



Staff Report to the Weber County Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action for final subdivision approval of the Mountainside PRUD Phase 1 including approval of the Improvement Guarantee Agreement with a Letter of Credit.

Type of Decision: Administrative

Agenda Date: Tuesday, September 19, 2017

Applicant: Bridges Holding Company, LLC

File Number: UVM071316

Property Information

Approximate Address: The Bridges at PRUD

Project Area: 11.884 acres

Zoning: RE-15

Existing Land Use: Vacant

Proposed Land Use: PRUD

Parcel ID: 22-006-0033

Township, Range, Section: T7N, R1E, Section 15



Adjacent Land Use

North: Forestry

East: Residential

South: Residential

West: Residential

Staff Information

Report Presenter: Ronda Kippen
rkippen@co.weber.ut.us
 801-399-8768

Applicable Ordinances

- Title 101, Chapter 1 General Provisions, Section 7, Definitions
- Title 104, Zones, Chapter 3 Residential Estate Zones (RE-15)
- Title 104, Zones, Chapter 27 Natural Hazards Overlay Zone
- Title 104, Zones, Chapter 28 Ogden Valley Sensitive Lands Overlay Districts
- Title 106, Subdivisions, Chapter 1-8 as applicable
- Title 108, Chapter 5 Planned Residential Unit Development

Development History

- Wolf Creek Resort has been a Master Planned Community since the early 1980's.
- In 2002, the owner of Wolf Creek Resort petitioned the County to rezone areas within the development and amend the agreement. The 2002 Wolf Creek Master Plan Amendment was approved as Contract# C2002-139 and recorded with the Weber County Recorder's Office as Entry# 1883524.
- The Wolf Creek Master Plan Amendment 2 was approved as Contract# C2015-31 and was recorded with the Weber County Recorder's Office as Entry# 2768159.
- An amendment to include the "conceptual maps" that were requested by Weber County was approved on March 22, 2016 and recorded with the Weber County Recorder's Office as Entry# 2784398
- Mountainside PRUD Phase 1 received preliminary subdivision approval in conjunction with the County Commission's approval of The Bridges PRUD on July 19, 2016.

Mountainside PRUD Phase 1 final subdivision was heard and received a unanimous positive recommendation by the Ogden Valley Planning Commission on September 27, 2016.

Summary and Background

The Ogden Valley Planning Commission unanimously recommends final subdivision approval of the Mountainside PRUDS Phase 1 after holding a meeting and receiving public input on September 27, 2016. The proposed subdivision is

in the RE-15 zone and will consist of 24 lots and approximately 1.649 acres of common area which will include a 4 foot soft trail running through two of the three the common area parcels (see Exhibit A).

The Mountainside PRUD Phase 1 is part of the master planned community within the Wolf Creek Resort known as “The Bridges PRUD” which consists of a multi-phased development including six communities (364 units) with a variety of housing options and approximately 143 acres of open space. The proposed subdivision “Mountainside PRUD Phase 1” is one of four phases (112 units) in the Mountainside community. Part of the consideration and action to be made by the County Commission is the approval of a Improvement Guarantee Agreement that includes a Letter of Credit in the remaining amount of \$834,254.46 (see Exhibit B for the Improvement Guarantee Agreement) for the proposed subdivision.

The Uniform Land Use Code of Weber County (LUC) §106-1-8(f) identifies the approval process for final subdivision. The proposed subdivision exceeds the amount of lots that can be administratively approved as part of a phasing process; therefore, the final plat must be considered and approved by the County Commission after receiving a recommendation from the Planning Commission. The proposed subdivision and lot configuration is in conformance with the current zoning, the approved PRUD and the Zoning Development Agreement Conceptual Land Use Plan as well as the applicable subdivision requirements as required in the LUC.

Analysis

General Plan: The proposal conforms to the Ogden Valley General Plan by encouraging development within the existing resort-related areas.

Zoning: The subject property is located in the Residential Estate Zone more particularly described as the RE-15 zone.

The purpose and intent of the RE-15 zone is identified in the LUC §104-3-1 as:

“The major purpose of the RE-15 and RE-20 Zones is to provide and protect residential development at a low density in a semi-agricultural or rural environment. It is also to provide for certain rural amenities on larger minimum lots, in conjunction with the primary residential nature of the zone.”

As part of the subdivision process, the proposal has been reviewed against the current subdivision ordinance in LUC Chapter 106, the PRUD ordinance in LUC Chapter 108 Title 5, and the applicable standards in the RE-15 zone in LUC Chapter 104 Title 3 to ensure that the regulations and standards have been adhered to. The proposed subdivisions, with the recommended conditions listed in this staff report, are in conformance with county code. The following is a brief synopsis of the review criteria and conformance with the LUC.

Lot area, frontage/width and yard regulations: The proposed subdivision is one of four phases in the Mountainside community and has received preliminary subdivision for “The Bridges PRUD” development.



The purpose and intent of a Planned Residential Unit Development (PRUD) is intended to “allow for diversification in the relationship of various uses and structures to their sites and to permit more flexibility of such sites and to encourage new and imaginative concepts in the design of neighborhood and housing projects in urbanizing areas” (LUC §108-5-2). Mountainside PRUD Phase 1 utilizes the allowed flexibility with lots ranging in size from 0.224 acres to 0.46 acres and lot widths ranging in size from approximately 72 feet to approximately 137 feet. The various lot sizes will allow for the future lot owners to build custom homes ranging from 2000 to 4000 square feet. The approved minimum single family yard setbacks for the PRUD are:

- Front Yard: 15 feet
- Side Yard: 7.5 feet
- Side; facing street on corner lot: 15 feet
- Rear Yard: 20 feet

Based on the allowed flexibility of a PRUD, the proposed layout, lot configurations and lot sizes are acceptable.

