

**TOWN OF MEAD, COLORADO
RESOLUTION NO. 52- R-2021**

**A RESOLUTION OF THE TOWN OF MEAD, COLORADO, GRANTING
CONDITIONAL ACCEPTANCE OF THE PHASE 1B LANDSCAPING
IMPROVEMENTS (HIGHLANDS FILING NO. 1 FINAL PLAT)**

WHEREAS, Highlands Mead LLC, a Colorado limited liability company having a principal office address of 428 Kimbark Street, Longmont, CO 80501 (“Developer”) has caused the completion of certain landscaping improvements benefitting the Highlands Filing No. 1 Final Plat (“Development”), specifically the public landscaping improvements associated with **Phase 1B** of the Development (collectively, the “Landscaping Improvements” or “Improvements”); and

WHEREAS, the Improvements are identified in that certain Subdivision Improvement Agreement dated September 30, 2019 and recorded on November 8, 2019 at Reception No. 4539552 in the Weld County property records as amended by that certain First Amendment to Subdivision Improvement Agreement dated April 13, 2020 and recorded on May 19, 2020 at Reception No. 4591618 in the Weld County property records (together, the “SIA”); and

WHEREAS, the Landscaping Improvements are subject to a warranty period of two (2) years following conditional acceptance; and

WHEREAS, Developer has requested conditional acceptance of the Landscaping Improvements by the Board of Trustees of the Town of Mead; and

WHEREAS, the Town Engineer has reviewed the installation of the Landscaping Improvements, has determined that the Landscaping Improvements have been installed in substantial conformance with the Town’s construction standards and the requirements of the SIA, and is recommending that the Board grant conditional acceptance of the Landscaping Improvements effective August 20, 2021, as set forth and confirmed in that certain letter from the Town to Developer dated August 26, 2021, a copy of which is attached to this Resolution as **Exhibit A**, and subject to the additional condition attached to this Resolution as **Exhibit B**; and

WHEREAS, the Board of Trustees desires to grant conditional acceptance of the Landscaping Improvements subject to the conditions set forth in this Resolution; and

WHEREAS, the *Mead Municipal Code* (“MMC”) requires the Developer to maintain the Improvements for a two (2) year period from the date of conditional acceptance and clarifies that the Developer shall, at its own expense, take all actions necessary to maintain the Improvements and make needed repairs or replacements that, in the reasonable opinion of the Town (and the Town Engineer), shall become necessary; and

WHEREAS, if the Developer fails to make necessary repairs to the Improvements in accordance with the requirements set forth in the MMC, the Town may withhold final acceptance of the Improvements, may proceed to withhold building permits, temporary certificates of occupancy, or certificates of occupancy for those lots located within boundaries of the Development, or may take any other action authorized by the SIA.

NOW THEREFORE, BE IT RESOLVED by the Town of Mead, Weld County, Colorado, that:

Section 1. Conditional Acceptance of Public Improvements. The Board of Trustees on behalf of the Town of Mead, hereby grants “conditional acceptance” of the Landscaping Improvements identified in this Resolution and orders the commencement of the two (2) year warranty period August 20, 2021.

Section 2. Developer Obligation to Maintain Improvements during Guarantee Period. Developer shall maintain the Improvements for a two (2) year period from the date of conditional acceptance (the “Guarantee Period”). Developer shall, at its own expense, take all actions necessary to maintain the Improvements and make needed repairs or replacements that, in the reasonable opinion of the Town (and the Town Engineer), shall become necessary during the Guarantee Period. Failure of the Developer to maintain the Improvements during the Guarantee Period shall violate the requirements this Section 2 and shall constitute a violation of the MMC pursuant to MMC Sec. 16-6-10(c)(1)(g). In addition to any contractual remedies available to the Town under the SIA, Town Staff shall be authorized to take any and all enforcement actions as necessary to ensure that the Developer completes necessary repairs and replacements of the Improvements during the Guarantee Period and prior to final acceptance of the Improvements, as authorized by the MMC, including but not limited to the enforcement actions set forth in Article VI of Chapter 16 of the MMC.

Section 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 sections of the resolution. The Town Board hereby declares that it would have passed the resolution including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases are declared invalid.

Section 4. Repealer. All resolutions and motions of the Board of Trustees of the Town of Mead or parts thereof, in conflict with this resolution are to the extent of such conflict hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such resolution or motion, no revive any resolution or motion thereby. By adoption of this Resolution, the Board of Trustees specifically intends that any conflicting provisions of Resolution No. 25-R-2021 dated June 14, 2021 pertaining to the conditional acceptance of the Landscaping Improvements be superseded and repealed.

Section 5. Effective Date. This resolution shall become effective immediately upon adoption.

Section 6. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 13TH DAY OF SEPTEMBER, 2021.

ATTEST:

TOWN OF MEAD

By: 
Mary E. Strutt, MMC, Town Clerk

By: 
Colleen G. Whitlow, Mayor

Exhibit A
Letter dated August 26, 2021



August 26, 2021

Mr. Shane Rugg, Director of Land
Prosper Land and Development
428 Kimbark Street
Longmont, CO 80501

RE: The Highlands – Phase 1B Landscaping

On August 20, 2021, Town Staff performed a landscaping walk-through at the Highlands subdivision, Phase 1B, to assess the site conditions and confirm completion of construction. We consider this landscaping phase of the project to be substantially complete. No punchlist items were identified, and the Phase 1B landscaping improvements will be monitored throughout the warranty period.

Per Section 202.8 Conditional Acceptance of the *Town of Mead Design Standards and Construction Specifications*, the two-year warranty guarantee period shall begin on August 20, 2021.

Sincerely,

A handwritten signature in black ink that reads "REBROWN".

Robyn Brown, P.E.
Deputy Town Engineer

Exhibit B

Additional condition (Conditional Acceptance – Phase 1B Landscaping Improvements)

1. Developer shall replace LOC 17-21 dated July 19, 2021 in the amount of \$89,197.06 (and having an expiration date of July 16, 2023) (the “Existing Phase 1B Landscaping LOC”) with a new LOC in the form required by the SIA in the amount of \$13,379.56 and having an expiration date not earlier than October 20, 2023 (“Updated Landscaping LOC”). The Developer shall file the Updated Landscaping LOC with the Town Engineer on or before October 13, 2021. Upon filing of the Updated Landscaping LOC, the Town Engineer or designee shall cause the Existing Phase 1B Landscaping LOC to be released. The Updated Landscaping LOC shall be released in accordance with the terms of the SIA and the *Mead Municipal Code*.