTANCE OF 1339.28 FEET;
THENCE N01°15'55"W A DISTANCE OF 1062.88 FEET;
THENCE S89°50'10"W A DISTANCE OF 721.52 FEET;

THENCE N01°15'28"W A DISTANCE OF 1589.29 FEET;
THENCE N89°50'10"E A DISTANCE OF 2060.57 FEET;
THENCE N00°29'18"W A DISTANCE OF 2644.95 FEET TO THE **POINT OF BEGINNING**;

LESS AND EXCEPT ALL EXISTING RAILROAD RIGHTS-OF-WAY AND LESS AND EXCEPT ANY PORTION CONTAINED IN THE LANDS DESCRIBED IN THE FINAL AMENDED PLAT/REPLAT OF LOT 1, BLOCK 1, OF "FINAL PLAT B.A.R.I. BARLEY RESEARCH FACILITY" RECORDED MARCH 22, 1989 AT RECEPTION NO. 89012104, WHICH AMENDED PLAT/REPLAT IS TO BE RECORDED UPON APPROVAL BY THE CITY OF FORT COLLINS, COLORADO, A DRAFT OF SUCH AMENDED PLAT/REPLAT LABELED B.A.R.I. BARLEY RESEARCH FACILITY AMENDMENT NO. 1 MINOR PLAT, IS ATTACHED HERETO AS EXHIBIT G-1.

SAID PARCEL CONTAINS 998.50 ACRES (43,494,643.5422 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS NOW IN USE OR OF RECORD

LESS:

A parcel of land, approximately 108 acres (+/-) in size, which is a portion of and located in Section 4, T7N, R68W, 6th P.M., County of Larimer, State of Colorado.

Such land is generally depicted as two parcels (1 – High School Site, 72 acres with off-site detention; and 2 – Middle school Site, 36 acres with off-site detention) on Exhibit G-2 attached hereto and incorporated herein by reference.

The parties acknowledge that the description above is a general description only, and the foregoing is not intended to constitute a newly created legal description of a subdivided parcel (§38-35-106.5, C.R.S.), and is not intended to create a subdivision in violation of any applicable law.

For informational purposes only:
Part of Assessor Parcel Number: 8704000002
Part of Schedule Number: R 0156191

EXHIBIT G-1

Copy of draft B.A.R.I. BARLEY RESEARCH FACILITY AMENDMENT NO. 1 MINOR PLAT, a proposed replat of Lot 1, Block 1, of "Final Plat of B.A.R.I. Barley Research Facility" recorded March 22, 1989 at Reception No. 89012104

[two pages attached]

B.A.R.I. BARLEY RESEARCH FACILITY AMENDMENT NO. 1 MINOR PLAT A PARCEL OF LAND SITUATED IN THE NW 1/4 OF SECTION 33, TOWNSHIP 8 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPLE MERIDIAN CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO SHEET 2 OF 2