Ogden Valley Sensitive Lands Overlay Districts: The development area falls within an area identified as an “Important Wildlife Habitat Area” that is part of the Ogden Valley Sensitive Lands Overlay Districts (LUC Chapter 104 Title 28). The proposed subdivision has been designed to ensure that development standards in this area shall follow the principles established regarding the location of buildings, structures, roads, trails and other similar facilities to protect important wildlife habitat and their functions including wildlife movement across areas dominated by human activities by limiting the areas of disturbance. As part of the building permit process, staff will ensure that the site is designed to adhere to the development standards outlined in LUC §104-28-3 which will preserve and protect these important wildlife habitat areas.

Common Area: The general requirements for a PRUD identify the need to preserve common open space. The proposed subdivision layout identifies common area with an integrated foot trail. The common area is approximately 1.649 acres which is 13.87% of the 11.884 acres. This area will be dedicated upon recording by the following method:

“Granting to the county a permanent common open space easement on and over the said private open spaces to guarantee that the open spaces remain perpetually in access, parking, recreation or open space uses with ownership and maintenance being the responsibility of a home owners' association established with articles of association and bylaws which are satisfactory to the county”

The CC&R’s comply with the provisions of the Condominium Ownership Act, U.C.A 1953, §57-8-1 et seq. per LUC §108-5-6(d)(3) for the preservation, maintenance and ownership of the common area.

Natural Hazards Overlay Zone: The proposed subdivision is located in a Zone “X” as determined by FEMA to be an area determined to be outside 500-year floodplain.

A geologic study has been performed and a report has been prepared by GSH dated April 25, 2016, identified as Project #1661-07N-16 including an addendum dated August 5, 2016. All site development will need to adhere to the recommendations of these reports. According to the report Lots 7, 8, 9, 10 & 18 will need additional site specific geologic and geotechnical investigation in conjunction with a building permit. A note has been added to the plat to notify the future property owners of the geologic and geotechnical report on file with the Weber County Planning Division as well as the requirement of further geologic and geotechnical investigation prior to submitting for a building permit from Weber County. It also appears that lots 3, 4 & 22 have areas at or exceeding 25% slope. If these lots do have an average slope of 25% or more, the final Mylar shall either identify a building envelope with a building area of less than 25% slope or identify the lot with an "R" and include the required “Restricted” note on the plat.

Upon recording the final subdivision Mylar a separate “Natural Hazards Disclosure” document will be required to be recorded to provide adequate notice of the geotechnical and geological recommendations to future property owners. A condition of approval has been added to the planning commission’s recommendations to ensure that adequate notification is provided for future property owners’ regarding further development is noted on the subdivision Mylar.

Culinary water, irrigation water and sanitary sewage disposal: The applicant has provided a capacity assessment letter from the Wolf Creek Water and Sewer District for the culinary and irrigation water and sanitary sewer as well as a construct permit from the State of Utah Department of Environmental Quality Division of Drinking Water for the expansion of the water system and water lines serving the subdivision prior to the subdivision receiving final approval from the County Commission (see Exhibit B).

Review Agencies: The Weber County Surveyor's Office has reviewed the proposal and approved the subdivision. The Engineering Division and the Weber Fire District have reviewed the proposal and have provided the applicant with the additional items that will be required prior recording the final Mylar. A condition of approval has been made part of the planning commission's recommendations to ensure that any conditions of the applicable reviewing agencies are strictly adhered to.

Additional design standards and requirements: The applicant would like to utilize the ability to have nightly rentals as an option allowed in the PRUD ordinance for the owner's in the Mountainside Phase 1 PRUD and a note has been added to the final Mylar to declare that the subdivision is approved for nightly rentals.

Tax clearance: The 2016 property taxes have been paid in full. The 2017 property taxes will be due in full on November 1, 2017.

Planning Commission Recommendation

The Ogden Valley Planning Commission recommends final subdivision approval of the Mountainside PRUD Phase 1, consisting of 24 lots. This recommendation for approval is subject to all review agency requirements and based on the following conditions:

1. Lots 3, 4 & 22 have areas at or exceeding 25% slope. The final Mylar shall either identify a building envelope with a building area of less than 25% slope or identify the lot with an "R" and include the required "Restricted" note on the plat.
2. A "Natural Hazards Disclosure" document will be required to be recorded with the final subdivision Mylar to provide adequate notice of any geotechnical and geological recommendations for future property owners.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. The proposed subdivision conforms to the approved Zoning Development Agreement.
3. With the recommended conditions, the proposed subdivision complies with all previous approvals and the applicable County ordinances.

