

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

**RESOLUTION NO. 14
(SERIES 2022)**

**A RESOLUTION APPROVING THE FOURTH AMENDMENT
TO THE SUBDIVISION IMPROVEMENT AGREEMENT FOR THE
SIENA LAKE PLANNED UNIT DEVELOPMENT**

WHEREAS, the Town of Gypsum, Colorado (“Town”), is a home rule municipality of the State of Colorado, duly organized and existing under Article XX of the Colorado Constitution and the Gypsum Home Rule Charter effective October 21, 1982; and

WHEREAS, the Town of Gypsum has the power and authority to adopt regulations regarding the subdivision of land and to enjoin any such subdivision which does not comply with such regulations, pursuant to Sections 31-23-214 and 31-23-216, C.R.S.; and

WHEREAS, the Town Council of the Town of Gypsum (“Council”) has adopted Chapter 18.08 of the Gypsum Municipal Code (G.M.C.) governing planned unit developments; and

WHEREAS, Siena Lake, LLC (the “Developer”) is the owner of real property located within the Siena Lake Planned Unit Development;

WHEREAS, the Town and Developer’s predecessor or Town and Developer previously entered into a Subdivision Improvement Agreement First Amendment to Subdivision Improvement Agreement, Second Amendment to Subdivision Improvement Agreement, and Third Amendment to Subdivision Improvement Agreement (collectively, the “SIA”); and

WHEREAS, the SIA obligates the Developer to provide certain infrastructure improvements and facilities to serve the Siena Lake Planned Unit Development and mitigate the impact of the project on the Town and requires certain improvements be constructed; and

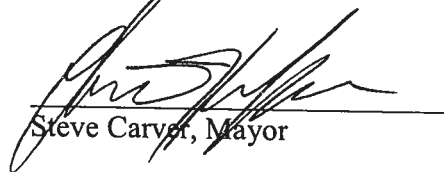
WHEREAS, Developer wishes to amend the Subdivision Improvement Agreement for the Siena Lake Planned Unit Developer to modify the timing for construction of certain required improvements within the Fourth Amended Final Plat.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Gypsum, Colorado, as follows:

1. Incorporation of Recitals and Findings. The above Recitals and Findings of the Town Council are hereby incorporated into this Resolution.
2. Approval of Fourth Amendment to the Subdivision Improvement Agreement. The Fourth Amendment to the Subdivision Improvement Agreement attached hereto as **Exhibit A** and incorporated herein is hereby approved.
3. Effective Date. This Resolution shall become effective immediately upon adoption by the Town Council.
4. 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.

Approved and Resolved this 23rd day of August, 2022, at a regular meeting of the Town Council of the Town of Gypsum, Colorado by a vote of 5 in favor and 0 against.

TOWN OF GYPSUM


Steve Carver, Mayor

Attest:


Becky Close, Town Clerk



EXHIBIT A
FOURTH AMENDMENT TO SIA

**FOURTH AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENT
SIENA LAKE PLANNED UNIT DEVELOPMENT**

This FOURTH AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENT, SIENA LAKE PLANNED UNIT DEVELOPMENT ("Fourth Amendment") is entered into this 23rd day of August, 2022 between the Town of Gypsum, a home-rule municipal corporation (the "Town" or "Gypsum") and Siena Lake, LLC ("Developer") and amends the Subdivision Improvement Agreement, Siena Lake Planned Unit Development ("Agreement") between the Town and Red Table Ventures, LLC, dated August 14, 2018 and recorded at Reception No. 202003559 in the offices of the Eagle County Clerk and Recorder, the First Amendment to Subdivision Improvement Agreement for the Siena Lake Planned Unit Development ("First Amendment") recorded at Reception No. 202003560 between the Town and Red Table Ventures, LLC, the Second Amendment to Subdivision Improvement Agreement for Siena Lake Planned Unit Development between the Town and Siena Lake, LLC dated June 22, 2021 and recorded at Reception No. 202116534 ("Second Amendment"), and the Third Amendment to Subdivision Improvement Agreement for Siena Lake Planned Unit Development between the Town and Siena Lake, LLC dated August 25, 2021 and recorded at Reception No. 202210790 ("Third Amendment", and the First, Second and Third Amendment collectively referred to as the "SIA" or "Subdivision Improvement Agreement"). The Town and Developer may each be referred to singularly as a "Party" and jointly as the "Parties".