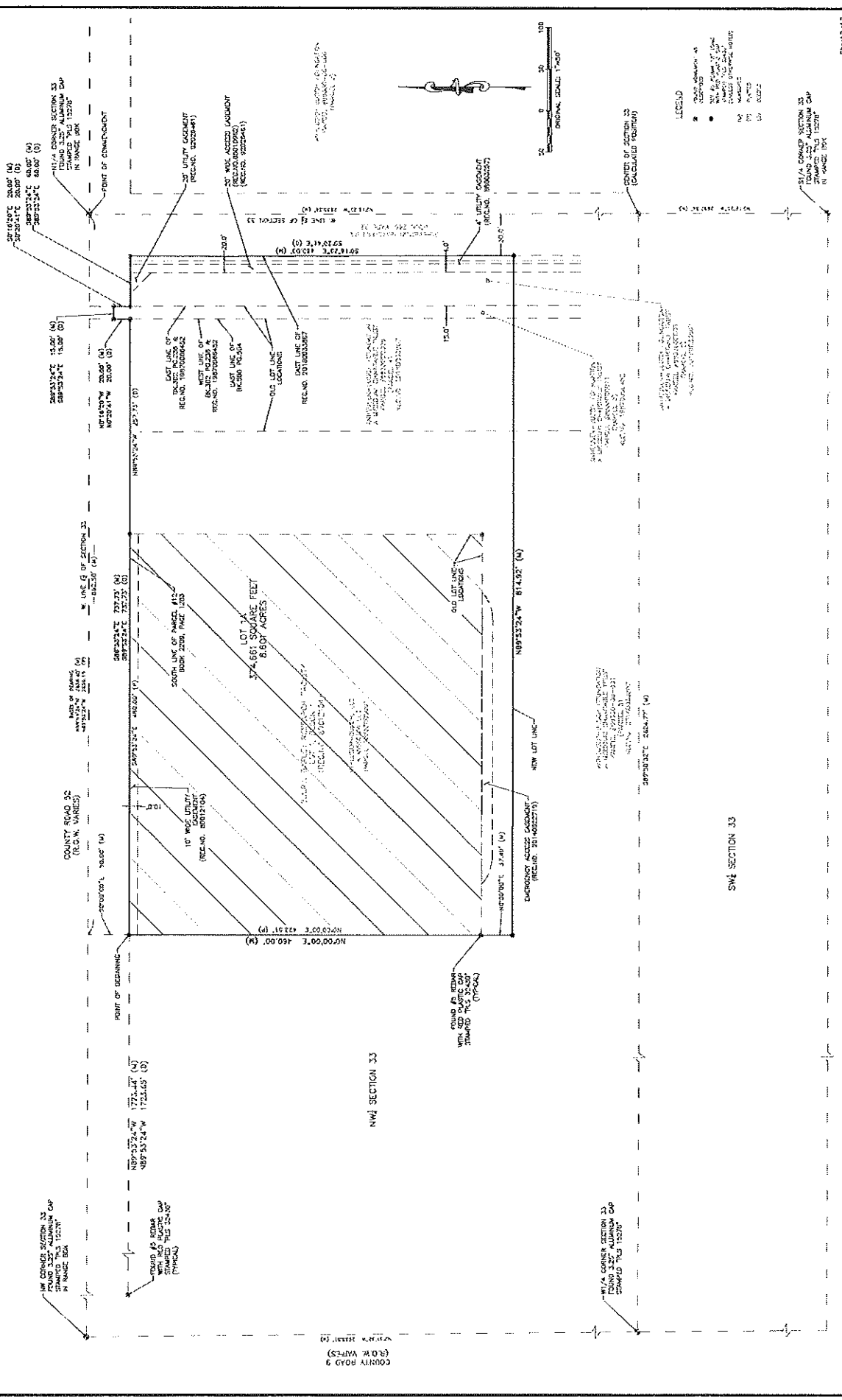