Exhibits

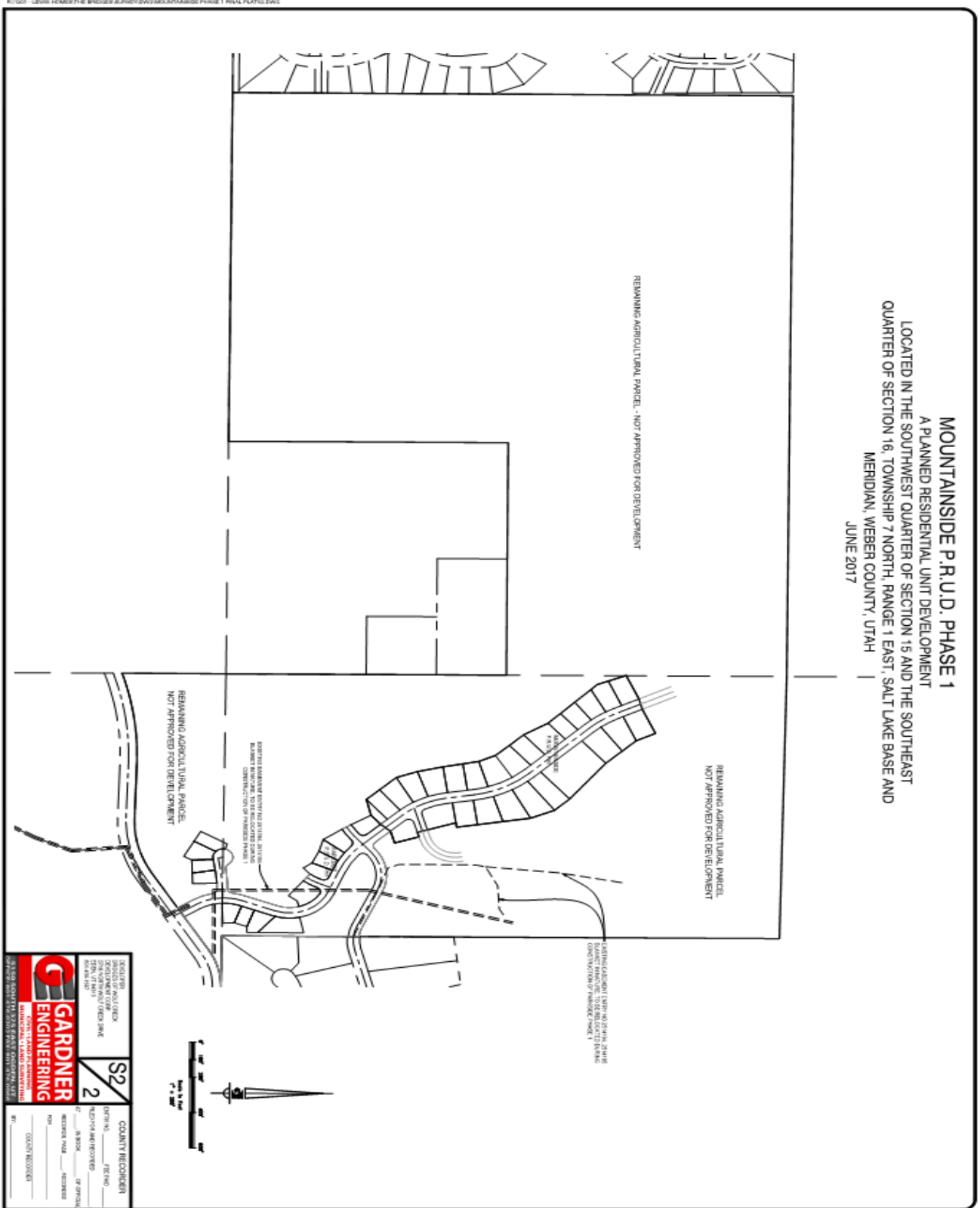
- A. Mountainside Phase 1 PRUD
- B. Improvement Guarantee Agreement with Letter of Credit

Location Map



Exhibit A-Mountainside Phase 1 PRUD

MOUNTAINSIDE P.R.U.D. PHASE 1
 A PLANNED RESIDENTIAL UNIT DEVELOPMENT
 LOCATED IN THE SOUTHWEST QUARTER OF SECTION 15 AND THE SOUTHEAST
 QUARTER OF SECTION 16, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND
 MERIDIAN, WEBER COUNTY, UTAH
 JUNE 2017



<p>GARDNER ENGINEERING MUNICIPAL LAND DEVELOPMENT</p>	S2 2	COUNTY RECORDS OFFICE NO. _____ RECORDS DATE _____ COUNTY RECORDER _____
	SCALE: AS SHOWN DATE: _____ DRAWN BY: _____ CHECKED BY: _____ APPROVED BY: _____	COUNTY RECORDS OFFICE NO. _____ RECORDS DATE _____ COUNTY RECORDER _____

Exhibit B-Improvement Guarantee Agreement

**WEBER COUNTY
IMPROVEMENTS GUARANTEE AGREEMENT**

THIS AGREEMENT (herein "Agreement") is entered into this 6th day of September, 2017,

******* PARTIES *******

"APPLICANT": Bridges Holding Company

a(n): Limited Liability Company (corporation, limited liability company, partnership, individual).

address: 3718 N Wolf Creek Drive City: Eden State: UT zip: 84310

telephone: (801)430-1507, facsimile: () _____

"COUNTY": Weber County, a political subdivision of the State of Utah,
2380 Washington BLVD, Ogden, UT 84401,
(801) 399-8374.

******* RECITALS *******

WHEREAS, APPLICANT desires to post the following improvement guarantee(s) (check):

- Off-site improvement guarantee
- On-site improvement guarantee

with the COUNTY for Mountainside PRUD Phase 1

(description or name of Project)

located at 4553 N. Seven Bridges Road Eden, UT 84310

(address of Project)

WHEREAS, COUNTY ordinances require APPLICANT to guarantee the construction of certain improvements prior to either the recordation of the above described subdivision plat or the actual issuance of any permit(s) or approval(s) related to the above-described Project; and

WHEREAS, the terms of either the subject subdivision plat approval or the issuance of the subject permit(s)/approval(s) require APPLICANT to complete the following improvements, (herein "the Improvements") (check one and complete):

specified in Exhibit B , attached hereto and incorporated herein by this reference;

- or -

described as follows: All of Mountainside PRUD Phase 1; and

WHEREAS, COUNTY will not record the subject subdivision or grant the subject permit(s)/approval(s) until adequate provision has been made to guarantee completion of the Improvements and to warrant the Improvements shall be maintained and remain free from any defects or damage, which improvements and required warranty are estimated to cost the amount set forth herein, and which improvements shall be installed in accordance with the specifications of COUNTY, and inspected by COUNTY;

NOW THEREFORE, For good and valuable consideration, the parties agree as follows:

******* TERMS AND CONDITIONS *******

1. **PURPOSE FOR AGREEMENT.** The parties hereto expressly acknowledge that the purpose of this Agreement is not only to guarantee the proper completion of the Improvements named herein, but also, among other things, to eliminate and avoid the harmful effects of unauthorized subdivisions and other land developments which may leave property or improvements improperly completed, undeveloped or unproductive.

