

**TOWN OF MEAD, COLORADO
RESOLUTION NO. 54-R-2023**

**A RESOLUTION OF THE TOWN OF MEAD, COLORADO, GRANTING
CONDITIONAL ACCEPTANCE OF THE PHASE 2 IMPROVEMENTS
(ST. ACACIUS SUBDIVISION – REPLAT NO. 1)**

WHEREAS, Forestar (USA) Real Estate Group Inc., a Delaware corporation having a principal office address of 10700 Pecan Park Boulevard, Austin, Texas 78750 (“Developer”) has caused the completion of certain public improvements benefitting the St. Acacius Subdivision, Replat No. 1 Final Plat commonly referred to and known as LAKESIDE CANYON (“Development”), specifically the public improvements associated with **Phase 2** of the Development (the “Phase 2 Improvements”); and

WHEREAS, the Phase 1A public improvements associated with the Development were conditionally accepted by Resolution No. 72-R-2022 dated September 26, 2022; and

WHEREAS, the Phase 1B public improvements associated with the Development were conditionally accepted by Resolution No. 28-R-2022 dated April 10, 2023; and

WHEREAS, the Phase 2 Improvements are identified in that certain Subdivision Improvement Agreement between Second Royalty LLC and the Town dated September 14, 2020 and recorded on September 14, 2020 at Rec. No. 4629455 in the Weld County property records (“County Records”), as assigned to Developer by that certain Assignment and Assumption of Subdivision Improvements Agreement dated November 9, 2020 and recorded in the County Records on November 16, 2020, at Rec. No. 4651444, and as amended by that certain First Amendment to Subdivision Improvement Agreement dated April 13, 2020 and recorded on March 19, 2021, at Rec. No. 4694812 in the County Records (together, the “SIA”); and

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

WHEREAS, Developer has requested conditional acceptance of the Phase 2 Improvements by the Board of Trustees of the Town of Mead; and

WHEREAS, the Town Engineer has reviewed the construction of Phase 2 Improvements, has determined that the same have been constructed and installed in substantial conformance with the Town’s construction standards, and is recommending that the Board grant conditional acceptance of the Phase 2 Improvements effective as of August 1, 2023, subject to the conditions set forth in the Final Punchlist, a copy of which is attached to this Resolution as **Exhibit A**, and subject to the additional conditions attached to this Resolution as **Exhibit B**; and

WHEREAS, the Board of Trustees desires to grant conditional acceptance of the 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, in accordance with *the Town of Mead Design Standards and Construction Specifications*, Section 202.8.A.1.a, the two-year warranty for the Phase 2 Improvements will begin August 1, 2023; and

WHEREAS, if the Developer fails to make necessary repairs to the Phase 2 Improvements in accordance with the requirements set forth in the MMC, the Town may withhold final acceptance of the Phase 2 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 Phase 2 Improvements identified in this Resolution and orders the commencement of the two (2) year warranty period on August 1, 2023.

Section 2. Developer Obligation to Maintain Improvements during Guarantee Period. Developer shall maintain the Phase 2 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 Phase 2 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 Phase 2 Improvements during the Guarantee Period shall violate the requirements of 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 Phase 2 Improvements during the Guarantee Period and prior to final acceptance of the Phase 2 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.

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 31ST DAY OF JULY 2023.


ATTEST:

TOWN OF MEAD:

By: 

Mary E. Strutt, MMC, Town Clerk



By: 

Colleen G. Whitlow, Mayor

Exhibit A
Final Punchlist (for Conditional Acceptance – Phase 2)

(attached – 12 pages)



Project Name: Lakeside Canyon (Saint Acacius)

Contractor: Forestar

Inspector: Deano Korecky Jr.

Punchwalk Dates: Tuesday July 11th, 2023

Conditional Acceptance: Phase 2 (87 Lots)

