FIRST AMENDMENT TO

INTEGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS
(the “Intergovernmental Agreement”)

-AND-

AGREEMENT BETWEEN GARTRELL INVESTMENT COMPANY, L.L.C., DBC-COLORADO INVESTMENTS, LLC, THE CITY OF AURORA, AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS
(the “Agreement”)

This First Amendment to Intergovernmental Agreement (“First Amendment”) is made and entered into as of June 3, 2012, by and between the City of Aurora, Colorado, a Colorado Home Rule Municipal Corporation (“City”) and the Board of County Commissioners of the County of Douglas, Colorado, a Colorado County (“County”); and

This First Amendment to Agreement is made and entered into as of June 14, 2012, by and between Rocking Horse Partners, LLC, a Colorado limited liability company (“Rocking Horse Partners”) the City and the County.

RECITALS

WHEREAS, the City and the County entered into the Intergovernmental Agreement; and Gartrell Investment Company, L.L.C. and DBC-Colorado Investments, LLC (collectively “Gartrell”) the City and the County entered into the Agreement;

WHEREAS, the Intergovernmental Agreement and the Agreement are a single instrument which was recorded on January 31, 2003 at Reception No. 2003005317 in the office of the Clerk and Recorder of Douglas County, Colorado; and

WHEREAS, Rocking Horse Partners acquired ownership of substantially all of the Gartrell Property (as defined in the Intergovernmental Agreement and the Agreement) in 2005 and is the successor in interest to Gartrell under the Agreement. The City, the County and Rocking Horse Partners desire to update and amend the Intergovernmental Agreement and the Agreement to account for subsequent events and changed conditions by amending the previously executed Intergovernmental Agreement and the Agreement as more particularly set forth herein.

NOW THEREFORE, in consideration of the mutual promises, covenants and representations contained in the Intergovernmental Agreement and Agreement, the parties agree as follows:

1. Incorporation. The foregoing Recitals and all Exhibits are incorporated herein by this reference. Unless otherwise defined herein, all capitalized terms used in this Amendment
and not defined in this Amendment shall have the same meaning as set forth in the Intergovernmental Agreement and Agreement.

2. **Definitions.**

   a. All references in the Intergovernmental Agreement and Agreement to “Gartrell” as a party thereto shall be deemed to refer to Rocking Horse Partners as the successor in interest to Gartrell.

   b. This First Amendment is incorporated into and made a part of the Intergovernmental Agreement and Agreement.

   c. The definitions of the following terms as set forth in Section A of the Intergovernmental Agreement and Agreement are deleted in their entirety: Initial Inspiration Segment; Transition; Transition Zone – East; Transition Zone – West; and Gartrell Homeowners Association.

   d. The following definitions as set forth in Section A of the Intergovernmental Agreement and Agreement are supplemented or amended as follows:

      **Lot Plan:** means the location and configuration of the perimeter lots on the west and south property lines of the Gartrell Property that will be immediately adjacent to Inspiration Drive, that portion of the Livengood Hills Subdivision to the east and the Travois Subdivision to the west, as conceptually depicted on Exhibit C attached hereto, and which will be developed in accordance with the terms and conditions of this Intergovernmental Agreement and Agreement, subject to immaterial modifications in connection with City review and approval of Contextual Site Plans and Final Plats as contemplated herein. Modifications in the location and configuration of the perimeter lots is permitted so long as the total number, minimum lot size and setbacks for the perimeter lots on the west and south property lines comply with the requirements set forth in the matrix included in Exhibit C, and the physical limitations established by these requirements shall not be subject to variation or deviation.

3. **Exhibits.**

   a. Exhibit C is amended in its entirety and replaced by Exhibit C attached to this First Amendment.

   b. Exhibit D is amended in its entirety and replaced by Exhibit D attached to this First Amendment.

   c. Exhibit E is deleted in its entirety from the Intergovernmental Agreement and the Agreement.

4. **Section D.**
a. The initial introductory paragraph of Section D.1 titled “Inspiration Drive/County Road 45 Improvements”, and Section D.1(a) titled “Coordination; Submission to County”, and Section D.1(b) titled “Phasing; Construction Traffic and Access” of the Intergovernmental Agreement and Agreement are amended in their entirety to read as follows:

1. **Inspiration Drive/County Road 45 Improvements.** Except as this Agreement and Intergovernmental Agreement expressly provides otherwise, Rocking Horse Partners at its sole cost and expense shall be responsible for making any required improvements to Inspiration Drive, and the County at its sole cost and expense shall be responsible for making improvements to County Road 45, if any, as such improvements are depicted and set forth on Exhibit D. While final engineering design and construction of the improvements to Inspiration Drive and County Road 45 must be accomplished through coordination between the City, the County and Rocking Horse Partners as set forth in and required by this Agreement and Intergovernmental Agreement, the final design, construction, ownership and maintenance of Inspiration Drive and County Road 45 Improvements shall be subject to the following requirements:

(a) **Coordination; Submission to County.** The City, the County and Rocking Horse Partners will coordinate their design, phasing, and construction plans for Inspiration Drive and County Road 45. Concurrently with its submission to the City, Rocking Horse Partners shall submit to the County, for the County’s review and comment, any construction plans and/or project budgets relating to the design and construction of the required improvements to Inspiration Drive that are required to be produced in connection with such Final Plat or Contextual Site Plan application. The County and City will jointly review the final design of the improvements to Inspiration Drive. If any conflict of design arises between the segments of Inspiration Drive and County Road 45, the City Engineer shall have final decision making authority over the final design of Inspiration Drive and the County Engineer shall have final decision making authority over the final design of County Road 45. In the pre-construction and construction phases, Rocking Horse Partners shall coordinate regular meetings (on at least a monthly basis) with designated representatives from the City and the County to assure that proper communications and coordination are being maintained. The County’s comments regarding construction plans shall be implemented unless the City Council believes such comments are unreasonable. Right-of-way and easement acquisitions shall be addressed in the manner set forth in subparagraph (d) below. Utility relocations shall be addressed as set forth in subparagraph (e) below. Rocking Horse Partners shall provide any necessary easements within the Buffer Area at no cost to the County as provided in subparagraph 2(a) below.
(b) It is proposed that development of the Gartrell Property will involve construction of an internal two lane collector street (the "West Collector") located generally to the west of Gartrell Road and which will connect to Inspiration Drive at a location approximately 0.4 miles east of the western property line of the Gartrell Property, as conceptually depicted on Exhibits C and D. In accordance with the phasing schedule for the construction of improvements to Inspiration Drive as set forth on Exhibit D, Rocking Horse Partners will construct the intersection improvements for the connection of Inspiration Drive and the West Collector, including changes to Antelope Trail and Inspiration Drive to maintain access to all residents south of the Gartrell Property.

b. Section D.1(c) titled “Transitions” of the Intergovernmental Agreement and Agreement is deleted in its entirety from the Intergovernmental Agreement and Agreement.

c. Section D.1(f) titled “Completion”, Section D.1(g) titled “Maintenance of Inspiration Drive” and Section D.1(h) titled “No Assignment of Obligations” of the Intergovernmental Agreement and Agreement are amended in their entirety to read as follows:

(f) Completion. Substantial completion of the intersection of Inspiration Drive and the West Collector (including changes to Antelope Trail and Inspiration Drive to maintain access to all residents south of the Gartrell Property) and half of the West Collector between Gartrell Road and Inspiration Drive shall be a condition precedent to issuance of a building permit for the 301st dwelling unit within the Gartrell Property. Substantial completion of the remaining improvements to Inspiration Drive in accordance with Sections D.1(a) and D.1(b) above and as set forth on Exhibit D shall be a condition precedent to the issuance of a building permit for the 751st dwelling unit within the Gartrell Property.

(g) Maintenance of Inspiration Drive. Upon substantial completion of the Inspiration Drive improvements, Rocking Horse Partners shall dedicate the improvements to the City, and the City shall accept the dedication of the improvements. Thereafter, the City shall maintain Inspiration Drive, and the improvements thereto described above, unless the County subsequently acquires ownership of Inspiration Drive, and the improvements thereto, or otherwise enters into an agreement to maintain Inspiration Drive, in which case the County shall perform such maintenance. Maintenance will be performed according to the applicable City or County street and road standards. The entity performing the street maintenance may contract with the Metro District for the performance of any or all landscaping, trash removal, mowing, and similar maintenance obligations affecting the Inspiration Drive right-of-way.
(h) No Assignment of Obligations. At all times while the City is the owner of Inspiration Drive and the improvements thereto, and unless the City transfers ownership or maintenance obligations to the County, the City shall maintain possession, jurisdiction, and the obligation to maintain Inspiration Drive and shall not assign or delegate these rights or responsibilities to any person other than the Metro District as contemplated in subparagraph (g) above.

d. Section D.1(i) titled “Fill Dirt” of the Intergovernmental Agreement and Agreement is deleted in its entirety from the Intergovernmental Agreement and Agreement.

e. Section D.2 titled “Buffer Area” of the Intergovernmental Agreement and Agreement is amended by the addition of the following sentence: The requirement that the Buffer Area will be a minimum of 100’ deep as measured from the typical northern edge of pavement on Inspiration Drive does not apply east of the point of northerly deviation in the Inspiration Drive alignment away from the southerly section lines as shown on Exhibit C.