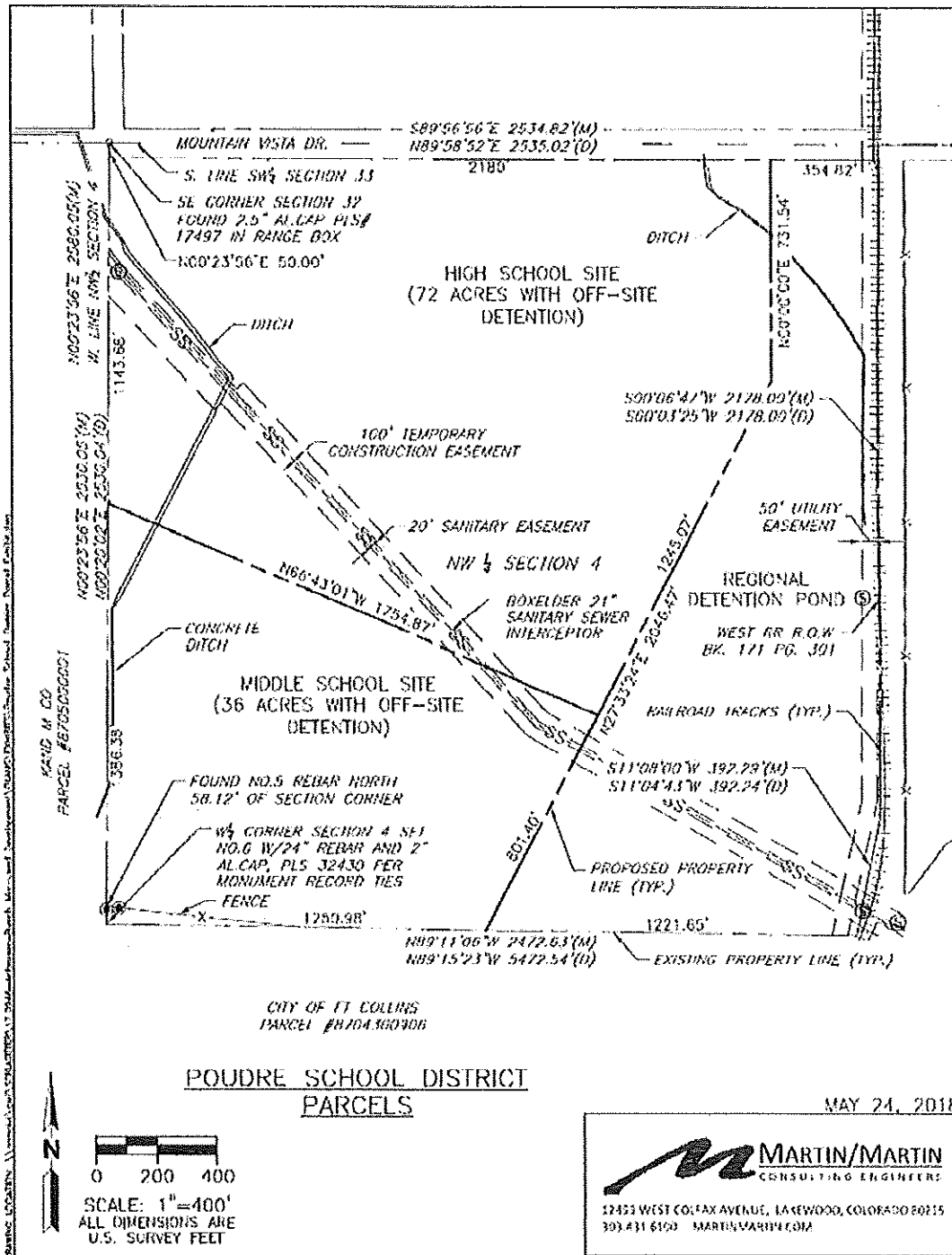


