

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

RESOLUTION NO. 02 (SERIES 2025)

**A RESOLUTION APPROVING THE EXECUTION OF AN AGREEMENT FOR
THE PAYMENT OF FEES BY CGBD, LLC RELATING TO LOTS 16, 17, AND
18, AIRPORT GATEWAY CENTER**

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 enter into agreements for the payment of water tap fees, sewer tap fees, and water dedication fees; and

WHEREAS, CGBD, LLC is the owner (the "Owner") of Lots 16, 17, and 18, Airport Gateway Center, according to the plat recorded August 15, 1996, in Book 703 at Page 36, County of Eagle, State of Colorado (the "Property"); and

WHEREAS, the Town Council wishes to approve the execution of an agreement establishing a payment plan for the payment of water dedication fees, water tap fees, and sewer tap fees for the development of the Property as a hotel.

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. **Authorization.** The Gypsum Town Code allows the Town to develop an agreement to schedule payments for water tap fees, water dedication fees, and sewer tap fees pursuant to Sections 13.01.080(5), 13.02.100(2), and 13.03.150(4).
3. **Findings.** The Town has considered the benefits to the community including, but not limited to, an increase in the tax base of the municipality, employment opportunities for citizens of the municipality, and to facilitate the operations of the airport and its surrounding environment. Based on these factors and to generally promote the health, safety, and welfare of the community, it is in the best interests of the municipality to enter into the attached agreement.
4. **Approval.** The Town Council approves the execution of the agreement attached as Exhibit "A".
5. **Severability.** If any portion of this Resolution is found to be void or ineffective, it shall be deemed severed from this Resolution and the remaining provisions shall remain valid and in full force and effect.

6. **Effective date.** This Resolution shall become effective and be in force immediately upon approval.

Approved and resolved this 28th day of January, 2025 at a regular meeting of the Town Council of the Town of Gypsum, Colorado, by a vote of 5 in favor and 0 against.

EXHIBIT A

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AGREEMENT

This Agreement is entered into this 28th day of January, 2025, by and between **CGBD, LLC**, a Colorado limited liability company, whose address is ~~3~~501 SW Fairlawn Road, Suite 200, Topeka, KS 66614-3975 ("CGBD") and the **TOWN OF GYPSUM**, a home rule municipal corporation organized under the laws of the State of Colorado ("Gypsum" or "Town").

WHEREAS, CGBD is the owner of and wishes to develop Lots 17, 18, and 19 of the Airport Gateway Center Subdivision, as more particularly described on attached Exhibit A ("Owner's Property") as a hotel, lodging and separate retail development (with the portion of Owner's Property to be developed as a hotel and lodging development being referred to herein as the "Project"); and

WHEREAS, Airport Gateway Center Subdivision has previously been annexed into the Town and platted pursuant to Airport Gateway Center Final Plat recorded with the Eagle County Clerk and Recorder on August 15, 1996, at Reception No. 599022; and

WHEREAS, the Gypsum Town Code allows the Town to develop an agreement to schedule payments for water tap fees, water dedication fees, and sewer tap fees pursuant to Sections 13.01.080(5), 13.02.100(2), and 13.03.150(4).

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, the parties agree as follows:

1. Project Demand Rating. The Project is generally described as the ECHO Suites Hotel by Wyndham that will have one hundred twenty-four (124) lodging rooms, all with kitchen facilities. The Project will not have a swimming pool, hot tub, spa, or common eating facilities, but will also include staff breakrooms, bathrooms, laundry room, and other amenities. No town water will be allowed for irrigation use. Accordingly, the Project is anticipated to have an EQR rating of 33.40 pursuant to Section 13.02.050 of the Town Code.
2. Water Tap Fees, Sewer Tap Fees and Water Dedication Fees Due. The current in-town system development fee (water tap fee) is \$8,000.00 per EQR. The plans provided by CGBD show a demand of 33.40 EQR for a total of \$267,200.00 (33.40 x \$8,000). The current in-town sewer tap or wastewater connection fee (sewer tap fee) is \$12,000.00 per EQR for a total of \$400,800.00 (33.40 x \$12,000). The current water dedication fee is \$12,000.00 per EQR for a total of \$400,800.00 (33.40 x \$12,000). The combined fees then total \$1,076,800.00 for the 33.40 EQR rated Project. The EQR count shall be verified at the time of building permit submittal. Should the verified EQR count be over 33.40, the water dedication, water tap, and sewer tap fees for the additional EQRs shall be paid in full at the time of issuance of the building permit. In addition, should the verified EQR count be under 33.40, CGBD shall receive a credit at the time of issuance of the building

permit for the difference between the combined fees of \$1,068,800 based on the EQR count of 33.40 and the combined fees calculated based on the updated lower EQR count.

