

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

RESOLUTION NO. 21 (Series 2020)

**A RESOLUTION OF THE TOWN OF GYPSUM COLORADO APPROVING
THE THIRD AMENDMENT TO THE BUCKHORN VALLEY ANNEXATION
AGREEMENT**

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 members of the Town Council ("Council") have been duly elected, chosen and qualified; and

WHEREAS, the subdivision developers have requested to amend Section F of the existing Buckhorn Valley Annexation Agreement recorded at the County of Eagle at Reception Number 724078, as amended by the First Amended Annexation Agreement recorded at the County of Eagle at Reception Number 201019986 and the Second Amended Annexation Agreement recorded at the County of Eagle at Reception Number 201812538 and create a Third Amendment to the Buckhorn Valley Annexation Agreement attached hereto as **Exhibit A**, and;

WHEREAS, the members of the Town Council ("Council") wishes to enter into a Third Amendment to the Buckhorn Valley Annexation Agreement with BV Firewheel, LLC.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Gypsum, Colorado, that the Third Amendment to the Buckhorn Valley Annexation Agreement is hereby approved with no conditions.

Approved and Resolved this 25 day of Aug 2020 at a regular meeting of the Town Council of the Town of Gypsum, Colorado by a vote of 7 in favor and 0 against.

TOWN OF GYPSUM

By: _____

Stephen Carver, Mayor

ATTEST:

By: _____

Danette Schlegel, Town Clerk



EXHIBIT A

**THIRD AMENDMENT TO THE BUCKHORN VALLEY ANNEXATION
AGREEMENT**

THIRD AMENDMENT TO BUCKHORN VALLEY ANNEXATION AGREEMENT

This Third Amendment to the Buckhorn Valley Annexation Agreement (“Third Amendment”) is entered into this _____ day of _____, 2020 by and between the TOWN OF GYPSUM, a home rule municipal corporation (“Gypsum”) and BV Firewheel, LLC (“Developer” or “Owner”).

RECITALS

A. Developer is the owner of the real property listed on Exhibit A, attached hereto and incorporated herein.

B. Developer’s predecessors entered into the following agreements with Gypsum related to the development of the property known as Buckhorn Valley PUD (“Buckhorn Valley” or “Subdivision”): Assignment, Assumption and Consent Agreement with Gypsum on April 16, 2008, (“**Assignment**”); the Annexation Agreement dated January 11, 2000 and recorded on March 3, 2000 at Reception No. 724078 in the real property records of Eagle County, Colorado (“**Annexation Agreement**”), as amended in the First Amendment to Buckhorn Valley Annexation Agreement dated September 30, 2010 and recorded on October 5, 2010 at Reception No. 201019986 (“**First Amendment**”), and as amended in the Second Amendment to Buckhorn Annexation Agreement dated July 11, 2018 and recorded on July 24, 2018 at Reception No. 201812538 (“**Second Amendment**”); the Subdivision Improvement Agreement dated August 8, 2000 and recorded on August 30, 2000 at Reception No. 737976 (“**Subdivision Improvement Agreement**”), as amended in that certain First Amendment to Subdivision Improvement Agreement dated April 26, 2005, recorded on April 27, 2005 at Reception No. 913695 (“**SIA First Amendment**”), as amended in the certain Second Amendment to the Subdivision Improvement Agreement dated, February 19, 2008, recorded on February 20, 2008 at Reception No. 200803476 (“**SIA Second Amendment**”) and as amended in the certain Third Amendment to the Subdivision Improvement Agreement dated, September 30, 2010 recorded on October 5, 2010 at Reception No. 201019987 (“**SIA Third Amendment**”); and the Settlement Agreement dated September 11, 2007, also with Saddle Ridge and Gypsum (“**Settlement Agreement**”).

C. The parties desire to amend the Annexation Agreement on the terms and conditions as provided for herein.

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. Definition. Unless otherwise defined herein, all defined terms shall have the meaning set forth in the Annexation Agreement.

2. Amendment of Section 4.1 of the Annexation Agreement. Section 4.1.F of the Annexation Agreement, as amended by the First Amendment, is further amended to add the following double-underlined language and to delete the stricken-through language:

“F. Traffic Impacts.

1. Owner agrees to properly mitigate the development impacts to off-site streets and roadways. Owner shall pay Gypsum \$141,250 to refund Gypsum for a portion of the cost of the traffic light improvement already constructed at the intersection of Highway 6 and Cooley Mesa Road, to be paid as follows: \$70,625 prior to recording the next plat for the Buckhorn Valley P.U.D. (anticipated to be the Final Plat for Buckhorn Valley P.U.D. - Phase Five), and the remaining \$70,625 prior to recording any subsequent plat. Gypsum may use the reimbursement for other off-site road improvements, to be determined by Gypsum., ~~prior to recording the next final plat in the Subdivision for single family housing.~~

2. ~~Owner acknowledges that if~~ If Gypsum imposes a traffic mitigation fee generally applicable within Gypsum, the Property shall also be subject to such fee in addition to any other fees or mitigation imposed by Gypsum. Notwithstanding the foregoing, ~~the final plats property within~~ for Parcel K and/or Parcel L created with Exemption Plat III ~~are is~~ excluded from any such traffic mitigation fee ~~imposed on the property.~~”

3. Miscellaneous. Except as specifically modified herein, the Annexation Agreement, First Amendment, and Second Amendment, shall remain in full force and effect. This Third Amendment, the First Amendment, Second Amendment, and Annexation Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

[Signature pages follow]

EXHIBIT A
LEGAL DESCRIPTION