2. **UNRELATED OBLIGATIONS OF APPLICANT.** The benefits and protection of the Proceeds specified herein shall inure solely to COUNTY and not to third parties, including, but not limited to, lot purchasers, contractors, subcontractors, laborers, suppliers, or others. COUNTY shall not be liable to claimants or others for obligations of APPLICANT under this Agreement. COUNTY shall further have no liability for payment of any costs or expenses of any party who attempts to make a claim under this

Agreement, and shall have under this Agreement no obligation to make payments to, give Notices on behalf of, or otherwise have obligations to any alleged claimants under this Agreement.

3. **AGREEMENT DOCUMENTS.** All data which is used by COUNTY to compute the cost of or otherwise govern the design and installation of the Improvements is hereby made a part of this Agreement, and is incorporated herein by this reference. This Agreement incorporates herein by reference any subject subdivision plat, plan, construction drawing, permit, condition of approval, and any and all other relevant data and specifications required by the Weber County Land Use Code.

4. **COMPLETION DATE.** APPLICANT shall complete the Improvements: (check one and complete)

within a period of 2 Year(s) Months (check one) from the date this Agreement was entered into;

- or -

as specified in Exhibit _____ (Completion Schedule), attached hereto and incorporated herein by this reference.

5. **FEES.** APPLICANT agrees to pay all Fees required by COUNTY for the entire Project prior to the issuance of any subsequent permit or approval within the Project.

6. **SPECIFIC PERFORMANCE.** APPLICANT has entered into this Agreement with COUNTY for the purpose of guaranteeing construction of the Improvements and payment of the Fees. COUNTY shall be entitled to specifically enforce APPLICANT'S obligation under this Agreement to construct and install the Improvements in a manner satisfactory to COUNTY, and to pay the Fees.

7. **APPLICANT'S INDEPENDENT OBLIGATION.** APPLICANT EXPRESSLY ACKNOWLEDGES, UNDERSTANDS AND AGREES that its obligation to complete and warrant the Improvements and pay the Fees and fulfill any other obligation under this Agreement, COUNTY ordinances, or other applicable law is independent of any obligation or responsibility of COUNTY, either express or implied. APPLICANT agrees that its obligation to complete and warrant the Improvements and pay the Fees is not and shall not be conditioned upon the commencement of actual construction work in the subdivision or development or upon the sale of any lots or part of the subdivision or development. APPLICANT further acknowledges (a) that its contractual obligation to complete and warrant the Improvements and pay the Fees pursuant to this Agreement is independent of any other remedy available to COUNTY to secure proper completion of the Improvements and payment of the Fees; (b) that APPLICANT shall not assert as a defense that COUNTY has remedies against other entities or has other remedies in equity or at law that would otherwise relieve APPLICANT of its duty to perform as outlined in this Agreement or preclude COUNTY from requiring APPLICANT'S performance under this Agreement; (c) that APPLICANT has a legal obligation, independent of this Agreement, to timely complete and pay for the Improvements in full and timely pay the Fees in full; and (d) should APPLICANT Default under this Agreement in any degree, APPLICANT agrees to compensate COUNTY for all costs, including Incidental Costs, related to APPLICANT'S failure to perform its obligation to complete and warrant the Improvements or pay the Fees to the extent that such costs are not adequately covered by the Proceeds ("Proceeds" defined in paragraph 10).

8. **INCIDENTAL COSTS.** "Incidental Costs," as used in this Agreement, shall mean engineering and architect fees, administrative expenses, court costs, attorney's fees (whether incurred by in-house or independent counsel), insurance premiums, mechanic's or materialmen's liens, and any other cost and interest thereon incurred by COUNTY, occasioned by APPLICANT'S Default under this Agreement.

9. **DEFAULT.** "Default," as used in this Agreement, shall mean, in addition to those events previously or subsequently described herein, a party's failure to perform, in a timely manner, any obligation, in whole or in part, required of such party by the terms of this Agreement or required by COUNTY ordinance or other applicable law. In addition, the following shall also be considered Default on the part of APPLICANT: APPLICANT'S abandonment of the Project, as determined by COUNTY; APPLICANT'S insolvency, appointment of a receiver, or filing of a voluntary or involuntary petition in bankruptcy; APPLICANT'S failure to file with COUNTY a renewed Financial Guarantee, as defined in paragraph 10, more than 60 days before a Financial Guarantee will expire, unless APPLICANT'S obligations have been terminated under paragraph 36(b); APPLICANT'S Escrow Repository's or Financial Institution's insolvency, appointment of a receiver, filing of a voluntary or involuntary petition in bankruptcy, or failure to perform under the terms of this agreement; the commencement of a foreclosure proceeding against the Project property; or the Project property being conveyed in lieu of foreclosure.

The occurrence of such shall give the other party or parties the right to pursue any and all remedies available at law, in equity, or otherwise available pursuant to the terms of this Agreement. Only the parties hereto are authorized to determine Default. Default shall not be declared prior to the other party receiving written notice.

