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8 *Counsel for American West Development, Inc.*

9 **UNITED STATES BANKRUPTCY COURT**

10 **DISTRICT OF NEVADA**

11 In re  
12 **AMERICAN WEST DEVELOPMENT, INC.,**  
13 a Nevada corporation,  
14 fdba Castlebay 1, Inc.  
15 fdba Development Management, Inc.  
16 fdba Fairmont 1, Inc.  
17 fdba Glen Eagles 3, Inc.  
18 fdba Heritage 1, Inc.  
19 fdba Inverness 5, Inc.  
20 fdba Kensington 1, Inc.  
21 fdba Kingsbridge 1, Inc.  
22 fdba Promontory Estates, LLC  
23 fdba Promontory Point 4, Inc.  
24 fdba Silverado Springs 1, Inc.  
25 fdba Silverado Springs 2, Inc.  
26 fdba Tradition, Inc.  
27 fdba Windsor 1, Inc.,  
28 Debtor.

Case No. BK-S-12-12349-MKN

Chapter 11

**NOTICE OF ENTRY OF ORDER RE:  
FINAL DECREE CLOSING  
CHAPTER 11 CASE OF AMERICAN  
WEST DEVELOPMENT, INC.**

Hearing Date: August 13, 2012  
Hearing Time: 10:00 a.m.

25 **PLEASE TAKE NOTICE** that on the 21st day of August 2013, the Court entered an Order  
26 Re: Final Decree Closing Chapter 11 Case of American West Development, Inc.

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1 [Docket No. 1034], a copy of which is attached hereto.

2 Dated this 21st day of August, 2013.

3 **FOX ROTHSCHILD LLP**

4 By /s/ Brett A. Axelrod

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Honorable Mike K. Nakagawa  
United States Bankruptcy Judge



Entered on Docket  
August 21, 2013

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*Counsel for American West Development, Inc.*

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re

AMERICAN WEST DEVELOPMENT,  
INC., a Nevada corporation,

- fdba Castlebay 1, Inc.
- fdba Development Management, Inc.
- fdba Fairmont 1, Inc.
- fdba Glen Eagles 3, Inc.
- fdba Heritage 1, Inc.
- fdba Inverness 5, Inc.
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- fdba Promontory Point 4, Inc.
- fdba Silverado Springs 1, Inc.
- fdba Silverado Springs 2, Inc.
- fdba Tradition, Inc.
- fdba Windsor 1, Inc.,

Debtor.

Case No. BK-S-12-12349-MKN

Chapter 11

**ORDER RE: FINAL DECREE  
CLOSING CHAPTER 11 CASE OF  
AMERICAN WEST DEVELOPMENT,  
INC.**

Hearing Date: August 13, 2013  
Hearing Time: 10:00 a.m.

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1 The *Amended Motion for Final Decree to Close Case* [Docket No. 963] ("Closure Motion")  
2 brought by American West Development, Inc. ("AWDI") was heard by the Court on July 23, 2013, with  
3 the appearances of counsel as noted on the record. Also present was Jacqueline Nares, the Controller of  
4 AWDI and declarant under two declarations [Docket Nos. 964 and 972] filed in support of the Closure  
5 Motion. After oral arguments were presented, the matter was taken under submission. On July 29, 2013,  
6 an order [Docket No. 1018] (the "Order") on the Closure Motion was entered.

7 The Order found and concluded that there is no apparent dispute that AWDI's first amended  
8 plan of reorganization [Docket Nos. 714 and 784] had been substantially consummated and all of the  
9 factors typically considered under Federal Rule of Bankruptcy Procedure 3022 for full administration of  
10 a chapter 11 estate are present, except for the lack of final orders on the Contested Matters (as defined  
11 below). Therefore, the Order set a status hearing for August 13, 2013 at 10:00 a.m. (the "Status  
12 Hearing") for the limited purpose of determining whether the orders on the Field Fee Application (as  
13 defined in the Order), the Moore Fee Application (as defined in the Order), the Revocation Motion (as  
14 defined in the Order) and the Precautionary Motion (as defined in the Order) (collectively, the  
15 "Contested Matters") had become Final Orders within the meaning of AWDI's confirmed plan of  
16 reorganization.

