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FILE

SOUTH WEBER CITY  
1600 East South Weber Drive  
South Weber, UT 84405

DEVELOPER'S PLANNED UNIT DEVELOPMENT (P.U.D.) AGREEMENT WITH  
SOUTH WEBER CITY

America West Development, of 887 N. McCormick Wy. Layton, UT  
(Name of Business) LC (Address of Business)

County of DAVIS, State of Utah, hereinafter

referred to as Developer, and South Weber City Corporation, a municipal corporation of the State of Utah located in Davis County, hereinafter referred to as the City, hereby agree as follows:

1. Preliminary. Developer has presented to the South Weber City Planning Commission and the South Weber City Council a proposed final plat for the subdivision of, and construction of improvements on, certain land in South Weber City to be known as Erickson Meadows PUD-Phase 1 (J01-J33) Planned Unit  
(Name of Development and Phase) 2 Open spaces

Development (P.U.D.). As consideration for the granting of said approval and acceptance, Developer has agreed and does now agree to the provisions hereof and all other ordinances of South Weber City.

2. Compliance with Planned Unit Development (P.U.D.) Standards. Developer agrees to comply with all of the ordinances, rules, regulations, requirements and standards of the City with respect to the construction and completion of said Planned Unit Development (P.U.D.), and particularly to install and complete all of the off-site improvements required, within the time hereinafter stated, including but not limited to the following:

- a. Rough grading and finish grading and surfacing of streets.
- b. Curbs, gutters, waterways, and driveway approaches.
- c. Street drainage and drainage structures.

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RICHARD T. MAUGHAN, DAVIS CNTY RECORDER  
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- d. Water lines, including laterals to each property line of lot.
- e. Fire Hydrants.
- f. Sidewalks and walkways.
- g. Traffic control signs.
- h. Street signs with numbers.
- i. Screening where required.
- j. Money for chip and seal to be paid to the City in addition to 10% guarantee.
- k. Monuments.
- l. Fencing when required.
- m. \_\_\_\_\_

Said improvements and any others designated shall be done according to the specifications and requirements of the City. All work shall be subject to the inspection of South Weber City and any questions as to the conformity with the City specifications or standards or as to the technical sufficiency of the work shall be decided by the City Construction Staff and their decision shall be final and conclusive.

Developer agrees as consideration for the City issuing building permits after initial acceptance of improvements to allow the City to collect and retain utility fees for the time between initial and final acceptance of the utility lines.

Building permits will be issued on condition that all improvements necessary to satisfy fire code requirements have been installed on the lot for which a building permit is sought and that

enough security is held in escrow to complete all required improvements for the Planned Unit Development (P.U.D.), including any repairs or replacement after initial installation.

3. Time for Completion and Extension of Time. All of the said off-site improvements shall be fully installed and completed within two (2) years from the date of this agreement. If not completed within two years, the Subdivider may apply to the Planning Commission and the City Council for a maximum extension of time of one year. Said extension shall be subject to adequate security for the completion of said improvements being made by increasing the amount of the escrow account.

4. Landscaping - The Developer agrees to complete the landscaping of the common area green or open space within two (2) years from the time the first building permit is issued or when fifty percent (50%) of the building permits have been issued, whichever comes first. If the landscaping has not been installed, for whatever reason, to the satisfaction of the City in accordance with the provisions of this 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 said improvements are less than the amount 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 the excess cost of 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, include a 10% retention guarantee, is secured through a deposit into the escrow amount.

5. Security for Compliance. As security for compliance by Developer with the ordinance, rules, regulations, requirements and standards of the City and of the Developer's agreements herein stated, the Developer has delivered to the City Building Official an acceptable third-party escrow agreement, approved by the City Recorder by the terms of which an acceptable third party agrees to hold \$ 305,909.13, (which represents the cost of all required improvements as determined by the City Engineer and Public Works Director), in escrow for the use of the City in the event of the Developer's failure or refusal to install, complete, construct, repair or replace any off-site improvements in accordance with the provisions of this agreement, the escrow agreement and all City codes and ordinances. The decision of the City as to whether an improvement needs to be installed, constructed, completed or replaced will be final.

Should the Developer fail or refuse to complete the said off-site improvements in accordance with the provisions hereof within the time stated, or should the Developer become insolvent before completion thereof, then the City may, at its option, determine the cost of completing said off-site improvements on the basis of

reliable estimates and bids and may apply all sums deposited in escrow against the said cost of completion and may proceed to legally obtain the escrow funds and use the proceeds therefrom to pay the cost of completing the said off-site improvements and to pay all related expenses including but not limited to court cost and attorney's fees. If the funds in the escrow account are insufficient to complete the improvements, the City may complete the improvements and collect the difference from the Developer.

Ten percent (10%) of the total estimated cost of the improvements shall constitute a guarantee that the said off-site improvements are installed in accordance with the Planned Unit Development (P.U.D.) standards of the City as to quality and serviceability and shall be held by the City for a period of one (1) year from the time the last improvement is "initially accepted" by the City or until one (1) year after the time the last improvement needing repair or replacement is again accepted. At the end of the one year period the said 10% shall be returned to the Developer provided the off-site improvements have proved to have been constructed or installed in accordance with the standards of the City as to quality and serviceability, otherwise, to be applied toward construction or installation of such improvements in accordance with City standards or the repair of same so as to bring them into conformity with such standards. It is agreed that should the sum so retained be insufficient to pay the cost of constructing or installing such improvements in accordance with City standards or repairing or replacing the same so as to bring them into

conformity with City standards, the ~~Developer~~ <sup>will</sup> ~~pay~~ <sup>1867828</sup> the difference to the City on demand. The City shall not issue any building permits until the improvements needing repair, replacement, etc., are completed and again accepted.

6. Applicability of Ordinance. This agreement does not supersede, but implements the South Weber City Planned Unit Development (P.U.D.) Ordinance and all other ordinances and regulations applicable to the subdivision of land and construction of improvements thereon, and the Developer agrees to comply in all respects with the provisions of said ordinances. No provision of this agreement shall limit the City in its rights or remedies under said Planned Unit Development (P.U.D.) ordinance or other applicable building ordinances.

7. Successors Enforcement. The terms of this agreement shall be binding upon the parties hereon, their heirs, executors, administrators, assigns or any parties legally acquiring the parties interest through foreclosure, trust deed sale, bankruptcy or otherwise. In the event either party must take legal action to enforce the terms of this agreement, the prevailing party shall have costs of court, including a reasonable attorney's fee.

IN WITNESS WHEREOF, the undersigned parties have executed this  
agreement this 9 day of April, 2003.

America West Development, LC

Developer's Business Name

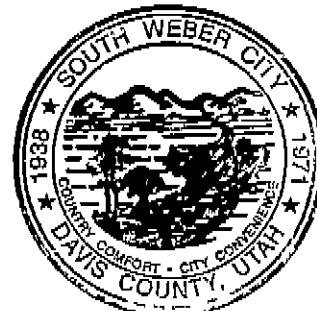
John Miller  
By: John Miller Title: Manager

SOUTH WEBER CITY:

Joseph E. Hertge  
By: Joseph E. Hertge Mayor

ATTEST:

Ginger L. Miller  
Ginger L. Miller  
City Recorder



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

State of Utah )  
: ss  
County of Davis )

On the 28 day of April, 2003, 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 County

My Commission Expires:

1.26.2006