Exhibit G-2

General Depiction of School Site



**Exhibit H
(page 1)**

General Description of School Site

A parcel of land, approximately 108 acres (+/-) in size, which is a portion of and located in Section 4, T7N, R68W, 6th P.M., County of Larimer, State of Colorado.

Such land is generally depicted as two parcels (1 – High School Site, 72 acres with off-site detention; and 2 – Middle school Site, 36 acres with off-site detention) on the next page attached hereto and incorporated herein by reference.

The parties acknowledge that the description above is a general description only, and the foregoing is not intended to constitute a newly created legal description of a subdivided parcel (§38-35-106.5, C.R.S.), and is not intended to create a subdivision in violation of any applicable law.

For informational purposes only:

Part of Assessor Parcel Number: 8704000002

Part of Schedule Number: R 0156191

Part of Parcel 11 on Exhibit F (Foundation Property)

General Depiction of School Site

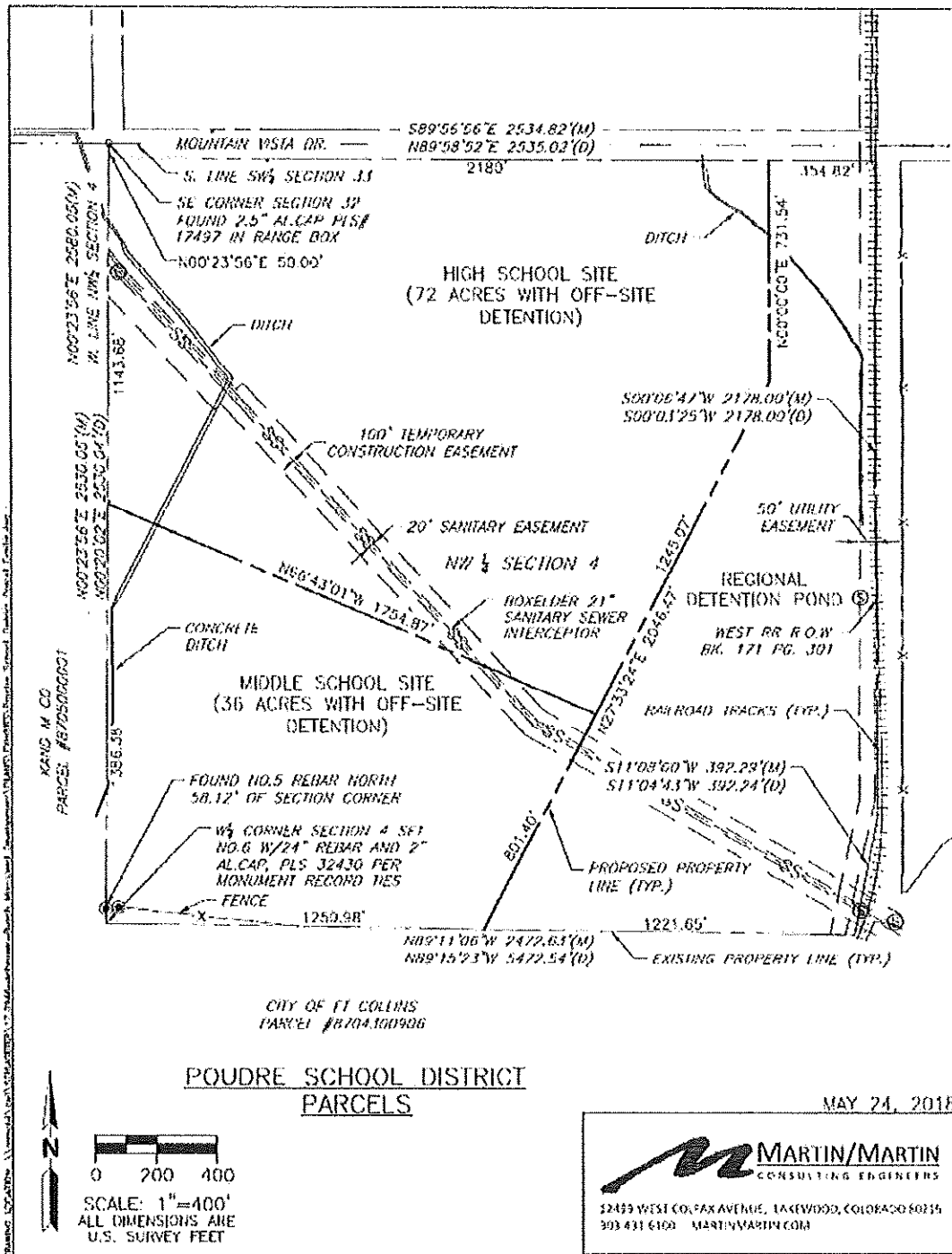


Exhibit "I"
Description of PUD Property

A PARCEL OF LAND SITUATE IN THE EAST HALF OF SECTION 32, A PORTION OF THE SOUTHWEST CORNER OF SECTION 32, AND THE WEST HALF OF SECTION 33, TOWNSHIP 8 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, AND THE NORTH HALF OF SECTION 4, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER CORNER OF SECTION 32 WHENCE THE SOUTH QUARTER CORNER BEARS S00°29'18"E A DISTANCE OF 5289.91 FEET AND CONSIDERING ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE S89°35'02"E A DISTANCE OF 2638.10 FEET;
THENCE S89°53'24"E A DISTANCE OF 1773.90 FEET;
THENCE S00°00'00"E A DISTANCE OF 510.00 FEET;
THENCE S89°53'24"E A DISTANCE OF 864.98 FEET;
THENCE S00°16'21"E A DISTANCE OF 1475.57 FEET;
THENCE S89°59'54"E A DISTANCE OF 397.54 FEET;