RECITALS

A. WHEREAS, Developer is the owner of the real property (the "Property") identified on Exhibit A, attached hereto and incorporated herein, located in Gypsum, Colorado; and

B. WHEREAS, Red Table Ventures, LLC assigned the Agreement and First Amendment to Siena Lake, LLC, which was approved by the Town pursuant to Resolution No. 30 (Series 2020); and

C. WHEREAS, the Agreement, First Amendment, Second Amendment and Third Amendment obligate the Developer to provide certain infrastructure improvements and facilities to serve the Siena Lake Planned Unit Development ("PUD") and mitigate the impact of the project on the Town and requires certain improvements be constructed; and

D. WHEREAS, Developer has begun construction of the infrastructure within the area of the PUD within the Fourth Amended Final Plat ("Phase I") and has requested to modify the timing for construction of certain Required Improvements; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Amendment of Section 8(b). Section 8(b) of the Agreement is deleted in its entirety and amended to read as follows:

(b) Construction Timing. The Design Plans set forth the specific on-site and off-site Required Improvements. Prior to Gypsum recording the Final Plat, Developer shall either complete the Required Improvements, or provide Construction Security to secure any Required Improvements not completed. Notwithstanding the posting of Construction Security, the Required Improvements are to be completed prior to building permits being issued unless otherwise approved by the Town Manager in his or her sole discretion in writing and except as set forth in Section 8(c)(2) with respect to installation of the Required Improvements within Phase I. Notwithstanding the issuance of a building permit prior to the completion of the Required Improvements, no certificate of occupancy or temporary certificate of occupancy shall be issued until all Required Improvements are completed.

2. Amendment of Section 8(c)(1). Section 8(c)(1) of the Agreement is deleted in its entirety and amended to read as follows:

(1) Unless otherwise provided on the Design Plans, or as modified for Phase I as set forth in Exhibits G and H, the Required Improvements that must be completed for each filing of the Project prior to building permits being issued for the Property shall include:

- i. Public streets, private streets, integral mountable curb, lights and sidewalks with accompanying infrastructures, including but not limited to street lights, paths, parking lots, drainage systems and signs;
- ii. Domestic water systems;
- iii. Sanitary sewer system;
- iv. Fire hydrants;
- v. Survey monuments;
- vi. Perimeter fencing;
- vii. Electricity, natural gas, fiber;
- viii. Storm sewer, storm drainage facilities, subsurface drainage lines, and erosion control, as depicted on the Design Plans;
- ix. Landscaping not including individual home landscaping, ponds, non-potable irrigation system, including a landscape buffer

- x. ECO Regional Trail connection;
- xi. Erosion control; and
- xii. Other.

3. Addition of Section 8(c)(2). A new Section 8(c)(2) of the Agreement is added to read as follows:

(2) *Phase I Required Improvements.* Developer seeks to develop Phase I in four stages, to be called Sequence 1, Sequence 2, Sequence 3, and Sequence 4. The Parties agree Developer may split Phase I into four sequences, generally as set forth in Exhibit G and H, attached hereto and incorporated herein. Such sequencing is intended to facilitate development of Phase I by allowing Developer to begin construction of four (4) model homes prior to completion of infrastructure, and to complete only the Required Improvements within an individual sequence prior to receipt of building permits for that sequence. The sequencing and summary of Required Improvements for Sequences 1-4 is generally as set forth in Exhibits G and H, which may be modified in writing by approval of the Developer and Town Manager as determined necessary and appropriate due to changing conditions and/or construction needs.

