

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

**RESOLUTION NO. 18  
(SERIES 2024)**

**A RESOLUTION APPROVING THE STRATTON FLATS EIGHTH AMENDMENT TO THE  
SUBDIVISION IMPROVEMENT 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, Spring Creek Apartments, LLC and Spring Creek Gypsum, LLLP and Stratton Flats Holdings, LLC (together as "Developer") is owner of portions of the Stratton Flats property further described in Exhibit A; and

WHEREAS, Developer has requested an amendment of the Subdivision Improvements Agreement Stratton Flats Subdivision recorded at the County of Eagle at Reception Number 200806082, First Amendment to Subdivision Improvement Agreement Stratton Flats Subdivision recorded at the County of Eagle at Reception Number 201021876, Second Amendment to Subdivision Improvement Agreement Stratton Flats Subdivision recorded at the County of Eagle at Reception Number 201522175, Third Amendment to Subdivision Improvement Agreement Stratton Flats Subdivision recorded at the County of Eagle at Reception Number 201616244, Fourth Amendment to the Stratton Flats Subdivision Improvement Agreement recorded at the County of Eagle at Reception Number 201818365, Fifth Amendment to the Stratton Flats Subdivision Improvement Agreement recorded at the County of Eagle at Reception Number 201818366, Sixth Amendment to the Stratton Flats Subdivision Improvement Agreement recorded at the County of Eagle at Reception Number 201917132, and Seventh Amendment to the Stratton Flats Subdivision Improvement Agreement recorded at the County of Eagle at Reception Number 202102601;

WHEREAS, the members of the Council wish to enter into an Eighth Amendment to the Subdivision Improvement Agreement attached as Exhibit B.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Gypsum, Colorado, that the Eighth Amendment to the Stratton Flats Subdivision Improvement Agreement is hereby approved with no conditions.

Approved and Resolved this 10th day of December 2024 at a regular meeting of the Town Council of the Town of Gypsum, Colorado by a vote of 7 in favor and 0 against.

## **EXHIBIT A**

### **Legal Description**

**Parcels 12, 14A, 14B  
And Tracts G1, G2, V-1, V-2,  
Stratton Flats Planned Unit Development, County of Eagle, State of Colorado**

**EXHIBIT B**

**EIGHTH AMENDMENT TO SUBDIVISION  
IMPROVEMENTS AGREEMENT**

## **EIGHTH AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENT**

### **STRATTON FLATS SUBDIVISION**

This Eighth Amendment to Subdivision Improvement Agreement, Stratton Flats Subdivision ("Eighth Amendment") is entered into this 10<sup>th</sup> day of December, 2024 between the Town of Gypsum, a home-rule municipal corporation (the "Town" or "Gypsum") and Spring Creek Apartments, LLC, Spring Creek II LLC, and Spring Creek Gypsum, LLLP (together as "Developer") and amends the Subdivision Improvement Agreement, Stratton Flats Subdivision ("Agreement") between the Town and Stratton Flats, LLC dated March 2008 and recorded in the offices of the Eagle County Clerk and Recorder at Reception No. 200806082, the First Amendment to Subdivision Improvement Agreement, Stratton Flats Subdivision ("First Amendment"), between the Town and Stratton Flats Homes, LLC, dated October 26, 2010 and recorded at Reception No. 201021876, the Third Amendment Subdivision Improvement Agreement Stratton Flats Subdivision ("Third Amendment") between the Town and Stratton Flats Homes, LLC dated September 13, 2016 and recorded at Reception No. 201616244, the Fourth Amendment Subdivision Improvement Agreement Stratton Flats Subdivision ("Fourth Amendment") between the Town and Stratton Flats Homes, LLC dated January 9, 2018 and recorded at Reception No. 201818365, the Fifth Amendment Subdivision Improvement Agreement Stratton Flats Subdivision ("Fifth Amendment") between the Town and Spring Creek Apartments, LLC dated October 23, 2018 and recorded at Reception No. 201818366, the Sixth Amendment Subdivision Improvement Agreement Stratton Flats Subdivision ("Sixth Amendment") between the Town and Spring Creek Apartments, LLC dated October 8, 2019 and recorded at Reception No. 201917132, and the Seventh Amendment Subdivision Improvement Agreement Stratton Flats Subdivision ("Seventh Amendment") between the Town and Spring Creek Apartments, LLC and Spring Creek Gypsum, LLLP dated January 5<sup>th</sup>, 2021 and recorded at Reception No. 202102601. The Town and Developer may each be referred to singularly as a "Party" and jointly as the "Parties."

