



Honorable Mike K. Nakagawa  
United States Bankruptcy Judge



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Entered on Docket  
March 08, 2012

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13 UNITED STATES BANKRUPTCY COURT  
14 DISTRICT OF NEVADA

15 In re

16 AMERICAN WEST  
DEVELOPMENT, INC., a Nevada  
17 corporation,

18 Debtor.

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

Chapter 11

**ORDER AUTHORIZING PAYMENT OF  
PREPETITION CRITICAL VENDOR  
CLAIMS**

Hearing Date: March 6, 2012  
Hearing Time: 2:00 p.m.

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22 The Court, having reviewed and considered American West Development, Inc.'s ("Debtor")  
23 Motion [Docket No. 14] (the "Motion")<sup>1</sup> for an order (i) authorizing Debtor to pay certain prepetition  
24 claims of contractors, subcontractors, and certain other vendors who are currently performing on  
25 Debtor's ongoing construction and development projects, and (ii) implementing procedures for payment  
26 thereof, pursuant to sections 105(a), 363(b), 365 and 1108 of Title 11 of the United States Code (the

27 <sup>1</sup> All capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.  
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1 “Bankruptcy Code”); and upon consideration of the Omnibus Declaration of Robert M. Evans in  
2 Support of First Day Motions [Docket Nos. 56 and 57]; having reviewed and considered the Omnibus  
3 Objection of the Acting United States Trustee to Debtor’s First Day Motions (I) for Order Establishing  
4 Certain Case Management, Notice and Administrative Procedures; and (II) for Order Authorizing  
5 Payment of Prepetition Critical Vendor Claims [Docket No. 82]; and all objections to the Motion  
6 having been resolved or overruled by the Court during the hearing; and the Court having jurisdiction to  
7 consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of  
8 the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and  
9 venue being proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice  
10 of the Motion having been provided; and it appearing that no other or further notice need be provided;  
11 and the Court having determined that the relief sought in the Motion is in the best interests of Debtor, its  
12 creditors and all other parties in interest; and the Court having determined that the legal and factual  
13 bases set forth in the Motion and at the hearing establish just cause for the relief granted herein; with the  
14 Court’s findings of fact and conclusions of law stated on the record at the hearing, which are  
15 incorporated herein pursuant to Fed. R. Bankr. P. 7052, made applicable to this matter pursuant to Fed.  
16 R. Bankr. P. (“Bankruptcy Rule”) 9014(c); and after due deliberation and sufficient cause appearing  
17 therefor, it is hereby,

18 **ORDERED** that the Motion is GRANTED as modified on the record at the hearing; and,  
19 without limiting the generality of the foregoing, the Critical Vendor Procedures set forth therein are  
20 approved.

21 **IT IS FURTHER ORDERED** that Debtor is authorized to pay Critical Vendor Claims set forth  
22 on Exhibit B of the Motion, in an aggregate amount not to exceed \$500,000, subject to certain  
23 conditions and procedures described in the Motion.

24 **IT IS FURTHER ORDERED** that to the extent of the Court’s equitable authority under  
25 Bankruptcy Code section 105(a), Critical Vendors must provide Debtor with credit up to the amount of  
26 the Critical Vendor Claim paid or any payments such Critical Vendors receive will be subject to  
27 disgorgement.

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1 IT IS FURTHER ORDERED that the terms and conditions of this Order shall be immediately  
2 effective and enforceable upon its entry.

3 IT IS FURTHER ORDERED that this Court shall retain jurisdiction to hear and determine all  
4 matters arising from the implementation or interpretation of this Order.

5 IT IS FURTHER ORDERED that notice of this Motion as provided therein shall be deemed  
6 good and sufficient notice of the Motion.

7 IT IS FURTHER ORDERED that Debtor is excepted from the operation of Bankruptcy Rule  
8 6003(b).

9 IT IS FURTHER ORDERED that this Order is not subject to the 14-day stay provision of  
10 Bankruptcy Rule 6004.

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12 Prepared and Respectfully Submitted by:

13 **FOX ROTHSCHILD LLP**

14 By /s/Micaela Rustia Moore  
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18 *[Proposed] Counsel for American West Development, Inc.*

19  
20 APPROVED/DISAPPROVED:

21 **OFFICE OF THE UNITED STATES TRUSTEE**

22 BY: Athanasios Agelakopoulos  
23 Athanasios Agelakopoulos, Trial Attorney  
24 Foley Federal Building and U.S. Courthouse  
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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, OFFICE OF  
THE UNITED STATES TRUSTEE

[INSERT, AS APPLICABLE]

Approved / Disapproved

- 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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