5. Section F. All references to the Douglas County Comprehensive 2001 Master Plan appearing in Section F.1 of the Intergovernmental Agreement shall be deemed to refer to the Douglas County 2030 Comprehensive Master Plan.

6. Notices. Rocking Horse Partners, LLC, a Colorado limited liability company is the successor in interest to Gartrell under the Agreement by virtue of that certain Assignment and Assumption dated April 12, 2005 by and among Rocking Horse, Gartrell and DBC. The address for notices applicable to Gartrell and DBC as set forth under Section H.6 of the Intergovernmental Agreement and Agreement is deleted and replaced with the following:

If to Rocking Horse:

Rocking Horse Partners, L.L.C.
9781 S. Meridian Boulevard, Suite 120
Englewood, Colorado 80112
Attention: Russell Crandall

With a copy to:

Lottner, Rubin, Fishman, Brown & Saul, P.C.
633 17th Street, Suite 2700
Denver, Colorado 80202
Attention: Rick Rubin, Esq.

7. Homeowner’s Association. Since a homeowner’s association has not been formed for all of the Gartrell Property, all references in the Intergovernmental Agreement and
Agreement to the Gartrell Homeowner’s Association shall instead be deemed to refer to the Rocking Horse Metropolitan District 1.

8. **Recordation.** This First Amendment shall be recorded in the real property records of the Douglas County, Colorado, Clerk and Recorder.

9. **Miscellaneous.** In the case of any conflict between the terms of this First Amendment and the provisions of the Intergovernmental Agreement and Agreement, the provisions of this First Amendment shall control. Except as the Intergovernmental Agreement and Agreement are specifically modified by this First Amendment, the Parties hereby ratify, reaffirm, and restate the terms of the Intergovernmental Agreement and Agreement. This First Amendment may be executed in counterparts, each of which shall be deemed an original and may be signed and delivered by facsimile transmission or electronic mail, and all of which, when taken together, shall constitute one and the same agreement.

[Signature Pages Follow]
IN WITNESS WHEREOF, Rocking Horse Partners, the City and the County have executed this First Amendment as of the date first written above.

ROCKING HORSE PARTNERS:

Rocking Horse Partners, LLC,
a Colorado limited liability company

By: Lennar Colorado, LLC,
a Colorado limited liability company;
Operations Manager

By: ________________________________
Russell Crandall, Vice President

STATE OF Colorado )
COUNTY OF Douglas ) ss.

2013 %

The foregoing instrument was acknowledged before me this 18 day of June, 2012 by Russell Crandall, as Vice President of Lennar Colorado, LLC, a Colorado limited liability company, Operations Manager of Rocking Horse Partners, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 3/15/2014

Notary Public

[Notary Public Seal]
CITY:

CITY OF AURORA,

By: [Signature] Mayor

With the Consent and Approval of the Aurora City Council by Resolution

ATTEST:

[Signature], City Clerk

APPROVED AS TO LEGAL FORM:

[Signature] City Attorney
COUNTY:

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS

By: Jack A. Hilbert, Chair

ATTEST:

Melissa Pelletier, Deputy Clerk

APPROVED AS TO CONTENT:

Douglas J. DeBord, County Manager

APPROVED AS TO LEGAL FORM:

Kristin Decker, Senior County Attorney

LANCE INGALLS, Esq.

APPROVED AS TO FISCAL CONTENT:

Andrew Copland, Director of Finance
RockingHorse
Buffer Area and Lot Plan Exhibit - Inspiration Drive

Exhibit C

* Minimum setback condition is measured from the southernmost private property line to the north edge of pavement on the existing Inspiration Drive and the Section Line. This distance will be no less than 100' from the edge of pavement and no less than 150' from the section line. This requirement does not apply east of the point of curvature in the Inspiration Drive alignment.

* Minimum setback condition is measured from the southernmost private property line to the north edge of pavement on the existing Inspiration Drive and the Section Line. This distance will be no less than 100' from the edge of pavement and no less than 150' from the section line. This requirement does not apply east of the point of curvature in the Inspiration Drive alignment.