THENCE S00°20'11"E A DISTANCE OF 380.10 FEET;
THENCE S89°59'31"E A DISTANCE OF 397.12 FEET;
THENCE S00°16'21"E A DISTANCE OF 2906.93 FEET;
THENCE S00°06'47"E A DISTANCE OF 50.00 FEET;
THENCE S89°47'00"E A DISTANCE OF 945.36 FEET;
THENCE S00°00'50"E A DISTANCE OF 15.00 FEET;
THENCE N89°59'10"E A DISTANCE OF 1022.26 FEET;
THENCE S84°33'41"E A DISTANCE OF 150.45 FEET;
THENCE S00°31'28"E A DISTANCE OF 220.49 FEET;
THENCE S19°10'52"E A DISTANCE OF 716.33 FEET;
THENCE S06°01'40"E A DISTANCE OF 296.08 FEET;
THENCE S00°30'00"W A DISTANCE OF 783.98 FEET;
THENCE N88°21'45"W A DISTANCE OF 92.96 FEET;
THENCE S86°38'15"W A DISTANCE OF 1900.01 FEET;
THENCE S68°38'10"W A DISTANCE OF 99.99 FEET;
THENCE S55°58'15" W A DISTANCE OF 200.00 FEET;
THENCE S36°58'15"W A DISTANCE OF 199.96 FEET;
THENCE S89°38'15"W A DISTANCE OF 15.00 FEET;
THENCE S00°06'47"W A DISTANCE OF 139.93 FEET;
THENCE N89°11'06"W A DISTANCE OF 2627.63 FEET;
THENCE N00°23'56"E A DISTANCE OF 2580.05 FEET;
THENCE N89°53'45"W A DISTANCE OF 2639.82 FEET;
THENCE S89°44'44"W A DISTANCE OF 1339.28 FEET;
THENCE N01°15'55"W A DISTANCE OF 1062.88 FEET;
THENCE S89°50'10"W A DISTANCE OF 721.52 FEET;

THENCE N01°15'28"W A DISTANCE OF 1589.29 FEET;
THENCE N89°50'10"E A DISTANCE OF 2060.57 FEET;
THENCE N00°29'18"W A DISTANCE OF 2644.95 FEET TO THE **POINT OF
BEGINNING**;

LESS AND EXCEPT ALL EXISTING RAILROAD RIGHTS-OF-WAY AND LESS AND EXCEPT ANY PORTION CONTAINED IN THE LANDS DESCRIBED IN THE FINAL AMENDED PLAT/REPLAT OF LOT 1, BLOCK 1, OF "FINAL PLAT B.A.R.I. BARLEY RESEARCH FACILITY" RECORDED MARCH 22, 1989 AT RECEPTION NO. 89012104, WHICH AMENDED PLAT/REPLAT IS TO BE RECORDED UPON APPROVAL BY THE CITY OF FORT COLLINS, COLORADO, A DRAFT OF SUCH AMENDED PLAT/REPLAT LABELED B.A.R.I. BARLEY RESEARCH FACILITY AMENDMENT NO. 1 MINOR PLAT, IS ATTACHED HERETO AS EXHIBIT I-1.

