

64/9
SOUTH WEBER CITY
1600 East South Weber Drive
South Weber, UT 84405

ESCROW PLANNED UNIT DEVELOPMENT (P.U.D.) AGREEMENT

THIS AGREEMENT entered into this 9th day of April, 2003,
between America West Development, LC, of
Name
887 North McCormick Way Layton, Utah,
Complete Address

a Corporation/Partnership/Person (**Circle One**), hereinafter called "Developer" and South
Weber City, a municipal corporation and political subdivision of the State of Utah, located
in Davis County, hereinafter called "City", and America West Bank,
Name of Financial Institution
of 1010 North Hillfield Road Layton, Utah,
Complete Address

hereinafter called "Escrow". The above named parties agree as follows:

RETURNED
MAY 19 2003

E 1867827 B 3293 P 2103
RICHARD T. MAUGHAN, DAVIS CNTY RECORDER
2003 MAY 19 1:33 PM FEE 64.00 DEP DJW
REC'D FOR SOUTH WEBER CITY

WITNESSETH:

1. Developer's Purpose for Escrow Agreement. Developer is desirous of developing and recording a proposed Planned Unit Development (P.U.D.) of land in South Weber, Davis County, Utah said Planned Unit Development (P.U.D.) to be known as Erickson Meadow PUD - Phase 2, approximately in the
Name of Planned Unit Development (P.U.D.)
location of Lots 201 - 233 (33 Lots), in South Weber City,
+ open space
Davis County, Utah, pursuant to City ordinances and agreements.
2. Requirements of City. The City will not accept said Planned Unit Development (P.U.D.) unless adequate provisions are made for the guaranteed construction or

installation of the off-site improvements in said Planned Unit Development (P.U.D.). Said improvements are to be installed in accordance with the specifications of the City and South Weber City ordinances as described and set forth in the "Developer's Agreement".

3. Guarantee of Improvements. To guarantee satisfactory installation and construction of the Planned Unit Development (P.U.D.) improvements within the time set forth in the Developer's Agreement, the Developer has deposited with the Escrow on account an amount equal to the total of the cost of the improvements as determined by South Weber City.

4. Completion Date. Developer agrees to complete the improvements within two (2) years of the date of approval by the City Council of the Developer's final plat, and City shall be entitled to specifically enforce this agreement against Escrow or Developer after the two year period unless an extension has been granted pursuant to the terms of the Developer's Agreement.

5. Escrow Funds. Developer hereby assigns and sets over to the City all its right, title and interest in the principal of that certain escrow account with Escrow entitled "Trust Account of America West Development, LC", in the amount of \$ 305,808.13, ^{Name of the Trust Account} Loan Disbursement, _{Trust Account Number} _____ (including 10% of the total cost to be retained by City as a guarantee amount), which

has been deposited with Escrow prior to this Agreement being signed by Escrow. The City therefore has first priority to these funds for the purposes stated herein.

6. Release of Funds. As the improvements required are installed and 'initially accepted', the funds in the escrow account will be authorized by the City to be released for the payment of those improvements, provided that no funds will be released until after the plat of the (PUD) has been recorder with the Davis County Records Office. The City shall notify Escrow's agent in writing as to the installation of the improvement and the amount to be released. Escrow is entitled to release funds from this account only after receiving written notification from the City. The City is not responsible for determining the party to be paid.

Ten percent (10%) of the total estimated cost of the improvements, other than sidewalk improvements, shall constitute a guarantee that the said off-site improvements are installed in accordance with the subdivision standards of the City as to quality and serviceability and shall be held by the City until the City Council, upon recommendation by the Public Works Director, has granted final acceptance of the improvements, other than sidewalk improvements.

Ten percent (10%) of the total estimated cost of the sidewalk improvements shall constitute a guarantee that the said off-site improvements are installed in accordance with the subdivision standards of the City as to quality and serviceability and shall be held by the City until the City Council, upon recommendation by the Public Works Director, has granted final acceptance of the sidewalk improvements.

If the improvements have not been installed, for whatever reason, to the satisfaction of the City in accordance with the provisions of said Developer's Agreement, and the Developer's time period for doing the work has expired, then upon receipt of written notice from the City, Escrow shall pay over to the City, the amount estimated by the Public Works Director and/or City Engineer to satisfactorily complete or repair the improvements or the actual cost of the work. In the event that the costs of replacing said improvements are less than the amount of deposit delivered to the City, the excess deposit shall be paid to the developer or his assignee. If the costs exceed the amount of the remaining escrow funds, the developer shall, within ten (10) days of notice thereof, pay an amount equal to excess cost to the City. In the event the needed improvements will exceed the escrow amount, the City shall not issue any building permits in the Planned Unit Development (P.U.D.) until the cost of all improvements, including a 10% retention guarantee, is secured through a deposit into the escrow account.

It is agreed that the said 10% shall constitute a guarantee that the said improvements shall perform to a level of service acceptable to the City. It is agreed that the City shall inspect said improvements before granting initial acceptance. If the City determines that the improvements have not met an acceptable level of service, the Developer shall be responsible to make repair or replacement, as designated by the City. It is agreed that if the developer should fail to make repair or replacement satisfactory to the City, the City shall apply the said 10% toward repair or replacement of such improvements in accordance with City standards. It

is agreed that should the sum so retained be insufficient to pay the cost of such repairs or replacements, the developer will pay the difference on demand. The City shall not issue any additional building permits until the improvements needing repair or replacement are completed and again accepted.

