

Consent to Assignment
(Rex Ranch Filing 3 Development Agreement)

This Consent to Assignment (the "Consent"), dated as of _____, 2021 (the "Effective Date"), is entered into by and among the Town of Erie, Colorado, a Colorado municipal corporation (the "Town"), HT Flatiron LP, a Delaware limited partnership ("Owner") and Taylor Morrison of Colorado, Inc., a Delaware corporation ("Assignee") (each a "Party" and collectively the "Parties").

Whereas, the Town and Owner entered into the Development Agreement (Rex Ranch Filing No. 3), dated as of _____, and will submit the same to be recorded in the real property records of the Boulder County Clerk and Recorder (the "Development Agreement");

Whereas, the Development Agreement contains certain improvement obligations, covenants, promises, and requirements to be fulfilled by Owner;

Whereas, Owner desires to assign all of its rights, improvement obligations, covenants, promises, and requirements under and pursuant to the Development Agreement to Assignee, and, in accordance with the requirements of the Development Agreement has requested the Town's consent to such assignment;

Whereas, Assignee has agreed to be responsible for all of the improvement obligations, covenants, promises, and requirements under and pursuant to the Development Agreement, and agrees to be bound by the terms of the Development Agreement;

Whereas, Owner and Assignee have presented to the Town an assignment document wherein Owner has assigned all of its rights and duties to Assignee and Assignee has accepted such assignment, and which document sets forth the delegation of the improvement obligations, covenants, promises and requirements as required by the Development Agreement.

Now, therefore, in consideration of the mutual promises, covenants and obligations of the Parties contained herein, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Attachment of Assignment. A copy of the fully executed Assignment and Assumption Agreement entered into between Owner and Assignee is attached to this Consent, attached hereto as **Exhibit A** and incorporated herein by this reference.
2. Consent to Assignment. The Town hereby consents to the assignment of all of Owner's improvement obligations, covenants, promises and requirements under and pursuant to the Development Agreement to Assignee, subject to the following condition: no Improvement Guarantee required by the Development Agreement shall be released either in whole or in part by the Town until the Town receives a replacement

Improvement Guarantee of equal or greater value, in form and amount acceptable to the Town.

3. Assignee's Obligations. Assignee hereby agrees to be bound by all terms of the Development Agreement. Assignee hereby accepts each and every provision of the Development Agreement and Assignee forever waives any right to challenge the enforceability of the Development Agreement. Assignee acknowledges and reaffirms each of the obligations, covenants, promises and requirements of Owner to be fulfilled as set forth in the Development Agreement.

In witness whereof, the Parties have executed this Consent as of the date first above written.

Town of Erie, Colorado

Jennifer Carroll, Mayor

Attest:

Heidi Leatherwood, Town Clerk

Assignee:

Taylor Morrison of Colorado, Inc.,
a Colorado corporation

By: _____
Name: _____
Title: _____

State of Colorado)
) ss.
County of _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2021, by _____ as _____ of Taylor Morrison of Colorado, Inc.

My commission expires:

(Seal)

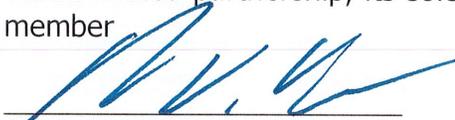
Notary Public

HT Flatiron LP,
a Delaware limited partnership

By: Hines Flatiron Associates Limited Partnership, a Texas limited partnership, its general partner

By: Hines Flatiron GP LLC, a Delaware limited liability company, its general partner

By: Hines Investment Management Holdings Limited Partnership, a Texas limited partnership, its sole member

am By: 
Name: Robert W. Witte
Title: Senior Managing Director

THE STATE OF TEXAS §
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COUNTY OF §

This instrument was acknowledged before me on the 23rd day of September 2021, by Robert W. Witte, the Senior Managing Director of Hines Investment Management Holdings Limited Partnership, in its capacity as sole member of Hines Flatiron GP LLC, in its capacity as general partner of Hines Flatiron Associates Limited Partnership, in its capacity as general partner of HT Flatiron LP, a Delaware limited partnership, on behalf of said entities.


