

**TOWN COUNCIL
TOWN OF GYPSUM, STATE OF COLORADO**

**RESOLUTION NO. 21
SERIES 2026**

**A RESOLUTION APPROVING THE 5TH AMENDMENT TO THE TOWER
CENTER ANNEXATION AND DEVELOPMENT AGREEMENT**

A. The Town of Gypsum ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town's Home Rule Charter effective October 21, 1982.

B. The Town entered into the Tower Center Annexation and Development Agreement with Gypsum Investors, LLC and Meritage J F A Gypsum, LLC 5, , recorded June 30, 2006 at Reception No. 200617643 ("Original Annexation Agreement") in the Office of the Eagle County Clerk and Recorder ("Recorder's Office") as amended by that certain First Amendment to Annexation and Development Agreement recorded at Reception No. 200806081 (the "First Amendment") in the "Recorder's Office", that certain Second Amendment to Annexation and Development Agreement recorded at Reception No. 200908976 in the Recorder's Office (the "Second Amendment"), that certain Third Amendment to Annexation and Development Agreement recorded at Reception No. 201007158 in the Recorder's Office ("Third Amendment") and that certain Fourth Amendment to Annexation and Development Agreement recorded at Reception No. 202505910 in the Recorder's Office (the "Fourth Amendment"; and collectively with the Original Annexation Agreement, First Amendment, Second Amendment, and Third Amendment, the "Annexation Agreement").

C. EAGLE COUNTY LAND COMPANY, LLC, a Delaware limited liability company ("Eagle"), and HP-257007 GYPSUM LLC, a Delaware limited liability company ("HP") are the respective owners of those parcels of property subject to the Annexation Agreement (the "Property") described in Exhibits A and B attached to the proposed Fifth Amendment to Annexation and Development Agreement attached hereto as **Exhibit A** the ("Fifth Amendment"). HP shall develop a portion of the Property in accordance with a subdivision improvement agreement between the Town and HP, or an entity related to HP, that encumbers the HP Property (the "**HP SIA**") and the Annexation Agreement.

E. HP has requested an amendment to the Annexation Agreement in order to modify the timing requirements related to construction of the Neighborhood Park, as further set forth in the Fifth Amendment.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF
THE TOWN OF GYPSUM, COLORADO that:**

1. Recitals. The recitals set forth above are incorporated into this Resolution as if fully set forth herein.

2. Approval of the Fifth Amendment to the Annexation and Development Agreement. The Fifth Amendment to the Annexation and Development Agreement, attached hereto as **Exhibit A** and incorporated herein, is hereby approved.

3. Severability. If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

4. Effective Date. This Resolution shall take effect and be enforced immediately upon its approval by the Town Council.

INTRODUCED, READ AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF GYPSUM ON THE 14TH DAY OF JULY, 2026, BY A VOTE OF 4 IN FAVOR AND 0 AGAINST.

EXHIBIT A

FIFTH AMENDMENT TO ANNEXATION AND DEVELOPMENT AGREEMENT

[ATTACHED]

TOWER CENTER

FIFTH AMENDMENT TO ANNEXATION AND DEVELOPMENT AGREEMENT

This **FIFTH AMENDMENT TO ANNEXATION AND DEVELOPMENT AGREEMENT** (“**Fifth Amendment**”) is entered into as of the 14 day of July, 2026 (“**Effective Date**”), by the **TOWN OF GYPSUM, COLORADO** (“**Gypsum**” or the “**Town**”), a home-rule municipal corporation and political subdivision of the State of Colorado, **EAGLE COUNTY LAND COMPANY, LLC**, a Delaware limited liability company (“**Eagle**”), and **HP-257007 GYPSUM LLC**, a Delaware limited liability company (“**HP**”) (together with Eagle, “**Owner**”). The Town and Owner are referred to collectively herein as the “**Parties**”.

RECITALS

A. Eagle is the owner of those parcels of real property more particularly described on Exhibit A attached hereto and incorporated by reference (the “**Eagle Property**”).