10. **GUARANTEE OF IMPROVEMENTS.** APPLICANT hereby files, as an independent guarantee (herein "Financial Guarantee") with COUNTY for the purpose of insuring construction and installation of the Improvements and payment of the Fees, one of the following (check one and complete applicable information):

CASH CERTIFICATE, identified by the following:

Escrow Account: _____,

Escrow Account Repository: _____,

IRREVOCABLE LETTER OF CREDIT (herein the "Letter of Credit"), identified by the following:

Letter of credit account or number: 20715 _____,

Financial Institution: America First Credit Union,

The Financial Guarantee shall be in the amount of one hundred ten percent (110%) of the County Engineer's Cost Estimate (see also Exhibit B attached hereto). The Escrow Certificate or Letter of Credit shall be issued in favor of COUNTY to the account of APPLICANT herein, in the amount of \$834255.00 (herein the "Proceeds"), and is made a part of this Agreement as Exhibit B (Escrow Certificate or Letter of Credit).

11. **PARTIAL RELEASE OF PROCEEDS.** As the Improvements are initially accepted by COUNTY and the Fees are paid, the APPLICANT may submit written request to COUNTY for authorization for a partial release of Proceeds. APPLICANT is only entitled to make a request once every 30 days. The amount of any release shall be determined in the sole discretion of COUNTY. No release shall be authorized by COUNTY until such time as COUNTY has inspected the Improvements and found them to be in compliance with COUNTY standards and verified that the Fees have been paid. Payment of Fees or completion of Improvements, even if verified by COUNTY, shall not entitle APPLICANT to an automatic authorization for a release of the Proceeds. At no time may APPLICANT request a release of funds directly from Escrow Account Repository or Financial Institution.

12. **NOTICE OF DEFECT.** COUNTY will provide timely notice to APPLICANT whenever an inspection reveals that an Improvement does not conform to the standards and specifications shown on the Improvement drawings on file in COUNTY's Engineering and Surveyor's Office or is otherwise defective. The APPLICANT will have 30 days from the issuance of such notice to cure or substantially cure the defect.

13. **FINAL ACCEPTANCE.** Notwithstanding the fact that Proceeds may be released upon partial completion of the Improvements, neither any partial release nor any full release of the Proceeds shall constitute final acceptance of the Improvements by COUNTY. Final acceptance of the Improvements shall be official only upon written notice to APPLICANT from COUNTY expressly acknowledging such and only after APPLICANT provides a policy of title insurance, where appropriate, for the benefit of the County showing that the APPLICANT owns the improvement in fee simple and that there are no liens, encumbrances, or other restrictions on the improvement unacceptable to the County in its reasonable judgment.

14. **WARRANTY OF IMPROVEMENTS.** Following initial acceptance of the Improvements, APPLICANT hereby warrants that the Improvements shall be maintained by APPLICANT and remain free from defects or damage as determined by COUNTY, such that the Improvements continue to meet COUNTY standards for 1 years following said initial acceptance.

15. **RETAINAGE.** APPLICANT expressly agrees that, notwithstanding any partial release of any of the Proceeds, the Proceeds shall not be released below 10% of the estimated cost of the Improvements (herein the "Retainage"), as specified herein, for the timeframe specified in paragraph 14. The Retainage shall be held to insure that the Improvements do not have any latent defects or damage as determined by COUNTY, such that the Improvements do not continue to meet COUNTY standards for the timeframe specified in paragraph 14. Notwithstanding said Retainage, APPLICANT shall be responsible for bringing any substandard, defective, or damaged Improvements to COUNTY standard if the Retainage is inadequate to cover any such Improvements.

16. **APPLICANT INDEMNIFICATION.** APPLICANT agrees to indemnify, defend, and save harmless COUNTY, its elected officials, officers, employees, agents, and volunteers from and against any and all liability which may arise as a result of the installation of the Improvements prior to COUNTY'S initial acceptance of the Improvements as defined herein, and from and against any and all liability which may arise as a result of any Improvements which are found to be defective during the warranty period covered by this Agreement. With respect to APPLICANT'S agreement to defend COUNTY, as set forth above, COUNTY shall have the option to either provide its own defense, with all costs for such being borne by APPLICANT, or require that APPLICANT undertake the defense of COUNTY.

17. **FINAL RELEASE OF PROCEEDS.** In the event the Improvements have been installed to the satisfaction of COUNTY and the Fees have been paid pursuant to this Agreement and COUNTY ordinances within the above stated time period(s), COUNTY agrees to execute a written release to Escrow Account Repository or Financial Institution of the remaining Proceeds.

18. **DEMAND FOR AND USE OF PROCEEDS.** In the event APPLICANT fails to install Improvements to the satisfaction of COUNTY, or the Fees are not paid pursuant to this Agreement and COUNTY ordinances within the above stated time period(s), or APPLICANT Defaults on any obligation under this Agreement or COUNTY ordinances, as determined at the sole discretion of COUNTY, COUNTY shall send Notice of APPLICANT'S Default to Escrow Account Repository or Financial Institution with a written demand for the release of Proceeds. COUNTY may, at its sole discretionary option, use and expend all the Proceeds or such lesser amount as may be estimated by COUNTY to be necessary to complete Improvements, pay Fees, and/or reimburse COUNTY for Incidental Costs as required herein.. COUNTY may, at its sole discretionary option, convert the Proceeds to a COUNTY held cash escrow for future satisfactory installation of Improvements.

19. **INADEQUATE PROCEEDS.** If the Proceeds are inadequate to pay the cost of the completion of the Improvements according to COUNTY standards or to pay the Fees or to compensate for Incidental Costs, for whatever reason, including previous reductions, APPLICANT shall be responsible for the deficiency independent of the Financial Guarantee. Additionally, no further approvals, permits or business licenses shall be issued, and any existing approvals, permits or business licenses applicable to the location of the Improvements may be immediately suspended or revoked by COUNTY'S Community and Economic Development Director until the Improvements are completed and the Fees are paid, or, until a new guarantee acceptable to the COUNTY has been executed to insure completion of the remaining Improvements and payment of the Fees. Furthermore, the cost of completion of the Improvements shall include reimbursement to COUNTY for all costs including, but not limited to, construction costs and any Incidental Costs incurred by COUNTY in completing the Improvements or collecting the Proceeds.

