



# CITY OF WHEATLAND

## CITY COUNCIL MEETING STAFF REPORT

January 23, 2024

**SUBJECT:** Accept Public Improvements Constructed by Bear Ridge Family Apartments Project and File Notice of Completion.

**PREPARED BY:** Dane H. Schilling – City Engineer

### Recommendation

City Staff recommends that the City Council adopt Resolution No 03-24 (Attachment 1) accepting the public improvements constructed by the Bear Ridge Family Apartments Project (“Project”) as complete and authorize the City Clerk to file a Notice of Completion with the Yuba County Recorder (See Attachment 2).

### Background and Discussion

The Bear Ridge Family Apartments is an 8.21- acre site located at 1961 -1989 Spenceville Road, adjacent to and south of the Wheatland Ranch residential subdivision.

Previous City approvals and related events for the Bear Ridge Family Apartments are:

- December 22, 2021: The City approved Pacific West Communities’ application for a Parcel Map located at 1989 Spenceville Road (APN 015-360-001).
- February 10, 2022, the City of Wheatland determined the project application was complete.
- March 22, 2022 the Wheatland City council adopted Resolution No. 10-22, authorizing and directing the execution of a Joint Exercise of Powers Agreement relating to the California Municipal Finance Authority and approving the issuance of revenue bonds by the authority for the purpose of financing or refinancing the acquisition, construction, and improvement of certain facilities (Bear Ridge Family Apartments Affordable Housing Project) for the benefit of Wheatland Pacific Associates, a California Limited Partnership”.
- March 29, 2022, the Wheatland Planning Commission approved Parcel Map splitting the site into separate parcels.
- April 26, 2022, the Wheatland City Council adopted Resolution No. 14-22 authorizing the City Manager to accept associated dedications of land and approve the Final Map.

Final Inspection of the Parcel 1 Residential Units and the related Spenceville Road public improvements were completed on December 18, 2023. Staff has determined that the work performed by the developer is complete and in conformance with the approved plans, Subdivision

Improvement Agreement and conditions of approval. Furthermore, the developer has paid all required fees and is current on reimbursing the City for expenses.

By this action the new street, sewer collection system, storm drainage and water infrastructure improvements within the Spenceville Road will be owned and maintained by the City. In addition, the onsite water main infrastructure, which loops through the complex, will be owned and maintained by the City.

Accepting the project improvements as complete and authorizing the filing of a Notice of Completion provides the mechanism for Staff to book the improvements in the City's inventory of assets and establishes a 30-day statute of limitations in which liens, claims and stop notices may be filed against the Project's Labor and Materials bond. A warranty bond provided by the developer will warrant the work for a period of one year after acceptance by the City (see Attachment 3).

### **Alternatives**

Alternatively, if it were determined that the work was not completed to the City's satisfaction, the City Council may choose to postpone acceptance and the filing of the Notice to Completion until any corrective work is performed.

### **Fiscal Impact**

The streets, sewer, storm drains and water infrastructure on Spenceville Road and the onsite water main will be owned and maintained by the City therefore the costs of ownership and maintenance will become the City's. City expenses for the Project are reimbursed by the developer through a deposit in accordance with the terms of the Subdivision Improvement Agreement for the Project.

### **Attachments**

1. Resolution No. 03-24: Accepting Public Improvements for Bear Ridge Family Apartments.
2. Notice of Completion for Public Improvements for Bear Ridge Family Apartments.
3. Warranty Bond for Public Improvements for Bear Ridge Family Apartments.

RECORDING REQUESTED BY

City of Wheatland-Engineering Dept.

AND WHEN RECORDED MAIL TO

Name: City of Wheatland

Address: 111 C Steet

City & State: Wheatland, CA 95692

G.C. 6103

SPACE ABOVE FOR RECORDER'S USE

### Notice of Completion

Notice is hereby given that:

1. The name and address of the owner of the real property described in paragraph 6 herein is the City of Wheatland, 111 C Street, Wheatland, CA 95692.
2. That the interest which the City of Wheatland owns the described real property is Fee Simple.
3. The construction works hereinafter described was completed on the 18<sup>th</sup> day of December 2023.
4. The work completed in general consists of improvements to Spenceville Road including the construction of concrete sidewalks and pedestrian ramps, minor storm drain modifications, placement of water infrastructure and various other items of work.
5. That the name of the surety on the contractor's bond for payment on said contract is Atlantic Specialty Insurance Company.
6. Said work being commonly known as: Bear Ridge Family Apartments Projects.

The Contract Documents and Specifications for said work are on file at the City of Wheatland, 111 C Street, Wheatland, California 95692, Yuba County, California.