4. Amendment of Section 19(b)(1). Section 19(b)(1) of the Agreement is deleted in its entirety and amended to read as follows:

(1) *Acceleration and Deceleration Lanes.* Developer shall construct all acceleration and deceleration lanes at the intersection of Siena Lake Parkway and Cooley Mesa Road with a full asphalt overlay no later than September 30, 2023. Building permits for all phases of the Project will be withheld beginning October 1, 2023 until construction of the acceleration and decelerations have been completed.

2. Amendment of Section 19(c)(1) of the Agreement. Section 19(c)(1) of the Agreement is hereby deleted in its entirety and amended to read as follows:

(1) *Niva Ridge Trail Emergency Access Road.* Niva Ridge Trail has been renamed Spearstone Avenue. Developer shall construct a 20-foot gravel emergency access road from Spearstone Avenue to Cooley Mesa Road at the time required for construction of the Required Improvements for Sequence 1 of Phase I as generally described in Exhibits G and H, including any gates, removable bollards, or other devices approved by Greater Eagle Fire Department at both the intersection of Cooley Mesa Road and at the pavement termination of Spearstone Avenue. Once constructed, a HOA or metropolitan district shall continue to plow the

emergency access road and maintain the access road and any access control devices once constructed.

3. Amendment of Section 19(d)(1) of the Agreement. Section 19(d)(1) of the Agreement is hereby deleted in its entirety and amended to read as follows:

(1) *BLM Parking.* Developer shall construct a parking lot and necessary signage for recreational users accessing the nearby BLM trailhead at the time required for construction of the Required Improvements for Sequence 2 the Fourth Amended Final Plat as generally described in Exhibit G and H. This parking lot will consist of a parking area with a minimum of six (6) thirteen-foot by sixty-foot (13' x 60') parking stalls, and seven (7) ten-foot by twenty foot (10' x 20') or larger parking stalls as shown on Exhibit G. Once constructed a HOA or metropolitan district shall continue to maintain and plow the parking area during the seasonal periods when the BLM trail is open.

4. Covenants Running with the Land. All provisions contained in this Third Amendment touch and concern the Property, constitute covenants running with the land, shall be binding upon Developers and their successors and assigns forever.

5. Successors and Assigns. The Agreement and Third Amendment shall be binding upon and shall benefit future owners of all or any portions of the Property.

6. Miscellaneous. In the event of a conflict between the Agreement, First Amendment, Second Amendment, and Third Amendment, this Third Amendment shall control. Except as expressly modified herein, the Agreement, First Amendment, and Second Amendment shall remain in full force and affect. The Agreement, as so amended by the First, Second, and Third Amendments, shall constitute the complete and entire agreement among the parties.

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Agreed and executed this 23rd day of August, 2022 by and between the Town and Developer.

TOWN OF GYPSUM

By: _____



Steven Carver, Mayor

Attest:



Becky Close, Town Clerk

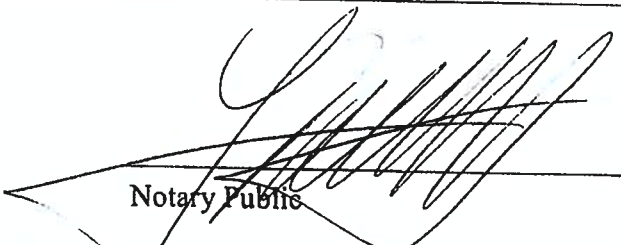
STATE OF COLORADO)
) ss.
COUNTY OF EAGLE)

The foregoing Fourth Amendment to Siena Lake Planned Unit Development Subdivision Improvement Agreement was acknowledged before me this 30 day of August, 2022 by Steven Carver as Mayor and by Becky Close as Town Clerk of the Town of Gypsum, Colorado

Witness my hand and official seal.


My commission expires: 09.23.2023

LYDIA I LUDEWIG
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20114055925
My Commission Expires September 23, 2023



Notary Public

SIENA LAKE, LLC

By:  _____

STATE OF MICHIGAN)
) ss
COUNTY OF LIVINGSTON)

The foregoing instrument was acknowledged before me this 29 day of AUGUST 2022, by JAMES COOPER the MANAGING MEMBER of Siena Lake, LLC, on its behalf.