The Developer may apply for final acceptance of the improvements, other than sidewalk improvements, not less than one year from the time of the last initial acceptance of said off-site improvements. City approval of repairs or replacements of said improvements shall constitute an initial acceptance. The City Council, upon recommendation by the Public Works Director, shall grant final approval of improvements, other than sidewalk improvements, provided the said off-site improvements have proved to have been constructed or installed in accordance with the standards of the City as to quality and serviceability, in matters of design, materials and workmanship. Upon final acceptance, the said 10%, or its remainder, shall be returned to the Developer.

The Developer may apply for final acceptance of the sidewalk improvements not less than one year from the time of the last initial acceptance of said off-site improvements. City approval of repairs or replacements of said improvements shall constitute an initial acceptance. The City Council, upon recommendation by the Public Works Director, shall grant final approval of sidewalk improvements provided the said off-site improvements have proved to have been constructed or installed in accordance with the standards of the City as to quality and serviceability, in matters of design, materials and workmanship. Upon final acceptance, the said

10%, or its remainder, shall be returned to the Developer.

7. In the event that the City makes emergency repairs to any of the required improvements during the one-year guarantee period, it shall have the right to notify Escrow of the costs of those emergency repairs and Escrow shall pay those costs out of the escrow account. Escrow shall then notify Developer of the amount of the payment made and Developer shall deposit the funds necessary to replenish the escrow account.
8. This Agreement does not supersede, but implements the Developer's Agreement with the City and the South Weber City Planned Unit Development (P.U.D.) ordinances and all other ordinances and regulations applicable to the Planned Unit Development (P.U.D) of land and construction of homes or other units thereon, and Developer agrees to comply in all respect with the provisions of said agreement and said ordinances. No provisions of this Agreement shall limit the City in its right or remedies under the said Developer's Agreement with the City or said Planned Unit Development (P.U.D.) Ordinance or other applicable building ordinances or regulations.

WHEREUPON, the parties hereto have signed the day and year first written

above.

E 1867827 B 3293 P 2109

America West Bank

Name of Financial Institution

1010 North Hillfield Road Layton, Utah

Financial Institution's Complete Address

Brent Haacke - President 801 - 977-6600

Print Escrow's Authorized Agent Title Telephone

[Signature] Pres / CEO

Signature of Authorized Agent of Financial Institution

America West Development, LC 801-444-1613

Developer's Official Name

Telephone

By:

[Signature]
Signature of Authorized Agent of Developer/Title

SOUTH WEBER CITY:

-City Seal-

By:

Joseph E. Hertge
Mayor

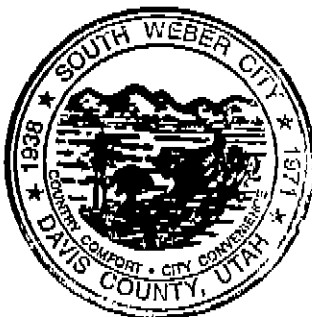
Attest:

[Signature]
City Recorder

Approved By:

[Signature]
City Engineer/Public Works Director

[Signature]
City Manager



Revised 1Jan03

ACKNOWLEDGMENT OF ESCROW

E 1867827 B 3293 P 2110

STATE OF UTAH)
COUNTY OF Weber) : ss

On the 9th day of April, 20 03,
personally appeared before me Brent Haacke, who being
by me duly sworn did say that he/she is the President of
America West Bank, a corporation, and Escrow named in the
foregoing Escrow Agreement, and the Escrow Agreement was signed in behalf of said
corporation by his/her signature and said America West Bank corporation
executed the same and Escrow acknowledges that there a deposit at
America West Bank, a sum of money in the amount of \$
365,868.13, pursuant to the terms of this Escrow Agreement.

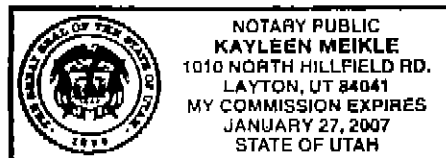
Kayleen Meikle

Notary Public

Residing at Davis

My Commission Expires:

1-27-07



**ACKNOWLEDGMENT OF DEVELOPER IF AN INDIVIDUAL,
ASSOCIATION OR PARTNERSHIP**

E 1867827 B 3293 P 2111

State of Utah)
County of DAVIS) : ss

On the 28th day of April, 20 03, personally appeared
before me Ron Martinez, the signer(s) of the above
instrument, who duly acknowledged to me that he executed the same on behalf of himself
as an individual, or an association or partnership. If for an association or partnership,
Ron Martinez acknowledges himself/~~herself~~ to be legally
authorized to act on behalf of said association or partnership by executing the foregoing
Developer's Agreement in his/~~her~~ capacity as an associate or partner.

Jeanne W. Crozier
Notary Public

Residing at: Davis, Utah

My Commission Expires:

1-26-2006

