

**TOWN OF NEW CASTLE, COLORADO  
RESOLUTION NO. TC 2019-19**

**A RESOLUTION OF THE NEW CASTLE TOWN COUNCIL ACCEPTING THE  
PUBLIC IMPROVEMENTS RELATED TO LOT 2A, LAKOTA CANYON  
RANCH PUD, PHASE 7.**

WHEREAS, by Ordinance No. 2016-4, Lakota Ridge Senior Apartments, LLLP (“Lakota Ridge”) obtained approval for a final PUD Development Plan (“Plan”) for the property located at 705 Castle Valley Boulevard in the Town of New Castle, Colorado, and more fully described as:

LOT 2A, AMENDED FINAL PLAT, LOT 2, LAKOTA CANYON RANCH PUD,  
PHASE 7, ACCORDING TO THE PLAT THEREOF RECORDED JULY 30, 2010,  
UNDER RECEPTION NO. 789213

(“Property”); and

WHEREAS, as part of the PUD approval, the Town and Lakota Ridge entered into that certain Development Agreement for Lakota Ridge Senior Apartments dated August 3, 2016 (“Development Agreement”), a copy of which was recorded in the Garfield County real property records at Reception No. 893283; and

WHEREAS, the Development Agreement required Lakota Ridge to build, construct, and otherwise install certain Public Improvement (as that term is defined in the Development Agreement) on the Property for the benefit of the residents of the Property and the Town; and

WHEREAS, the construction of the Public Improvements was secured with a Letter of Credit that was set to expire on June 30, 2019, but was extended to and including September 30, 2019; and

WHEREAS, one hundred percent (100%) of all Public Improvements required by the Development Agreement have been certified complete by Lakota Ridge’s engineer and have been recommended for acceptance by the Town Engineer;

WHEREAS, the Town has received as-built drawings, a summary of actual construction costs related to the Public Improvements, a Special Warranty Deed for the publicly-dedicated road, confirmation that the road is being conveyed free and clear of all liens and encumbrances, and a bill of sale for all personal property required to be installed by the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

1. Recitals. The foregoing recitals are incorporated by reference herein as findings and determinations of the Town Council.

2. Final Acceptance of Improvements. The Public Improvements required by the Development Agreement are hereby deemed accepted, with the exception of hydro-seeding and revegetation of areas disturbed during construction which is weather-dependent. The effective date of this Resolution shall constitute the "Final Acceptance Date" for purposes of the Development Agreement for all public improvements except for hydro-seeding/revegetation.

3. Warranty. The two (2) year warranty period outlined in Paragraph 9 of the Development Agreement commences on the date of the Town Council vote to approve this Resolution, except for hydro-seeding/revegetation which will commence upon final acceptance of that item by the Town Council following recommendation of the Town Engineer.

4. Conditions. This Resolution is conditioned upon satisfaction of the following:

- a. The Town Attorney shall have received and be authorized to release and record with the Garfield County Clerk and Recorder good and sufficient instruments releasing all deeds of trust and mechanics' liens encumbering the Town Right-of-Way parcel to be recorded no later than September 5, 2019.
- b. The deed conveying the Right-of-Way parcel shall be recorded no later than September 5, 2019, after recording of the lien releases described above.
- c. The Town Attorney shall have received and delivered to the Town Clerk no later than September 5, 2019, the final executed Bill of Sale for all public improvements in a form approved by the Town Attorney and Town Engineer.
- d. Within thirty (30) days after the date of approval of this Resolution by the Town Council, an amended plat depicting the Property and the Right-of-Way parcel shall be delivered to the Town with all required signatures and certificates, including but not limited to the Title Company certificate showing that the dedication of the Right-of-Way and all easements to the Town is free and clear of any liens or encumbrances, or subject only to liens and encumbrances for which a duly-executed Consent and Subordination certificate appears on the plat. The plat may be approved and signed by the Town Administrator without further action of the Town Council and shall be recorded with the Garfield County Clerk and Recorder. The purpose of this condition is to ensure that all required dedications have been conveyed free and clear of liens as required by the Development Agreement and New Castle Municipal Code in lieu of requiring a title insurance policy in favor of the Town.
- e. Final acceptance of the hydro-seeding/revegetation shall occur no later than December 1, 2019, and the 2-year warranty period for that item shall commence upon final acceptance by the Town Council.

5. Remedies for Failure of Conditions; Release of Letter of Credit. The Town Council authorizes release of the Letter of Credit securing the public improvements in the amount of \$609,426 issued July 24, 2017 upon determination by the Town Administrator that conditions 4(a),

(b), and (c) have been satisfied. If any of these conditions has not been satisfied by 5:00 p.m. on September 5, 2019, then the Letter of Credit shall not be released, and all remaining conditions shall be reviewed at the next meeting of the Town Council. If either of the conditions set forth in 4(d) or (e) has not been satisfied by the deadline set forth therein, then the Town Council shall have the right to declare a breach of the Development Agreement and to pursue any and all available remedies.

6. Effective Date. This Resolution shall be effective immediately upon passage, subject to the conditions set forth above.

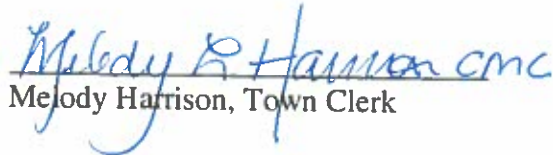
THIS RESOLUTION was adopted by the New Castle Town Council at its regular meeting held on the 3<sup>rd</sup> day of September, 2019.

NEW CASTLE TOWN COUNCIL

By: \_\_\_\_\_

  
Art Riddile, Mayor

ATTEST:

  
Melody Harrison, Town Clerk