The prime contractor for said work was:

Pacific West Builders  
430 E. State Street, Suite 100  
Eagle, ID 83616

7. The location of said work, 1961 – 1977 Spenceville Road within the legal boundary of the City of Wheatland, Yuba County, California.

By: \_\_\_\_\_  
Dane H. Schilling, City of Wheatland City Engineer

**Verification**

I am Bill Zenoni, the authorized agent of the City of Wheatland, the owner of the property described in the foregoing notice. I have read the foregoing notice and know the contents thereof, and the same of my own knowledge. I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Dated: January 23, 2024, at Wheatland, California

\_\_\_\_\_  
Signature

Bill Zenoni  
Print Name

Title: City Manager

RESOLUTION NO. 03-24

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND  
ACCEPTING THE PUBLIC IMPROVEMENTS CONSTRUCTED BY THE BEAR RIDGE  
FAMILY APARTMENTS AS COMPLETE AND AUTHORIZE THE FILING OF A NOTICE OF  
COMPLETION**

**WHEREAS**, on December 22, 2021, the applicant, Pacific West Communities, submitted an application for a Parcel Map located at 1989 Spenceville Road (APN 015-360-001); and

**WHEREAS**, on February 10, 2022, the City of Wheatland determined the project application was complete; and

**WHEREAS**, the Parcel Map was prepared in accordance with Title 17, Chapter 17.07 of the Wheatland Municipal Code; and

**WHEREAS**, on March 22, 2022 the Wheatland City council adopted Resolution No. 10-22, authorizing and directing the execution of a Joint Exercise of Powers Agreement relating to the California Municipal Finance Authority and approving the issuance of revenue bonds by the authority for the purpose of financing or refinancing the acquisition, construction, and improvement of certain facilities (Bear Ridge Family Apartments Affordable Housing Project) for the benefit of Wheatland Pacific Associates, a California Limited Partnership.”; and

**WHEREAS**, on March 29, 2022, the Wheatland Planning Commission adopted Resolution of the Planning Commission No. 2022-02 approving the requested Parcel Map located at 1989 Spenceville Road; and

**WHEREAS**, in order to provide public streets, and public utilities to serve this development and future improvements, the Developer granted property in fee title and grant easements as shown on the Final Map; and

**WHEREAS**, on April 26, 2022, City Manager adopted dedications of land and approved the Final Map for Bear Ridge Family Apartments; and

**WHEREAS**, at the January 23, 2024 City Council meeting the City Engineer has recommended to City Council that public improvements be deemed completed and accepted by the City and subsequently file a Notice of Completion for the improvements; and

**NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND** by the City Council of the City of Wheatland, State of California, that the public improvements referenced in the subdivision improvement agreement for Bear Ridge Family Apartments are hereby accepted as being complete in accordance with approved plans and specifications. The City Manager is directed to execute and record the Notice of Completion on said agreement and project on behalf of the City of Wheatland.

**PASSED AND ADOPTED** by the City Council of City of Wheatland, State of California  
this 23<sup>th</sup> day of January 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Rick West, Mayor

ATTEST:

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Lisa Thomason, City Clerk

Bond Number: 800168600  
Premium: \$100.00

**PUBLIC/FRONTAGE IMPROVEMENT AGREEMENT  
GUARANTEE AND WARRANTY SECURITY**

**WHEREAS**, the City Council of the City of Wheatland, State of California, and **Wheatland Pacific Associates, a California Limited Partnership**, ("Principal") have entered into an agreement by which Principal agrees to install and complete certain designated public improvements and to guarantee and warrant the work for a period of one year following its completion and acceptance, which said agreement identified as Subdivision Improvement Agreement for Bear Ridge Family Apartments is hereby referred to and made a part hereof; and

**WHEREAS**, said Principal is required under the terms of said agreement to furnish a bond to guarantee and warrant the work for a period of one year following its completion and acceptance against any defective work or labor done, or defective materials furnished, and further to pay all City engineering fees and other City fees incurred during the warranty period, to comply with the terms of said agreement.

**NOW, THEREFORE**, we, the Principal and Atlantic Specialty Insurance Company, admitted and duly authorized to transact business under the laws of the State of California as surety, are held and firmly bound unto the City of Wheatland as obligee ("City"), in the penal sum of **Seventy Two Thousand, Seven Hundred Ninety Six and No/100 Dollars (\$72,796.00)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, provisions in the said agreement and any alteration thereof made as therein provided, on his or its part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations of this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications. The surety waives all rights of subrogation against the City or any person employed by the City.