Witness my hand and official seal.

My commission expires: 11/20/2028


MARY BETH FUSON
Notary Public

Subscribed and sworn to before me this 29 day of AUGUST, 2022.

Witness my hand and official seal.

My commission expires: 11/20/2028 _____

MARY BETH FUSON
Notary Public, State of Michigan
County of Livingston
My Commission Expires 11-20-2028
Acting in the County of LIVINGSTON



Notary Public



Exhibit G

DESCRIPTION OF SEQUENCING PLAN FOR SEQUENCES 1-4 OF PHASE 1

The below sequencing plan and map attached as Exhibit H allows Developer to split construction of the 4th Required Improvements within the Amended Final Plat into four sequences, referred to as Sequence 1, Sequence 2, Sequence 3, Sequence 4. With the exception of four model homes, Developer will complete the Necessary Required Improvements within a single Sequence prior to issuance of building permits within that Sequence. Developer will construct the Sequences sequentially, from Sequence 1 to 4, unless a written modified sequence is approved by the Town Manager.

Variations to the sequencing plan may be approved by the Town Manager in writing, except that modifications to any specific deadline of construction of a Required Improvement must be approved by Town Council in an amendment to the Subdivision Improvement Agreement.

Sequence 1:

- Developer will complete installation of all Required Improvements within Sequence 1 prior to issuing any building permits within Sequence 1, except as follows: 4 model homes on Lot 10 thru 13 may receive building permits prior to completion of Required Improvements.
- Park shall be completed no later than September 30, 2023. Building permits will be withheld for all portions of the Project beginning October 1, 2023 if not completed.
- Construction of full gravel emergency road on the remaining portion of Spearstone Avenue all the way to Cooley Mesa Road. This is the emergency egress for homes in Sequence 1 and future sequences referred to in Section 19(c)(1) of the Subdivision Improvement Agreement as the Niva Ridge Trail Emergency Access Road.
- When Developer is approximately 1 month away from infrastructure completed in Sequence 1, Developer can request building permits for homes within Sequence 1. Town will accept building permit applications and begin review process while paving is wrapping up (this is estimated to save approximately 3-4 weeks). Building permits will not be released until all the Required Improvements within Sequence 1 are completed.

Sequence 2:

- Developer will complete installation of all Required Improvements within Sequence 2 prior to issuing any building permits within Sequence 2, including but not limited to:
 - Construction of the BLM parking lot, which is described in Section 19(d)(1) of the Subdivision Improvement Agreement, shall be completed prior to issuance of building permits within Sequence 2.
 - Completion of a portion of Lakeview Drive from the intersection of Spearstone Avenue and the access point to the BLM trailhead to provide

- for public access from the BLM parking area to the trailhead.
- Park to be completed no later than September 30, 2024. Building permits will be withheld beginning October 1, 2024 if not completed.
 - When Developer is approximately 1 month away from infrastructure completed in Sequence 2, Developer can request building permits for homes within Sequence 2. Town will accept building permit applications and begin review process while paving is wrapping up (this is estimated to save approximately 3-4 weeks). Building permits will not be released until all the Required Improvements within Sequence 2 are completed.

Sequence 3

- Developer will complete installation of all Required Improvements within Sequence 3 prior to issuing any building permits within Sequence 3.
- When applicant is approximately 1 month away from infrastructure completed in Sequence 3, Developer can request building permits for homes within Sequence 3. Town will accept building permit applications and begin review process while paving is wrapping up (this is estimated to save approximately 3-4 weeks). Building permits will not be released until all Required Improvements within Sequence 3 are completed.

Sequence 4

- Developer will complete installation of all Required Improvements within Sequence 4, prior to issuing any building permits for Sequence 4.
- When applicant is approximately 1 month away from infrastructure completed in Sequence 4, Developer can request building permits for homes within Sequence 4. Town will accept building permit applications and begin review process while paving is wrapping up (this is estimated to save approximately 3-4 weeks). Building permits will not be released until all Required Improvements within Sequence 4 are completed.

Exhibit H

SEQUENCING MAP