20. **ACCESS TO PROPERTY.** Should COUNTY elect to use the Proceeds to complete the Improvements, APPLICANT herein expressly grants to COUNTY and any contractor or other agent hired by COUNTY the right of access to the Project property to complete the Improvements.

21. **IMPROVEMENT STANDARDS.** Improvements shall be done according to the specifications and requirements of the COUNTY. All work shall be subject to the inspection of COUNTY. Any questions as to conformity with COUNTY specifications or standards, technical sufficiency of the work, quality, and serviceability shall be decided by the County Engineer. The County Engineer's decision shall be final and conclusive.

22. **SUBSTANDARD IMPROVEMENTS.** Should any Improvements prove to be substandard or defective within the timeframe specified in paragraph 14, COUNTY shall notify APPLICANT in writing of such substandard or defective Improvements. APPLICANT shall then have 15 days from Notice from the COUNTY in which to commence repair of the Improvements, and a reasonable amount of time, as determined by COUNTY, which shall be specified in the Notice, to complete repair of the Improvements. Should APPLICANT fail to either commence repair of the Improvements or complete repair of the Improvements within the required time periods, COUNTY may exercise its option to remedy the defects and demand payment for such from APPLICANT, should the Proceeds be insufficient to cover the costs incurred by COUNTY.

23. **INSURANCE.** Should COUNTY elect to install, complete, or remedy any defect or damage in the Improvements, APPLICANT shall be responsible for the payment of the premium for an insurance policy covering any liability, damage, loss, judgment, or injury to any person or property, including, but not limited to, damage to APPLICANT or its property as a result of the work of any contractor or agent hired by COUNTY to complete or remedy the Improvements. The minimum dollar amount and the scope of coverage of the insurance policy shall be determined and set by COUNTY. APPLICANT shall indemnify, defend, and hold harmless COUNTY, its officers, employees, and agents for any liability which exceeds the insurance policy limit. COUNTY, at its option, may collect and expend the Proceeds to make the premium payments should APPLICANT fail to pay said premium. No permit, approval or business license shall be issued by COUNTY, and any existing permit, approval, or business license shall be suspended until said premium is initially paid and a bond is in place to cover subsequent payments.

24. **NOTICE.** Notice to any party herein shall be mailed or delivered to the address shown in this Agreement. The date Notice is received at the address shown in this Agreement shall be the date of actual Notice, however accomplished.

25. **MECHANIC/MATERIAL LIENS.** Should COUNTY elect to complete or remedy the Improvements, APPLICANT shall indemnify, defend, and hold harmless COUNTY from and against any liability which exceeds the Proceeds for the payment of any labor or material liens as a result of any work of any contractor (including subcontractors and materialmen of any such contractor or agent) hired by COUNTY or which may arise due to either a defect in or failure of this Agreement or insufficient Proceeds to cover such costs.

26. **WAIVER.** The failure by any party to insist upon the immediate or strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a Default thereof shall not constitute a waiver of any such Default or any other covenant, agreement, term, or condition. No waiver shall affect or alter the remainder of this Agreement, but each and every other covenant, agreement, term, and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring Default.

27. **ATTORNEY'S FEES.** In the event there is a Default under this Agreement and it becomes reasonably necessary for any party to employ the services of an attorney in connection therewith, either with or without litigation, on appeal or otherwise, the losing party to the controversy shall pay to the successful party reasonable attorney's fees incurred by such party, and, in addition, such costs and expenses as are incurred in enforcing this Agreement.

28. **TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement. In case either party shall Default on its obligations at the time fixed for the performance of such obligations by the terms of this Agreement, the other party may pursue any and all remedies available in equity or law.

29. **GOVERNING LAW.** This Agreement shall be interpreted pursuant to, and the terms thereof governed by, the laws of the State of Utah. This Agreement shall be further governed by COUNTY ordinances in effect at the time of the execution of this Agreement. However, the parties expressly acknowledge that any subdivision or other development regulations enacted after the execution of this Agreement, which are reasonably necessary to protect the health, safety, and welfare of the residents of COUNTY, shall also apply to the subdivision or development which is the subject of this Agreement.

30. **SUCCESSORS.** "APPLICANT" and "COUNTY," as used in this Agreement, shall also refer to the heirs, executors, administrators, successors, or assigns of APPLICANT and COUNTY respectively.

31. **INDUCEMENT.** The making and execution of this Agreement has been induced by no representations, statements, warranties, or agreements other than those herein expressed.

32. **INTEGRATION.** This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter herein.

33. **MODIFICATION.** Except as otherwise authorized by this Agreement, this instrument may be amended or modified only by an instrument of equal formality signed by the respective parties.

34. **CAPTIONS.** The titles or captions of this Agreement are for convenience only and shall not be deemed in any way to define, limit, extend, augment, or describe the scope, content, or intent of any part or parts of this Agreement.

35. **SEVERABILITY.** If any portion of this Agreement is declared invalid by a court of competent jurisdiction, the remaining portions shall not be affected thereby, but shall remain in full force and effect.

36. **TERMINATION.**

- (a) APPLICANT cannot unilaterally terminate its obligations under this Agreement.
- (b) If, under the terms of this Agreement, COUNTY releases the full amount of the Proceeds or demands and receives the full remaining amount of the Proceeds, then APPLICANT'S obligations under paragraphs 4 and 10 shall terminate.
- (c) All rights and obligations in this Agreement that are not terminated under sub-paragraph (b) shall survive until all applicable statutes of limitations have run with respect to the types of claims that may be associated with those rights and obligations.
- (d) The entire Agreement shall terminate when all applicable statutes of limitations have run or when the parties jointly execute an agreement to terminate this Agreement.