<table>
<thead>
<tr>
<th>Lot Size</th>
<th>Minimum Front Setback</th>
<th>Minimum Side Setbacks</th>
<th>Minimum Rear Yard</th>
<th>Maximum Height</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>At Interior</td>
<td>At Corner</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6000 to 8999 sf</td>
<td>20'</td>
<td>6'</td>
<td>12' to 20'</td>
<td>20'</td>
</tr>
<tr>
<td>6000 to 14999 sf</td>
<td>25'</td>
<td>7'</td>
<td>15' to 25'</td>
<td>25'</td>
</tr>
<tr>
<td>15000 sf or greater</td>
<td>25'-0'</td>
<td>10'-0'</td>
<td>15' to 25'</td>
<td>30'</td>
</tr>
</tbody>
</table>

**Minimum stated is at a local, maximum stated is at a collector or arterial.

All setbacks listed apply to the primary structure. Details on exceptions and restrictions can be found in the City of Aurora Municipal Code.

*Setbacks between buildings along the western line will be a total of 15', this may be split in any manner between lots in order to accommodate grades.

<table>
<thead>
<tr>
<th></th>
<th>Perimeter Lot Total</th>
<th>Minimum Lot Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>West</td>
<td>54</td>
<td>7200 sf</td>
</tr>
<tr>
<td>South</td>
<td>47</td>
<td>9775 sf</td>
</tr>
</tbody>
</table>

Note: Trees shown on the exhibit are proposed trees based on City of Aurora buffer landscape requirements.

The proposed tree, tree and lot locations shown on these exhibits are conceptual and subject to change based on final design and engineering considerations; however, the number of trees adjacent to Inspiration Drive will meet the City of Aurora buffer requirement.

As conceptually depicted on these exhibit sheets
* The total 47 lots and minimum lot size along the southern perimeter apply to only those east of the West Collector.

Owner/Developer:
RockingHorse Partners, LLC
C/o Lessar Colorado
9701 S. Meridians Blvd. Ste. 120
Englewood, CO 80112
Contact: Matt Dohle

Sheet 1 of 3
October 2011
Rocking Horse
Buffer Area and Lot Plan Exhibit - West Side / East Side

West Side
- Min. 150 ft. buffer
- Min. 150 ft. to back of lot
- Min. 150 ft. buffer

East Side
- Xcel ROW

Notes:
Trees shown on the East Side exhibit are existing trees and are not intended to be disturbed.
The proposed trail, trees and lot locations shown on these exhibits are conceptual and subject to change based on final design and engineering considerations; however, the following will be required:
The West Side buffer area shall include, at a minimum, 1) the greater of the amount of tree denuded by this plan or the amount required by the City of Aurora buffer requirements, and 2) shall also provide supplemental landscape buffering through the use of additional trees and planting within higher visual impact areas for the purpose of mitigating the visual impacts of the development.
The final landscape design for the West Side buffer area shall be established through the land use review process between the City and the County.
Lots will not encroach closer than 150 ft. to the western boundary.
The total number of lots along this frontage will not be above 54.
The houses along the western line will be separated a minimum of 15 ft. instead of 12 ft. side to side.

Owner/Developer:
Rocking Horse Partners, LLC
601 Lamar, Colorado
970-150-1000 or 303-820-1300

Sheet 2 of 3
June 2012

Contact: Matt Dohm
Rocking Horse
Buffer Area and Lot Plan Exhibit - North Side / Livengood Hills

Min. 50' Buffer Area between property line and back of curb on Gartrell Road. Road is aligned to meet with existing road to the north.

Min. 100' Buffer Area

Livengood Hills

Cluster - SFD Maximum 7.0 DU/Gross AC

North SFD Lots - Maximum 3.1 DU/Gross AC

Sheet 3 of 3
August 23, 2002

Owner/Developer
Gartrell Development Company 2111
160 N. 10th Street
Buckhead, PA 15217
Contact: Tom DeRiggi at 913-8888
WEST COLLECTOR: WEST HALF TO BE COMPLETED PRIOR TO ISSUANCE OF 301st BUILDING PERMIT. (PER THE CROSS-SECTION SHOWN); REMAINDER TO BE COMPLETED PRIOR TO ISSUANCE OF 751st BUILDING PERMIT.

THE FINAL DESIGN OF INSPIRATION DRIVE AND ITS INTERSECTIONS WITH GARTRELL ROAD, THE WEST COLLECTOR, AND ANTELOPE TRAIL EXTENSION WILL BE DETERMINED AT THE REQUIRED TIME OF CONSTRUCTION IN ACCORDANCE WITH SECTION D.1(F), AS AMENDED.

REMOVE ROADWAY CONNECTION UPON COMPLETION OF WEST COLLECTOR AND GARTRELL ROAD EXTENSION TO INSPIRATION DRIVE.

GARTRELL ROAD AND INSPIRATION DRIVE CONNECTIONS TO BE COMPLETED PRIOR TO ISSUANCE OF 751st BUILDING PERMIT.

INSPIRATION DRIVE EXTENSION AND CONNECTION TO GARTRELL ROAD.