SAID PARCEL CONTAINS 998.50 ACRES (43,494,643.5422 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS NOW IN USE OR OF RECORD

EXHIBIT I-1

Copy of draft B.A.R.I. BARLEY RESEARCH FACILITY AMENDMENT NO. 1 MINOR PLAT, a proposed replat of Lot 1, Block 1, of "Final Plat of B.A.R.I. Barley Research Facility" recorded March 22, 1989 at Reception No. 89012104

[two pages attached]

B.A.R.I. BARLEY RESEARCH FACILITY AMENDMENT NO. 1 MINOR PLAT A PARCEL OF LAND SITUATED IN THE NW 1/4 OF SECTION 33, TOWNSHIP 8 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPLE MERIDIAN CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO SHEET 2 OF 2

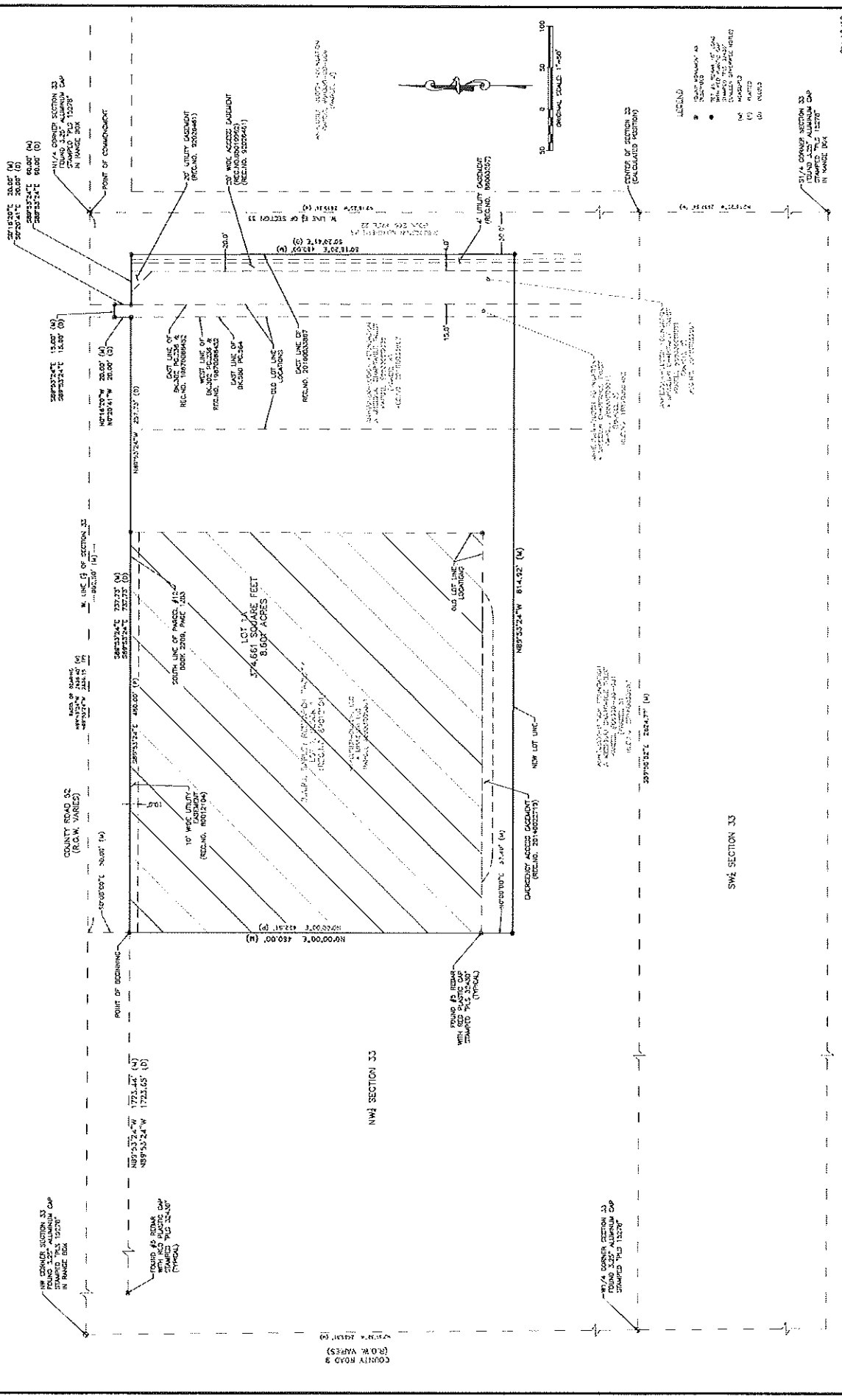


Exhibit J
Description of School District Property

A TRACT OF LAND LOCATED IN THE SW QUARTER OF SECTION 32, T8N, R68W of 6th PM, BEG AT W 1/4 COR, N 89 50' 10" E 2622.74 FT TO CEN 1/4 COR, S 0 51' 56" E 2649.77 FT TO S 1/4 COR, S 89 44' 44" W 1339.28 FT ALG S LN, N 0 15' 16" W 911.83 FT, S 89 44' 44" W 459.73 FT, N 60 15' W 117 FT, N 65 47' 7" W 176.13 FT TO SE CO
As described in that certain warranty deed from MARILYN SHERWIN, STORYBOOK FARM LLC, and CAROL STORY UTHMANN to POUDRE SCHOOL DISTRICT R-1, recorded 10/05/1998, at Reception No. 19980086672, County of Larimer, State of Colorado; and in that certain quit claim deed from MIDTOWN HOMES AT STORYBOOK LLC to POUDRE SCHOOL DISTRICT R-1, recorded 04/30/2014, at Reception No. 20140021323, County of Larimer, State of Colorado, consisting of approximately 108.06 acres (+/-).

For informational purposes only:
Assessor Parcel Number :8832000905
Schedule Number: R1589140

Exhibit K
Vested Property Rights Determination

MEMORANDUM

DATE: November 15, 2019

TO: Mayor Troxell and City Councilmembers

FROM: Tom Leeson, Community Development & Neighborhood Services Director

RE: Extended Vesting Justification

Introduction:

The purpose of this memo is to provide City Council with a written determination that a vesting period of longer than three years is justified for the proposed Montava Planned Unit Development (PUD).