37. **CONFLICT.** Any conflict between this Agreement and its exhibits or any other document shall be interpreted against the exhibit or other document and in favor of statements made in the numbered paragraphs of this Agreement.

WHEREUPON, the parties hereto have set their hands the day and year first above written.

"APPLICANT"

By: *[Handwritten Signature]*
Applicant Signature

9-6-17
Date

Title: Managing Member.
(Signature must be notarized on following pages.)

"COUNTY"

By: _____
Commission Chair

Date

ATTEST: _____
County Clerk

Date:

APPROVED AS TO CONTENT:

By _____
Planning Division Director

Date

By _____
County Engineer

Date

By _____
County Treasurer

Date

APPROVED AS TO FORM:

By _____
County Attorney

Date

COMPLETE ONLY IF APPLICANT IS A LIMITED LIABILITY COMPANY

State of Utah)
County of Weber)
:SS

On this 6 day of Sept, 2017, personally appeared before me John L. Lewis [name of person(s)], whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who affirmed that he/she is the Member [title] of The Bridges Holding Company [name of LLC], limited liability company, by authority of its members or its articles of organization, and he/she acknowledged to me that said limited liability company executed the same.

Angela Martin
Notary Public



Exhibit A: County Engineer-Approved Cost Estimate

		The Bridges	Weber County					
		Mountainside Phase 1						
		09.12.2017	Escrow Amount				Completed	Remaining
		Description	Qty	Unit	Price	Cost		
ROADWAY	A ROADWAY							
	1	Clear and Grub	2832	SY	1.00	2,832.00	2,200.00	632.00
	2	Roadway Earthworks - Cut	6237	CY	2.00	12,474.00	9,960.00	2,514.00
	3	Roadway Earthworks - Fill	4499	CY	2.00	8,998.00	7,200.00	1,798.00
	4	6" Base Coarse	1586	TON	18.69	29,642.34	0.00	29,642.34
	5	8" Sub Base Coarse	2042	TON	17.19	35,101.98	0.00	35,101.98
	6	3" Asphalt	821	TON	83.23	68,331.83	0.00	68,331.83
	7	Slurry Seal	4860	SY	2.50	12,150.00	0.00	12,150.00
	8	Curb and Gutter	2994	LF	19.80	59,281.20	0.00	59,281.20
	9	Ditch/Swale	80	LF	5.00	400.00	0.00	400.00
					229,211.35	19,360.00	209,851.35	
WATER	B CULINARY WATER							
	1	10" Ductile Iron CI 51 Waterline	186	LF	44.21	8,223.06	0.00	8,223.06
	2	10" Gate Valve	1	EA	2,950.97	2,950.97	0.00	2,950.97
	1	8" Ductile Iron CI 51 Waterline	1460	LF	27.76	40,529.60	0.00	40,529.60
	2	8" Gate Valve	3	EA	2,274.96	6,824.88	0.00	6,824.88
	3	1" Copper Service Lateral, Meter w/ Box	24	EA	1,276.13	30,627.12	0.00	30,627.12
	4	Temporary Blowoff	1	EA	1,981.16	1,981.16	0.00	1,981.16
	5	Install Fire Hydrant Assembly	4	EA	5,293.96	21,175.84	0.00	21,175.84
	6	PRV Station	0	EA	30,120.93	0.00	0.00	0.00
	7	Install Airvac	1	EA	4,500.00	4,500.00	0.00	4,500.00
9	Connect to Existing Main	0	EA	2,943.37	0.00	0.00	0.00	
10	Import	1380	TON	16.18	22,328.40	0.00	22,328.40	
					139,141.03	0.00	139,141.03	
SEWER	C SANITARY SEWER							
	1	8" PVC SDR 35 Sewer Line	5529	LF	47.42	262,185.18	207,072.68	55,112.50
	2	4" Lateral lines and Connections	24	EA	690.05	16,561.20	16,561.20	0.00
	3	Install 4' Sanitary Sewer MH	15	EA	3,452.04	51,780.60	37,972.44	13,808.16
	4	Install 5' Sanitary Sewer MH	5	EA	3,979.34	19,896.70	19,896.70	0.00
	5	Drop Manhole	3	EA	5,989.78	17,969.34	17,969.34	0.00
	6	Connect to Existing	0	EA	3,093.37	0.00	0.00	0.00
	7	Import	7300	TON	16.18	118,114.00	64,395.27	53,718.73
					486,507.02	363,867.63	122,639.39	
STORM	D STORM DRAIN							
	1	12" RCP CL III Storm Drain	89	LF	0.00	0.00	0.00	0.00
	2	15" RCP CL III Storm Drain	1570	LF	45.78	71,874.60	0.00	71,874.60
	3	24" RCP CL III Storm Drain	0	LF	0.00	0.00	0.00	0.00
	4	30" RCP CL III Storm Drain	91	LF	72.54	6,601.14	0.00	6,601.14
	4	36" RCP CL III Storm Drain	0	LF	72.43	0.00	0.00	0.00
	5	24" X 48" CB w/bicycle grate	11	EA	2,842.43	31,266.73	0.00	31,266.73
6	4'x4' Storm Drain Box	0	EA	2,816.42	0.00	0.00	0.00	
7	Install 4' Storm Drain MH	1	EA	2,522.35	2,522.35	0.00	2,522.35	