17 At the Status Hearing, appearances of counsel were as noted in the record. Counsel for AWDI  
18 advised the Court that no appeals had been taken with respect to any of the orders on the Contested  
19 Matters, and therefore, those orders had become Final Orders within the meaning of AWDI's confirmed  
20 plan of reorganization. No other counsel who appeared expressing any disagreement, and the Court found  
21 that each of said orders was now a Final Order. The Court also noted that the Acting United States  
22 Trustee for Region 17 ("UST") had, the day before the Status Hearing, commenced a new adversary  
23 proceeding through the filing of a Complaint seeking to revoke the confirmation order entered in the  
24 above-captioned case pursuant to 11 U.S.C. § 1144 and Federal Rule of Bankruptcy Procedure 7001(5)  
25 (the "Section 1144 Action").

26 Based upon the aforementioned findings and conclusions, it is hereby ordered and decreed by  
27 the Court as follows:

28

1 1. That the Closure Motion is GRANTED to the extent set forth herein.

2 2. AWDI's case shall remain open with respect to the Section 1144 Action and without  
3 prejudice to any subsequent orders the Court may enter under Section 1144(1) of the Bankruptcy Code.

4 3. Other than as provided in paragraph two (2) above, the chapter 11 case of AWDI is  
5 hereby closed, thereby, among other things, ending AWDI's obligation to pay fees that may otherwise  
6 have been payable under 28 U.S.C. section 1930(a)(6) and make post-confirmation reports to the Office  
7 of the United States Trustee.

8 4. The granting of the Closure Motion and the closing of AWDI's chapter 11 case to the  
9 extent set forth herein, is without prejudice to (i) the Court's ability and obligation, in the event the UST  
10 prevails in the Section 1144 Action, to enter any necessary and appropriate order pursuant to 11 U.S.C. §  
11 1144(1); (ii) the UST's ability, in the event the UST prevails in the Section 1144 Action, to file any  
12 appropriate and timely filed motion under 11 U.S.C. § 350 and Federal Rule of Bankruptcy Procedure  
13 5010, seeking to reopen AWDI's chapter 11 case; (iii) the UST's ability, in the event the UST prevails in  
14 the Section 1144 Action, and after reopening AWDI's chapter 11 case, to file any appropriate and timely  
15 filed motion seeking the appointment of a trustee under 11 U.S.C. § 1112(b)(1) and 1112(b)(4)(L); (iv) the  
16 UST's ability, after reopening AWDI's chapter 11 case, to file any appropriate and timely filed motions  
17 and/or complaints under Federal Rules of Bankruptcy Procedure 9023 or 9024; and (iv) all parties'  
18 rights to respond, object and be heard with respect to items (i) through (iv) above.

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Prepared and Respectfully Submitted by:

**FOX ROTHSCHILD LLP**

By /s/Brett A. Axelrod

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**APPROVED/DISAPPROVED:**

**UNITED STATES DEPARTMENT OF JUSTICE**

By           /s/Athanasios E. Agelakopoulos            
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*Attorney for the Acting United States Trustee*  
**AUGUST B. LANDIS**

**APPROVED/DISAPPROVED:**

**SNELL & WILMER L.L.P.**

By           /s/Donald F. Ennis            
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Las Vegas, NV 89169  
*Attorneys for California Bank & Trust*

**APPROVED/DISAPPROVED:**

**SULLIVAN, HILL, LEWIN, REZ & ENGEL  
A Professional Law Corporation**

By           /s/Elizabeth E. Stephens            
Elizabeth E. Stephens, NV SBN 5788  
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*Attorneys for Successor Trustee of the American West  
Development, Inc. Construction Defect Settlement Trust*

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**CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021**

In accordance with Local Rule 9021, counsel submitting this document certifies as follows:

- The Court has waived the requirement of approval in LR 9021(b)(1).
- No party appeared at the hearing or filed an objection to the motion.
- I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below:

Athanasios Agelakopoulos – Approved

Donald F. Ennis – Approved

Elizabeth Stephens – Approved

- I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

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