Bond Number: 800168600  
Premium: \$100.00

**IN WITNESS WHEREOF**, this Public/Frontage Maintenance Bond Guarantee and Warranty Security has been duly executed by the Principal and surety above named, on this 5th day of January 2022.

Atlantic Specialty Insurance Company  
Name of Surety  
605 Highway 169 North, Suite 800  
Plymouth, MN 55441  
Address of Surety  
(952) 852-2431  
Telephone No. of Surety

Subdivider:  
Wheatland Pacific Associates,  
a California Limited Partnership  
Contact: Caleb Roope  
Phone: 208-461-0022  
By: [Signature], G.P.  
Name, Title

Roxana Palacios  
Attorney-in-Fact Roxana Palacios

**NOTE:** If Principal is a partnership, all partners should execute the bond.

**IMPORTANT:** Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in California.

**NOTICE:** The signature of the Surety on this bond must be acknowledged before a notary public, and this bond must be accompanied by evidence that the appointment as attorney in fact has been recorded in Yuba County.

**MANDATORY:** The Surety shall be authorized and licensed by the California Insurance Commissioner as an "admitted surety insurer."

**APPROVAL:** Bonds must be approved by City.

**REQUEST TO INSURER TO SUBMIT DOCUMENTS:** Execution of this document shall constitute the City's formal request to the insurer to provide the City with evidence of authorization as an admitted surety in the State of California from the California Department of Insurance and that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended.

**POWER OF ATTORNEY REQUIRED.** The Attorney-in-Fact (resident agent) who executes this bond on behalf of the surety company must attach a copy of his Power of Attorney as evidence of his authority. A notary shall acknowledge the power as of the date of the execution of the surety bond that it covers.



CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

Civil Code § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of Washington
County of Snohomish

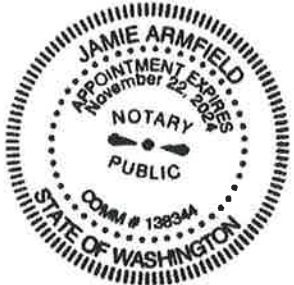
On 1/5/2024 before me, Jamie Armfield, Notary Public
personally appeared Roxana Palacios

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature Jamie Armfield
Notary Public Signature



Place Notary Public Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to the persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document

Document Date Number of Pages:

Signer's Name:

Form with checkboxes for Individual, Corporate Officer, Partner, Guardian or Conservator, Attorney-in-Fact, Trustee, Other. Includes a box for 'RIGHT THUMBPRINT OF SIGNER Top of thumb'.

Form with checkboxes for Individual, Corporate Officer, Partner, Guardian or Conservator, Attorney-in-Fact, Trustee, Other. Includes a box for 'RIGHT THUMBPRINT OF SIGNER Top of thumb'.

Idaho

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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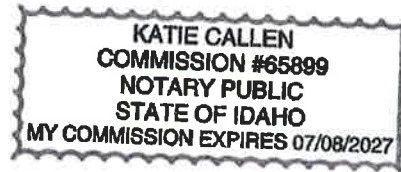
State of Idaho
County of Ada

On 1/11/24 before me, Katie Callen, Notary Public

personally appeared Caleb Roope

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. Idaho



Witness my hand and official seal.

Signature Katie Callen
Notary Public Signature

Place Notary Public Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to the persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document

Document Date Number of Pages:

Signer's Name:

- Individual
Corporate Officer - Title(s):
Partner - Limited General
Guardian or Conservator
Attorney-in-Fact
Trustee
Other:
Signer is representing



- Individual
Corporate Officer - Title(s):
Partner - Limited General
Guardian or Conservator
Attorney-in-Fact
Trustee
Other:
Signer is representing





## Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: **Amber Engel, Brandi Heinbaugh, Debbie Lindstrom, Holly E. Ulfers, Jamie Armfield, Kathleen M. Mitchell, Kathy Nye, Kristine Santamaria, Marina Matyunin, Roxana Palacios, Scott Alderman, Tara Koloski**, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: **unlimited** and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this first day of January, 2023.

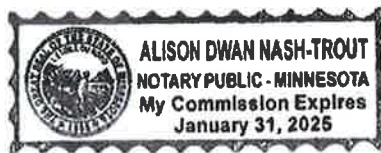


By

Sarah A. Kolar, Vice President and General Counsel

STATE OF MINNESOTA  
HENNEPIN COUNTY

On this first day of January, 2023, before me personally came Sarah A. Kolar, Vice President and General Counsel of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and she acknowledged the execution of the same, and being by me duly sworn, that she is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.



Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated 5th day of January 2024.



Kara L.B. Barrow, Secretary

This Power of Attorney expires  
January 31, 2025