Notary Public in and for the State of Texas
Printed Name: Lorrie Kurrus
My Commission Expires: 7/3/25



Exhibit A

[Draft Assignment between Owner and Assignee]

[To Be Attached]

Assignment and Assumption of Development Agreement Rights and Obligations

This Assignment and Assumption of Development Agreement Rights and Obligations (this "Assignment") is made as of _____, 2021 (the "Effective Date"), by and between HT Flatiron LP, a Delaware limited partnership ("Assignor"), and Taylor Morrison of Colorado, Inc., a Colorado corporation ("Assignee") (each a "Party" and collectively the "Parties").

Whereas, pursuant to that certain Purchase and Sale Agreement, dated as of _____, by and between Assignor and Assignee concerning the purchase and sale of certain real property described therein, and more fully described in **Exhibit A**, attached hereto (the "Property"), Assignor sold to Assignee and Assignee acquired from Assignor the Property on the Effective Date;

Whereas, in connection with Assignor obtaining from the Town of Erie, Colorado (the "Town"), certain entitlement approvals for the Property, including a final plat, Assignor and the Town entered into that certain Development Agreement (Rex Ranch Filing No. 3), dated _____, which agreement was recorded in the real property records of the Boulder County Clerk prior to this Assignment (the "Development Agreement"); and

Whereas, in connection with the Assignee's acquisition of the Property, Assignor agreed to assign to Assignee all of Assignor's rights under the Development Agreement (the "Assigned Rights"), and Assignee agreed to assume all of the obligations of Assignor under the Development Agreement, whether express or implied (the "Assumed Obligations").

Now, therefore, in consideration of the Recitals and mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Assignment and Assumption.** Assignor hereby expressly transfers, conveys and assigns to Assignee, and Assignee hereby accepts from Assignor, the Assigned Rights. Additionally, Assignor hereby expressly transfers, conveys and assigns to Assignee, and Assignee hereby accepts from Assignor, the Assumed Obligations, and Assignee agrees to perform the Assumed Obligations. As additional consideration for the purchase and sale of the Property, Assignee hereby indemnifies and holds Assignor harmless from and against any and all claims, liens, damages, demands, causes of action, liabilities, lawsuits, judgments, losses, costs and expenses (including but not limited to attorneys' fees and expenses) actually asserted against or incurred by Assignor in connection with Assignee's failure to satisfy the Assigned Rights.

2. General Provisions.

(a) No Implied Waiver. No failure by either party to insist upon the strict performance of any provision contained in this Assignment shall constitute a waiver of any such provision.

(b) No Oral Amendment or Modifications. No amendments, waivers or modifications of the terms and provisions contained in this Assignment, and no approvals, consents or waivers by either party under this Assignment, shall be valid or binding unless in writing and executed by the party to be bound thereby. No such termination, extension, modification or amendment shall be effective unless and until a proper instrument in writing has been executed and recorded in the Records.

(c) Severability. If any provision of this Assignment shall be held invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of any other provision of this Assignment, and there shall be substituted for the affected provision a valid and enforceable provision as similar as possible to the affected provision.

(d) Binding Effect. This Assignment shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. The provisions contained in this Assignment shall be construed as covenants running with the Property.

(e) Construction; Captions for Convenience. The Parties acknowledge and agree that both they and their counsel have reviewed this Assignment, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Assignment. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Assignment.

(f) Costs of Legal Proceedings. In the event either Party institutes legal proceedings with respect to this Assignment, the prevailing party shall be entitled to recover, in addition to any other relief to which it is entitled, its costs and expenses incurred in connection with such legal proceedings, including, without limitation, reasonable attorney fees.

(g) No Third Party Beneficiaries. None of the terms, conditions or covenants contained in this Assignment shall be deemed to be for the benefit of any person other than Assignee, its successors and assigns specifically designated as such in writing, and no other person shall be entitled to rely hereon in any manner.

(h) Relationship of Parties. Nothing in this Assignment shall be construed or deemed to make or constitute the parties as partners, joint venturers or any other form of joint participants in the development of the Property.

In witness whereof, the Parties have caused this Assignment to be duly executed as of the day and year first above written.

ASSIGNOR:

HT FLATIRON LP,
a Delaware limited partnership

By: Hines Flatiron Associates Limited Partnership,
a Texas limited partnership
its general partner

By: Hines Flatiron GP LLC,
a Delaware limited liability company,
its general partner

By: Hines Investment Management Holdings Limited Partnership,
a Texas limited partnership,
its sole member

By: _____
Robert W. Witte, Senior Managing Director

ASSIGNEE:

TAYLOR MORRISON OF COLORADO, INC.,
a Colorado corporation

By: _____
Name: _____
Title: _____