### **RECITALS**

WHEREAS, the Agreement, First Amendment, Third Amendment, Fourth Amendment, Sixth Amendment and Seventh Amendment obligate the Developer to provide certain infrastructure improvements and facilities to serve the Stratton Flats property and mitigate the impact of the project on the Town and requires certain improvements be constructed; and

WHEREAS, with the exception of the infrastructure improvements and facilities described in this Eighth Amendment, all such on-site and off-site infrastructure improvements and facilities have been constructed and accepted by the Town.

WHEREAS, the Parties wish to amend and modify the Agreement, First Amendment, Third Amendment, Fourth Amendment, Sixth Amendment and Seventh Amendment, as set forth 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. Required Improvements. The sole remaining Required Improvement, whether on-site or off-site, that Developer is required to make is to design and fund a portion of the cost of a roundabout on the northside of Interstate 70 at the Gypsum Exit ("I-70 Roundabout"). The scope and components of the I-70 Roundabout are depicted and described on **Exhibit B**. Section 3, Required Improvements, of the Seventh Amendment is deleted in its entirety and replaced with the following language:

3. Required Improvements.

- (a) Developer is responsible for design and funding of the Required Improvement for the I-70 Roundabout, pursuant to the timeframes and amounts set forth herein:
  - (i) Developer has submitted to Gypsum design and engineering drawings for the I-70 Roundabout which meet the Colorado Department of Transportation's (CDOT) requirements for preliminary and final design documents for review by the Town, CDOT and the Federal Highway Administration (the "FHWA"). Gypsum obtained required permits from the FHWA and the I-70 Roundabout is completed.
  - (ii) Developer's share of the I-70 Roundabout cost is 17 percent of the total design and construction costs of \$3,338,900.39 ("Total Cost Share") of which \$567,613.07 is the ("Developer's Share"). The Developer shall receive a credit against the Developer's Share for verifiable engineering and design costs paid by Developer. Attached is **Exhibit C**, identifying verifiable engineering and design costs provided by Developer.
  - (iii) Developer shall pay the Developer's Share of \$567,613.07, in accordance with Exhibit D, minus the credit of \$269,916.25 according to Exhibit C, for a total of \$297,696.82 in full satisfaction of the Developers obligation for the I-70 Roundabout with the following schedule:
    - By January 31, 2025 - \$77,696.82
    - By January 31, 2026 - \$110,000.00
    - By January 31, 2027 - \$110,000.00
  - (iv) Upon execution of this Eighth Amendment by the Parties, the

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Town will issue permanent certificates of occupancy for any buildings on the Property which have not yet received final certificates of occupancy.

2. Deletion of Eastern Overflow Parking. The Parties acknowledge that the Eastern Overflow Parking area described in amended and restated section 3.(a)(iii) of the Seventh Amendment has not been constructed and that the parties are intentionally deleting the Eastern Overflow Parking area as a Required Improvement.

3. ECO Regional Trail. Developer has provided a cost estimate in the amount of \$79,876.99, stamped by a licensed engineer, which represents the financial security for construction costs for the trail which has been approved by Gypsum. In full satisfaction of Developer's obligation to construct the trail, Developer shall pay to Gypsum (within 30 days of the execution of this Amendment) the amount of the cost estimate.

4. Second Amendment. The Eighth Amendment shall not be construed to amend the Second Amendment. Developer assumes no obligations contained in the Second Amendment.

5. Notices. All notices hereunder shall be in writing and shall be delivered in person or by registered mail addressed to the Party entitled to such notice as follows:

If to Town:	Town of Gypsum Attn: Town Manager 50 Lundgren Boulevard P.O. Box 130 Gypsum, CO 81637
With a Copy to:	Collins Cole Flynn Winn Ulmer Attn: Kathryn Winn 165 South Union Blvd, Suite 785 Lakewood, CO 80228
If to Developer:	Spring Creek Apartments, LLC Attn: Gerald Flynn 28 Second St, Suite 215 Edwards, CO 81632
With a Copy to:	Karp, Neu, Hanlon Attn: Michael J. Sawyer 201 14 <sup>th</sup> Street, Suite 200 P.O. Drawer 2030 Glenwood Springs, CO 81602

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

7. Successors and Assigns. The Agreement, First Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment, and Seventh Amendment as modified by this Eighth Amendment, shall be binding upon and shall benefit future owners of all or any portions of the Property.

8. Miscellaneous. In the event of a conflict between the Agreement, First Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment, Seventh Amendment and Eighth Amendment, this Eighth Amendment shall control. Except as expressly modified herein, Agreement and all Amendments shall remain in full force and affect. The Agreement as so amended, First Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment and Seventh Amendment shall constitute the complete and entire agreement among the parties with respect to the subject matter of this Eighth Amendment.