Punch List Items						
No.	Item	Description	Location	Observation Date	Completion Date	Town Sign-Off
1	Weeds	Spray and mow down all weeds	Phase 2	7/11/2023	In Process	
2	Concrete	Need to mark Sewer and Water on Curb	Phase 2	7/11/2023	In Process	
3	Concrete	Patch per Town of Mead Standards	Phase 2	7/11/2023	In Process	
4	Concrete	Clean and seal all ADA ramp holes with silicone	Phase 2	7/11/2023	In Process	
5	Concrete	Grind and seal cracks per Town of Mead Standards	Phase 2	7/11/2023	In Process	
6	Concrete (Expansion)	Seal all expansion per Town of Mead standards	Phase 2	7/11/2023	In Process	
7	Backfill Concrete	Backfill where R&R was completed	Phase 2	7/11/2023	In Process	
8	Asphalt	Patch	Quartz Street (Phase 2)	7/11/2023	In Process	
9	Utilities Box	Utilities box needs to be set to grade	Garnet Drive (Phase 2)	7/11/2023	In Process	
10	Erosion Control	Fix silt fence and crimp straw	Phase 2	7/11/2023	In Process	
11	Erosion Control	Straw mulch and crimping	Phase 2	7/11/2023	In Process	DAK
12	Housekeeping	Cleanup job site (Could not inspect areas due to clean up)	Phase 2	7/11/2023	In Process	
13	Stockpiles/Grading	Clean up all stockpiles and final grading needs to be completed in areas	Phase 2	7/11/2023	In Process	
14	Landscaping	Sod on Limestone Avenue	Limestone Avenue (Phase 2)	7/11/2023	In Process	DAK
15	Landscaping	Native Seed needs to be 70% established	Phase 2	7/11/2023	In Process	
16	As-Builts	Provide As-Builts in CAD Files	Phase 2	7/11/2023	In Process	DAK
17	Water (LTWD)	Provide Acceptance document from LTWD	Phase 2	7/11/2023	In Process	DAK
18	St. Vrain (Sewer)	Provide Acceptance document from St. Vrain Sanitation District	Phase 2	7/11/2023	In Process	DAK



Items # 1 & #13



Items #7 & #13



Items #7 & #13



Item #13



Items # 1 & #12



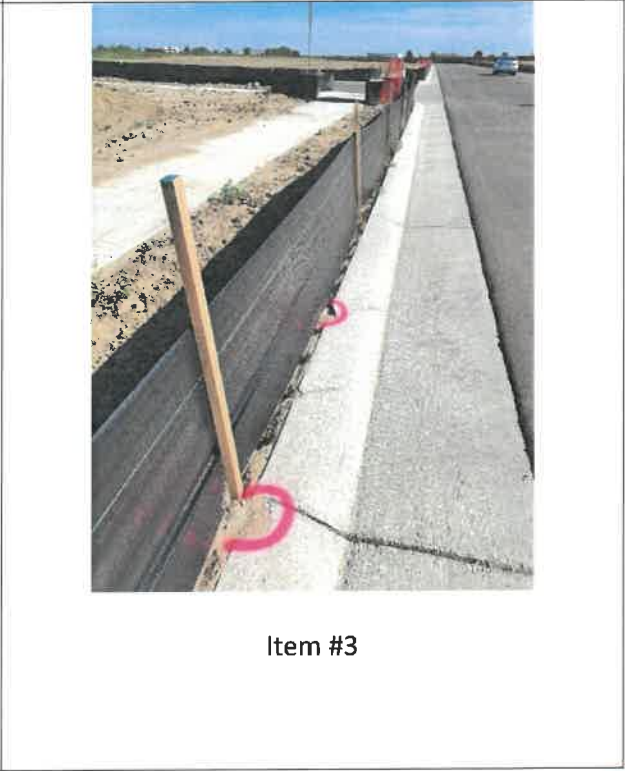
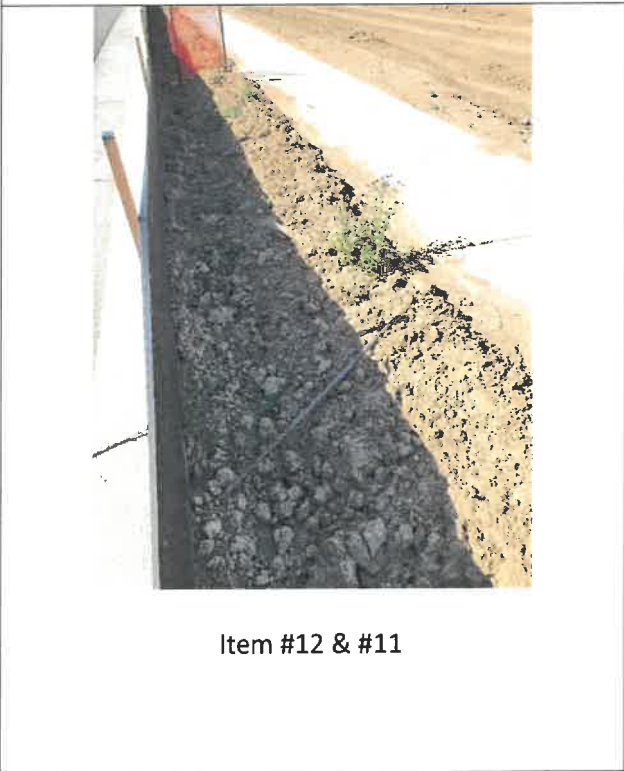
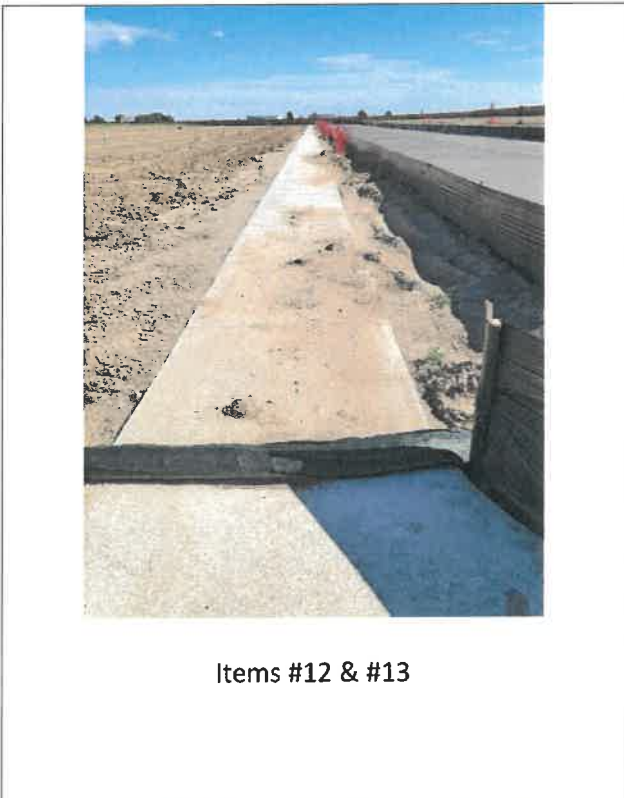
Items #7 & #13