B. HP is the owner of that certain parcel of real property more particularly described on Exhibit B attached hereto and incorporated by reference (the “**HP Property**”, and collectively with the Eagle Property, the “**Property**”). HP shall develop the Property in accordance with a subdivision improvement agreement between the Town and HP, or an entity related to HP, that encumbers the HP Property (the “**HP SIA**”) and the ADA, as defined below.

C. The Property is subject to that certain Annexation and Development Agreement recorded in the public records of Eagle County, Colorado (the “**Records**”) on June 30, 2006 at Reception No. 200617643, as amended by that certain First Amendment to Annexation And Development Agreement recorded in the Records on March 21, 2008 at Reception No. 200806081, as further amended by that certain Second Amendment to Annexation and Development Agreement recorded in the Records on May 13, 2009 at Reception No. 200908976, as further amended by that certain Third Amendment to Annexation and Development Agreement recorded in the Records on April 15, 2019 at Reception No. 201007158, and as further amended by that certain Fourth Amendment to Annexation and Development Agreement recorded in the Records on May 9, 2025 at Reception No. 202505910 (the “**Fourth Amendment**”) (as amended, the “**ADA**”).

D. Pursuant to Section 5(i) of the Fourth Amendment, Owner is required to construct the Neighborhood Park prior to issuance of a temporary certificate of occupancy or permanent certificate of occupancy for the 100th residential unit related to the Project.

E. The Parties now desire to amend the ADA in order to modify the timing requirements relating to construction of the Neighborhood Park, as further set forth herein.

AGREEMENT

1. **Recitals; Defined Terms.** The recitals above are incorporated herein by reference. Any capitalized term used herein but not defined herein shall have the meaning ascribed to such term in the ADA. All references in the ADA to “Agreement”, shall mean the ADA, as amended by this Fifth Amendment.

2. **Neighborhood Park.** Section 5(i) of the Fourth Amendment is hereby deleted and replaced in its entirety with the following:

“In addition to any Required Improvements agreed to pursuant to Section 2.8(A) above, the Owner shall be responsible for the construction of a public, neighborhood park (“Neighborhood Park”), to include sod lawn, native seed mix area, two shade pavilions, six or more picnic tables, playground with safety surface, bike racks, five benches, widened sidewalk loop system, extensive tree and shrub vegetation, waste bins, and dog waste stations as shown on Exhibit E, attached to the Fourth Amendment. The Neighborhood Park shall be located in the area shown on the Tower Center Site Plan, attached as Exhibit E to the Fourth Amendment. Owner shall provide Construction Security in accordance with the HP SIA. The Required Improvement in the Neighborhood Park shall be completed prior to issuance of a temporary certificate of occupancy or permanent certificate of occupancy for the 20th townhome residential unit constructed on that parcel of real property legally described as TRACT F, TOWER CENTER FILING NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN THE RECORDS ON DECEMBER 10, 2025 AT RECEPTION NO. 202516981.”

3. **Binding Effect.** This Fifth Amendment shall inure to the benefit of, and be binding upon, each of the Parties and their respective legal representatives, successors, and assigns. The Parties shall cooperate to record this Fifth Amendment in the Records.

4. **Covenants Running with the Land.** All provisions contained in this Fifth Amendment touch and concern the Property, constitute covenants running with the land, and shall be binding upon the Owner and each of the Owner’s successors in interest to all or any portion of the Property.

[Remainder of page intentionally left blank. Signature pages follow]

EXHIBIT A

EAGLE PROPERTY LEGAL DESCRIPTION

TRACTS A THROUGH F AND LOT 1, TOWER CENTER FILING NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN THE PUBLIC RECORDS OF EAGLE COUNTY, COLORADO ON DECEMBER 10, 2025 AT RECEPTION NO. 202516981.

Exhibit A

111993684.2

202609309

EXHIBIT B

HP PROPERTY LEGAL DESCRIPTION

LOT 2, TOWER CENTER FILING NO. 1, ACCORDING TO THE PLAT THEREOF
RECORDED IN THE PUBLIC RECORDS OF EAGLE COUNTY, COLORADO ON
DECEMBER 10, 2025 AT RECEPTION NO. 202516981.

Exhibit B

111993684.2

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