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**EXHIBIT A**

**Legal Description of Property**

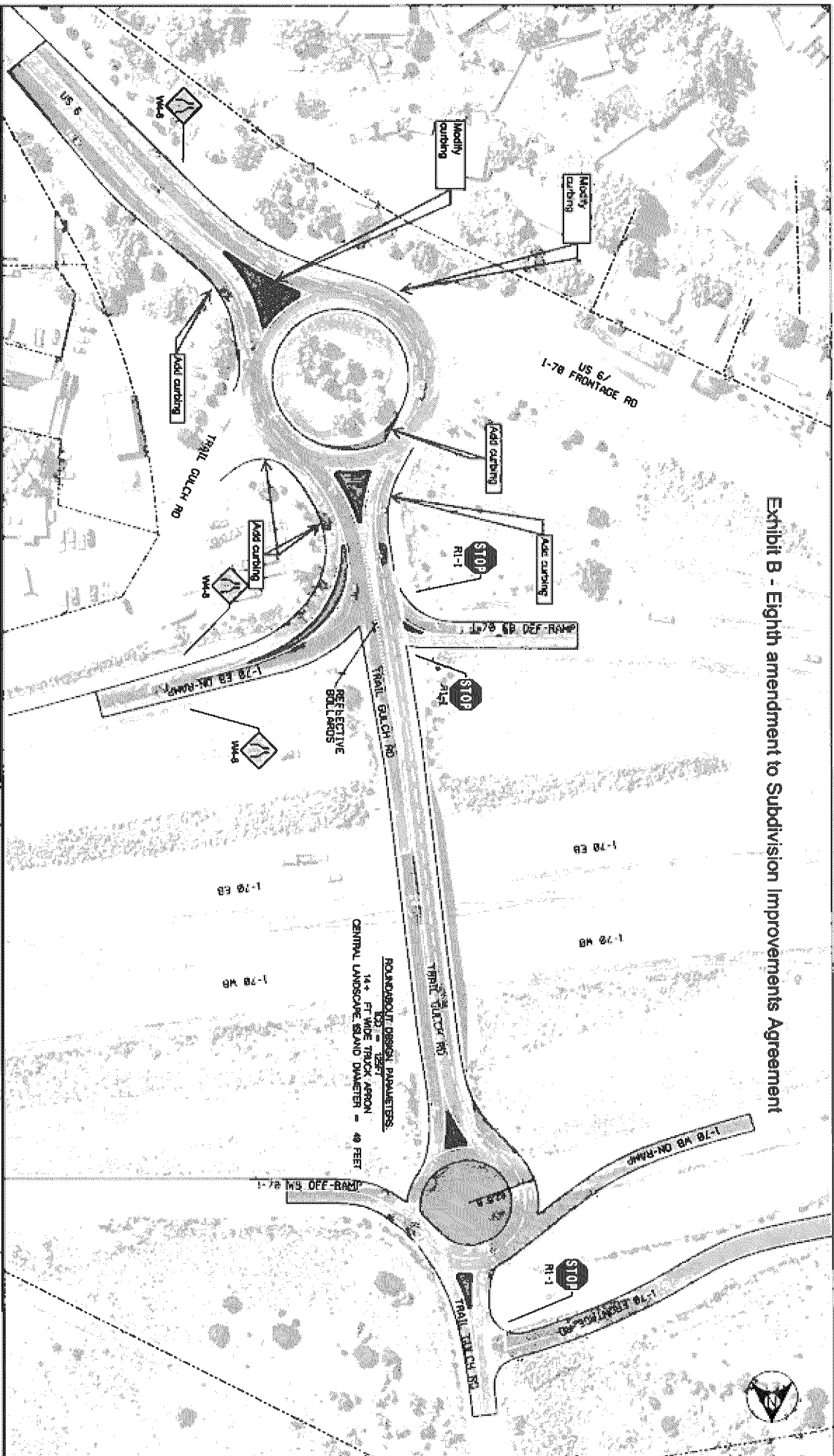
Parcels 12, 14A, 14B  
And Tracts G1, V-2