Background:

A PUD Master Plan is eligible for a vested property right with respect to uses, densities, development standards, and Engineering Standards for which variances have been granted for a period of three (3) years. The vested property right shall not exceed three (3) years unless:

- (a) an extension is granted pursuant to the PUD provisions of the Land Use Code, or;
- (b) the City and the developer enter into a development agreement which vests the property right for a period exceeding three (3) years.

Such agreement may be entered into by the City if the Director of Community Development & Neighborhood Services determines that it will likely take more than three (3) years to complete all phases of the development and the associated engineering improvements for the development, and only if warranted in light of all relevant circumstances, including, but not limited to, the overall size of the development and economic cycles and market conditions.

The Montava PUD is one of the largest single proposed development in Fort Collins history. The project is proposed to develop in multiple phases over the course of more than 20 years, and upon full buildout, will include about 4,000-5,000 residential dwelling units, 400,000 square feet of office and commercial uses, 100 acres of industrial uses, and a farm. Montava's proposed mix of uses, variety of housing, system of open space, pedestrian orientation,

incorporation of urban agriculture, energy efficient design, unique design standards, and infrastructure improvements will take many years to be realized.

Given the scale of the project, I have determined that it will likely take more than three (3) years to complete all phases of the development and the associated engineering improvements, that extended vesting beyond three years is warranted in light of the large size of the development and potential market cycles and market conditions, and that the request for a 25 years vesting period is reasonable.