	8	Install Pond Outlet Control Box	0	EA	3,089.29	0.00	0.00	0.00
	9	8" PVC Storm Drain	50	LF	20.00	1,000.00	0.00	1,000.00
	10	Pond excavation	1460	CY	11.48	16,760.80	0.00	16,760.80
	11	Import	1500	TON	16.18	24,270.00	0.00	24,270.00
						154,295.62	0.00	154,295.62
	E	SECONDARY WATER						
SECONDARY	1	8" PVC C900	1655	LF	17.25	28,548.75	0.00	28,548.75
	2	8" Gate Valve	1	EA	2,194.14	2,194.14	0.00	2,194.14
	3	4" Drain Valve	2	EA	2,337.27	4,674.54	0.00	4,674.54
	4	Single Service Connection	4	EA	949.25	3,797.00	0.00	3,797.00
	5	Double Service Connection	10	EA	1,505.96	15,059.60	0.00	15,059.60
	6	Temporary Blowoff	1	EA	1,116.45	1,116.45	0.00	1,116.45
	7	Install Airvac	1	EA	4,500.00	4,500.00	0.00	4,500.00
	8	Connect To Existing Main	0	EA	1,269.07	0.00	0.00	0.00
	9	Import	980	TON	16.18	15,856.40	0.00	15,856.40
					75,746.88	0.00	75,746.88	
	F	OTHER SITE COSTS						
SITE COSTS	1	Entry Bridge/Monument	0	EA	40,000.00	0.00	0.00	0.00
	2	Landscaping	0	EA	40,000.00	0.00	0.00	0.00
	3	Trails	2140	EA	10.00	21,400.00	0.00	21,400.00
	4	Rock Walls	0	EA	0.00	0.00	0.00	0.00
	5	Reseeding/Stabilization Road Cuts	0	EA	0.00	0.00	0.00	0.00
	6	Combo Street/Stop Signs	2	EA	250.00	500.00	0.00	500.00
	7	Street Signs	0	EA	0.00	0.00	0.00	0.00
	8	Mailbox (In Parkside)	0	EA	2,500.00	0.00	0.00	0.00
					21,900.00	0.00	21,900.00	
		TOTAL CONSTRUCTION				1,106,801.90		
		10% CONTINGENCY				110,680.19		
		TOTAL				1,217,482.09		
		COMPLETED WORK				383,227.63		
		REMAINING				723,574.27		
		TOTAL ESCROW				834,254.46		

Exhibit B: Reserved for Escrow Certificate or Letter of Credit



IRREVOCABLE STANDBY LETTER OF CREDIT

September 14, 2017

Beneficiary:
Weber County
2380 Washington Blvd.
Ogden, Utah 84401

Applicant:
The Bridges Holding Company, LLC
3718 North Wolf Creek Drive
Eden, Utah 84310

LOC Number: 20715
Project Name: Mountainside PRUD Phase I
Eden, Utah 84310
Amount (USD): \$834,255.00
Expiration Date: September 14, 2019

WEBER COUNTY:

We hereby establish this Irrevocable Standby Letter of Credit No. 20715 (the "LOC"), in favor of Weber County (the "County"), for the Account of The Bridges Holding Company, LLC up to an aggregate amount of Eight Hundred Thirty-Four Thousand Two Hundred Fifty-Five U.S. Dollars (\$834,255.00) available by your draft at sight drawn on us. This LOC is issued to secure the completion and installation of improvements (the "Improvements") required under that certain Improvements Guarantee Agreement (the "Agreement") made between The Bridges Holding Company, LLC and the County dated September 6, 2017.

Each draft must be accompanied by (i) a certification from the Weber County Engineer that The Bridges Holding Company, LLC is in default under the terms and conditions set forth in the Agreement; (ii) by this original LOC along with originals of all amendments; and (iii) by a sight draft signed by the Weber County Engineer. The original LOC shall be returned to the County if the sight drafts on the LOC have not exhausted the full amount of credit.

Each sight draft drawn under this LOC must state "Drawn Under America First Federal Credit Union Irrevocable Standby Letter of Credit No. 20715, dated September 14, 2017, to satisfactorily complete such improvements as are required by the Improvements Guarantee Agreement between The Bridges Holding Company, LLC and the County, dated September 6, 2017." America First Federal Credit Union is entitled to rely upon the certification from the Weber County Engineer and will have no obligation to independently verify the accuracy thereof.

Partial drawings and multiple drawings are permitted. Each time the County inspects and approves a portion of the required improvements, the amount eligible to be drawn under this Letter of Credit will be reduced by the value assigned by the County to the approved improvements.

Members come first.™

This LOC shall expire Twenty-four (24) months from the date hereon unless the County shall have released The Bridges Holding Company, LLC from all further liability hereunder upon the timely and satisfactory completion of the Improvements.

The proceeds of said drafts will be retained and used by the County to meet any expenses arising out of the satisfactory completion of the Improvements identified in the Agreement. Upon the final completion and acceptance of the performance required under the Agreement, there will be refunded to us by the County any balance remaining after application by the County of the sums necessary from the proceeds of the drafts(s) to pay costs incurred in satisfactorily completing the Improvements.

This LOC is issued and shall be subject to the International Standby Practices (ISP98) or any subsequent revision thereto, to the extent that it does not conflict with Utah Code Annotated Sections 70A-5-101 *et seq.* (1953 as amended). Jurisdiction for resolution of disputes arising under this LOC lies in the courts of Salt Lake County, Utah.

We hereby agree with drawers, endorsers and bona fide holders of drafts that all drafts drawn under and in compliance with the terms of this LOC shall be honored by us and payment made no later than three (3) business days after delivery of documents as specified on or before the expiration date of this LOC.

In the event America First Federal Credit Union is placed into receivership, becomes insolvent, or files for bankruptcy, the County shall be immediately notified. The County may consider this a default event and require the issuance of a new irrevocable standby letter of credit.

America First Federal Credit Union

By: 
Title: VP Business