3. **Payment.** The fees described in paragraph 2 above, shall be paid by CGBD as follows:
 - a. Fifty percent or \$534,400.00 shall be paid at the time that a building permit for the Project is first issued; and
 - b. The remaining balance of \$534,400.00 shall be paid as follows:
 - i. On the first anniversary of the issuance of a temporary or permanent certificate of occupancy, the sum of \$178,133.33 shall be paid to the Town;
 - ii. On the second anniversary of the issuance of a temporary or permanent certificate of occupancy, the sum of \$178,133.33 shall be paid to the Town; and
 - iii. On the third anniversary of issuance of a temporary or permanent certificate of occupancy, the balance of any unpaid sums shall be paid to the Town.
4. **Default.** In recognition that the Town is not receiving interest on the payments scheduled in paragraph 3, above, should any sums not be paid on-time, such sums shall begin to accrue interest at the rate of eighteen percent annual percentage rate (18.0% A.P.R.).
5. **Remedies.** In addition to any and all remedies the Town may have in law or in equity in the event of a default by Owner that is not cured within ten (10) business days from Owner's receipt of written notice of such default from the Town, the Town may have the right to curtail treated water deliveries to the Project.
6. **Cure.** Notwithstanding the provisions of paragraphs 4 and 5 above, in the event of a default, the non-defaulting party shall deliver notice of the default to the defaulting party. In the event the default is not cured within ten (10) business days from the defaulting party's receipt of the notice, a default shall be deemed to have occurred and the provisions of paragraphs 4 and 5, above, shall control.
7. **Notice.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is intended to be given at the address set forth below, or at such other address as has been previously furnished in writing to the other Party. Such notice shall be deemed to have been given when deposited in the U.S. Mail:

To Gypsum:

Town of Gypsum
Attn: Town Manager
50 Lundgren Boulevard
P.O. Box 130
Gypsum, Colorado 81637

To Owner:

CGBD, LLC
Attn: Ian McClure
3501 SW Fairlawn Road, Suite 200
Topeka, Kansas 66614-3975

With copies to:

Patrick, Miller & Noto, PC
Attn: Kevin L. Patrick, Esq.
229 Midland Ave.
Basalt, Colorado 81621

With copies to:

Dawda Mann, PLC
Attn: Daniel M. Halprin/Joseph M. Judge
39533 Woodward Avenue, Suite 200
Bloomfield Hills, Michigan 48304

8. **Entire Agreement.** This Agreement, supersedes and controls all prior written and oral agreements and representations of the parties regarding the scheduled payments of water tap fees, sewer tap fees, and water dedication fees for the Project.
9. **Amendment.** Except as expressly provided for herein to the contrary, this Agreement may not be amended, except by subsequent written agreement of the parties.
10. **Authorization.** By executing this Agreement, the parties acknowledge and represent to one another that all procedures necessary to validly contract and execute this Agreement have been performed and that the persons signing for each party have been duly authorized to do so.
11. **Assignment and Recordation.** Other than a transfer or assignment to a related or affiliated entity, this Agreement may not be transferred or assigned, in whole or in part, by CGBD without the prior written consent of the Town, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, the Town shall have the right to condition or reject the assignment of all or any portion of this Agreement on the basis of the credit worthiness of the proposed assignee as long as any portion of the sums described in paragraphs 2 and 3, above, have yet to be paid to the Town. Owner agrees to give the Town written notice of any transfer or assignment to a related or affiliated entity. This Agreement may be recorded by either party and shall be deemed to run with and bind the heirs, successors, and assigns, of the property described in Exhibit A, hereto.
12. **Attorneys' Fees.** Should any party hereto employ an attorney for the purpose of enforcing or construing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever; including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearing, and whether or not an action is actually commenced; the substantially prevailing party shall be entitled to receive from the other party or parties thereto reimbursement for all attorneys' fees and

all costs and expenses. Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified therein.

13. Execution. This Agreement may be executed in multiple parts as originals or by digital copies of executed originals; provided however, if executed and evidence of execution is made by digital copy, then an original shall be provided to the other party(ies) within seven days of receipt of said digitally transmitted copy.

IN WITNESS WHEREOF, the parties have set their hand and official seals the day and year first above written.

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Resolution No. 2 (Series 2025) -- CGBD, LLC Agreement with Town of Gypsum -- 2.3.25

Final Audit Report

2025-02-07

Created:	2025-02-07
By:	Becky Close (becky@townofgypsum.com)
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"Resolution No. 2 (Series 2025) -- CGBD, LLC Agreement with Town of Gypsum -- 2.3.25" History

-  Document created by Becky Close (becky@townofgypsum.com)
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-  Document emailed to Kevin Patrick (patrick@waterlaw.com) for signature
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-  Email viewed by Kevin Patrick (patrick@waterlaw.com)
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-  Document e-signed by Kevin Patrick (patrick@waterlaw.com)
Signature Date: 2025-02-07 - 6:22:17 PM GMT - Time Source: server
-  Agreement completed.
2025-02-07 - 6:22:17 PM GMT



Adobe Acrobat Sign

EXHIBIT A
LEGAL DESCRIPTION

Lots 17, 18, and 19, Airport Gateway Center, according to the plat recorded August 15, 1996, in Book 703 at Page 36, County of Eagle, State of Colorado.