Stratton Flats Planned Unit Development, County of Eagle, State of Colorado



**Exhibit B**  
**I-70 Roundabout**

# Exhibit B - Eighth amendment to Subdivision Improvements Agreement



**Kimley»Horn**

070A @ WB RAMP TERMINAL  
GYPSUM CO  
CDOT REGION 3

PRELIMINARY CONCEPT  
ALTERNATIVE 1



**Exhibit C Engineering**  
**Expenses**

**Spring Creek Apartments**

Roundabout / I70 Interchange

**Design Costs**

as of

9/30/2024

	Vendor	Description	Amount	Document
5/27/2022	Inter-Mountain Engineering	Roundabout	6,887.50	18-0093-01
7/1/2022	Inter-Mountain Engineering	Roundabout	900.00	18-0093-02
7/1/2022	Kimley-Horn and Assoc	Roundabout design	16,500.00	21027347
7/1/2022	Kimley-Horn and Assoc	Roundabout design	7,500.00	21585731
8/30/2022	Inter-Mountain Engineering	Roundabout	1,230.00	18-0093-03
9/28/2022	Inter-Mountain Engineering	Roundabout	382.50	18-0093-04
11/14/2022	IMEG	Roundabout	7,920.00	22007542.00-1
11/29/2022	Kimley-Horn and Assoc	Roundabout	2,000.00	21824222 (dated 6/30/22)
11/29/2022	Kimley-Horn and Assoc	Roundabout	1,100.00	22097927 (dated 7/31/22)
9/28/2022	Inter-Mountain Engineering	Roundabout	7,982.50	18-0093-05
12/19/2022	IMEG	Roundabout	880.00	22007542.00-2
11/30/2022	Kimley-Horn and Assoc	Roundabout	16,900.00	23141938
1/1/2023	Kimley-Horn and Assoc	Roundabout	18,000.00	23668118
2/1/2023	Kimley-Horn and Assoc	Roundabout	10,000.00	23949059
2/16/2023	Inter-Mountain Engineering	Roundabout	14,346.25	18-00093-06
03/28/2023	Inter-Mountain Engineering	Roundabout	5,685.00	18-0093-07
05/01/2023	Kimley-Horn and Assoc	Roundabout	4,000.00	24832747
06/01/2023	Inter-Mountain Engineering	Roundabout	7,642.50	18-0093-08
08/14/2023	IMEG	Roundabout	700.00	22007542.00-3
08/31/2023	Inter-Mountain Engineering	Roundabout	6,497.50	18-0093-09
09/18/2023	IMEG	Roundabout	420.00	22007542.00-4
9/30/2023	Kimley-Horn and Assoc	Roundabout	20,400.00	196451000-0923
10/01/2023	Kimley-Horn and Assoc	Roundabout	2,000.00	24903279 5/31/23
10/20/2023	Inter-Mountain Engineering	Roundabout	830.00	18-0093-10
11/01/2023	Kimley-Horn and Assoc	Roundabout	8,400.00	196451000-1023
11/13/2023	IMEG	Roundabout	280.00	22007542.00-5
11/16/2023	Inter-Mountain Engineering	Roundabout	14,812.50	18-0093-11
12/01/2023	Kimley-Horn and Assoc	Roundabout	7,200.00	196451000-1123
12/29/2023	Inter-Mountain Engineering	Roundabout	5,545.00	18-0093-12
02/02/2024	Inter-Mountain Engineering	Roundabout	1,757.50	18-0093-13
3/14/2024	Inter-Mountain Engineering	Roundabout	3,255.00	18-0093-14
4/1/2024	Kimley-Horn and Assoc	Roundabout	2,400.00	196451000-0124
4/1/2024	Kimley-Horn and Assoc	Roundabout	3,600.00	196451000-1223
4/30/2024	Kimley-Horn and Assoc	Roundabout	30,600.00	196451000-0424
5/28/2024	Inter-Mountain Engineering	Roundabout	20,655.00	18-0093-15
7/19/2024	Inter-Mountain Engineering	Roundabout	5,307.50	18-0093-16
10/18/2024	Kimley-Horn and Assoc		5,400.00	
			<u>269,916.25</u>	
<b>Total Design Costs</b>			<u>269,916.25</u>	

**Exhibit D**  
**Cost Share of I-70 Roundabout**

**I-70 Gypsum Interchange Project Cost Summary**

24-Oct-24

<b>Project Costs Included in Cost Sharing</b>		
<b>Description</b>	<b>Total</b>	<b>Comments</b>
Phase I - Box Culvert	\$ 599,360.54	Final Payment April 2024
Phase II - Roundabout	\$ 2,460,470.43	Final Billing
Phase II - Pre-Ordered Street Lights	\$ 9,153.17	Final billing
Design Costs	\$ 269,916.25	Current as of October 2024
<b>Total Cost Share</b>	<b>\$ 3,338,900.39</b>	
38% Tower Center	\$ 1,268,782.15	
17% Spring Creek Apartments	\$ 567,613.07	
45% Town of Gypsum	\$ 1,502,505.18	

<b>Town of Gypsum Only Costs</b>		
Town share of above	\$ 1,502,505.18	
Landscaping Design/Construction	\$ 20,000.00	Reduced for no irrigation landscaping
Phase II - Materials Testing/Engineering	\$ 60,000.00	As-needed/estimated costs
Raw waterline	\$ -	No longer pursuing a bore for irrigation
South Roundabout Improvements	\$ 464,887.50	Estimate for rebuild of splitter islands for two lanes, mill and overlay, etc.
<b>Total Town Costs</b>	<b>\$ 2,047,392.68</b>	

Total Project Cost \$ 3,883,787.89

Spring Creek Apartments Cost \$ 297,696.82 After credit for design costs from above