Item #6



Items #7 & #13





Item #12



Items #7, #11 & #13



Item #11



Items #4 & #11



Item #8



Item #8



Item #5



Items #11, #12 & #13



Item #12



Item #12



Items #11 & #13



Item #2



Items #1, #3 & #11



Items #2 & #11



Items #11, #12



Items #2 & #11



Items #8 & #11



Item #11



Items #7 & #12



Items #7 & #12



Items #7 & #12



Items #7 & #12



Item #9



Items #2 & #11



Item #5



Items #7 & #12



Items #1, #7 & #12



Item #6



Item #13



Items #12 & #13



Item #12



Item #1 & #11

Exhibit B

Additional conditions (Conditional Acceptance – Phase 2)

1. Developer shall replace LOC NUSCGS043287, dated May 27, 2022, in the amount of \$3,875,079.00 (the “Phase 2 LOC”) with a new LOC in the form required by the SIA **in the amount of not less than \$581,261.85** and having an expiration date not earlier than October 31, 2025 (“Warranty LOC”). **The Developer shall file the Warranty LOC with the Town Engineer on or before August 15, 2023.** Upon filing of the Warranty LOC, the Town Engineer or designee shall cause the Phase 2 LOC to be released. The Warranty LOC shall be released in accordance with the terms of the SIA and the *Mead Municipal Code*.

2. Alternatively, at Developer’s request, the Town shall request that the **Phase 2 LOC** [LOC NUSCGS043287 dated May 27, 2022 in the amount of \$3,875,079.00] be reduced from **\$3,875,079.00 to \$581,261.85** (a reduction of \$3,293,817.15) and that the expiration date of the Phase 2 LOC be extended to October 31, 2025. If this option is selected, the Town’s letter requesting the amendment to the Phase 2 LOC shall be substantially in accordance with the sample letter attached on the next page below.

Sample Phase 2 LOC Amendment Letter



August 1, 2023

JPMorgan Chase Bank, N.A.
c/o JPMorgan Treasury Services
Attention: Standby Letter of Credit Department
10420 Highland Manor Dr., 4th Floor
Tampa, FL 33610-9128
SWIFT: CHASUS33

Re: Letter of Credit #NUSCGS043287
Town of Mead, Colorado

Please consider this letter our formal request to process an amendment for **NUSCGS043287** to reduce the current amount of this letter from **\$3,875,079.00** to **\$581,261.85** (a reduction of **\$3,293,817.15**) AND add the addition of a final expiration date of **10/31/2025**, effective immediately.

Sincerely,

Robyn Brown, P.E.
Deputy Town Engineer
Town of Mead
rbrown@townofmead.org

cc: Mary Strutt, Director of Admin. Services / Town Treasurer (via email)
Erika Rasmussen, Town Engineer (via email)
Jordan Dallas Smith, Forestar (via email to jordansmith@forestar.com)