

When recorded, please return to:
Laurie Hellstrom, City Recorder
Pleasant View City
520 Elberta Dr.
Pleasant View, Utah 84414

ESCROW AGREEMENT

For

This Escrow Agreement ("Agreement") is made this 9th , day of June , 20 ____("Effective Date"), by and between Pleasant View City, a municipal corporation of the State of Utah ("City"), and ALS Development LLC , of Plain City , Utah ("Developer"), and ~~Mountain View Title Co.~~ **BLINETSID, INC.** , of South Ogden , Utah, ("Escrow Agent"). City, Developer, and Escrow Agent may be referred to individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS City has granted Developer approvals for the construction of improvements related to a site plan in Pleasant View City, Weber County, Utah. The site plan is to be known as Rush Complex ("Project"). Exhibit A delineates the Project area and is attached as Exhibit A. Project contains Weber

County Parcel number(s): ; and

WHEREAS Developer now desires to enter into this escrow agreement as security for the public improvements required for the Project, in compliance with the ordinances and standards of the City, and with specific development approval requirements;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Parties hereby agree as follows:

AGREEMENT

1. Appoint of Escrow Agent. Kerri Jo Christofferson is hereby appointed Escrow Agent, and as Escrow Agent shall hold, in a separate escrow account, the sum specified in paragraph two (2) of this Agreement, subject to the terms and conditions set forth herein. Should Escrow Agent breach any part of this Agreement, it shall pay to City any damages as the result of its breach,

including providing of the funds from the escrow account that were erroneously dispersed to complete the improvements described in this Agreement and reasonable attorney fees and costs.

2. Deposit in Escrow. Developer shall deposit with Escrow Agent in Account No. _____ the sum of \$ 284,986.38 , which is the amount of money equal to 115% of the cost of the public improvements to be installed as required by City Ordinances, as per the City-approved Engineer's Estimate (see Exhibit B) ("Escrow Amount"). The Escrow Amount shall be divided as shown in Engineer's Estimate.

2.1. Escrow Agent certifies it has received and is in possession of the funds as described above. If at any time prior to completion of the improvements or acceptance of the improvements by the City, the City determines the amount held by Escrow Agent is not sufficient to complete the required improvements and the contingency and guarantee amounts required, Developer agrees to deposit the additional amounts into the escrow account within 30 days of receiving written or electronic notice from the City. The City shall not issue any building permits in the Project area if the cost of improvements and the security amount falls below the amount required in this agreement.

3. Application of Escrow Funds. It is agreed by all Parties that the funds indicated in paragraph two (2) of this Agreement shall be used exclusively for the purpose of paying for the costs, materials, construction, and installation of all public improvements required by the City's Ordinance and development approvals. The undersigned, including the Escrow Agent, further agree that the funds held in the escrow account shall be distributed by Escrow Agent to Developer only upon written or electronic authorization by an authorized officer of the City. City authorization will be made upon the City's letterhead, indicating review and approval by the City.

4. Limitation on Application of Funds. The Developer shall not withdraw from the escrow account, nor shall the Escrow Agent permit any withdrawal from the escrow account, funds identified as guarantee funds in paragraph five (5) below, except

as provided in paragraph six (6).

5. Guarantee Funds. A guarantee sum equal to 10% of the cost of the improvements to be installed, or \$ 23,673.99 , as shown in Exhibit B, shall remain with Escrow Agent for a period of at least one (1) year after the conditional acceptance of the improvements by the City. In the event the escrow funds do not pay for and complete in full all of the improvements required, then, upon demand by the City, Developer agrees to immediately place in escrow account, with Escrow Agent, all additional amounts necessary to complete the improvements. Developer may not use guarantee funds to complete the improvements but must place additional money in escrow account.

5.1. Unless other appropriate security is provided, a 10% guarantee fund shall be held in escrow to warrant and guarantee that the required improvements installed by Developer remain in good condition for a period of one (1) year after the date of conditional acceptance by the City as required by the City Ordinance and development approvals.

6. Default on Improvements. Should Developer fail to complete the improvements required by the City Ordinance and development approvals within two (2) years of the Effective Date of this Agreement, the City may declare the funds on deposit with the Escrow Agent forfeited, and the proceeds of the account may be used by the City to complete the improvements required by the City Ordinance. The City may also, at its sole discretion and after receiving written request from the Developer, grant the Developer one (1) additional year to install the improvements by sending the Developer notice of the extension by email, with a copy also sent to the Escrow Agent.

At the end of the required period or additional year, if the improvements have not been completed, the funds on deposit with the Escrow Agent shall be forfeited, and the City may use the funds to install the

improvements if sufficient funds are available to complete the improvements. If the funds remaining in escrow are not sufficient to complete the improvements, the funds remaining in escrow shall be forfeited to the City for use on the Project at the discretion of the City.

All demands by the City to Developer to perform corrections or completion of improvements shall be made by email, with a copy also sent to the Escrow Agent. If the defect is not corrected or improvements are not completed within 30 days following service of such demand, the City may correct the defect or complete the improvements and charge the Developer such costs, unless Developer requests in writing, served by certified mail, with a copy likewise served upon the Escrow Agent by certified mail, a hearing before the Pleasant View City Council within the 30-day period of time respecting the alleged defects or incompletions. The Escrow Agent, upon receiving notification from the City of the defect and that the City has incurred the cost of correcting the defect, shall pay to the City or to the subcontractor as specified by the City, from the escrow account the cost of correcting the defect, and the Escrow Agent shall be held harmless by the Parties for its payments to the City or subcontractor.

After the successful completion of the improvements and all other requirements of the City Ordinance and this Agreement, any funds in the escrow account, other than guarantee funds, not used to install the improvements or to pay other costs associated with the completion of the improvements shall be returned to the Developer.

7. Completion of Guarantee. Once the guarantee period has been completed, no sooner than one (1) year after the City has given Conditional Acceptance of the improvements, at the request of the Developer, the City shall perform a final inspection, and, if the required improvements remain substantially free from latent defects during the guarantee period, the City shall certify such fact to Escrow Agent, who shall release to the Developer any funds still held in the escrow account, and Escrow Agent shall be discharged of its obligations to the City. Should defects be identified by the City, the Developer shall make necessary repairs or corrections at the sole cost of Developer, and, once accepted by the City, funds shall be released as found herein.

8. Conflicts. This Agreement is intended to be in harmony with all Federal and State laws, and City ordinances, codes, procedures, regulations, and rules "Laws." If any provision herein is contrary to or inconsistent with any Laws, the provisions of Laws shall govern. In the event of any conflict between the terms of this Agreement and those of any document entered into prior to this Agreement, this Agreement shall govern.

9. **Severability.** If any portion of this Agreement is held to be unenforceable, any enforceable portion thereof and the remaining provisions shall continue in full force and effect. No rule of strict construction shall be applied against any Party.

Any Party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision.

10. **Default.** Parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting Party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing suit or otherwise, whether such costs and expenses are incurred with or without suit or before or after judgment.

11. **Force Majeure.** No Party shall be deemed in default of this Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) herein so long as and to the extent to which any delay or failure in the fulfillment of such obligation is caused by or results from causes beyond the reasonable control of the affected party including but not limited to fire, floods, embargoes, war, acts of war (whether war be declared or not), acts of terrorism, insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God, or acts, omissions or delays in acting by any financial institution, governmental authority, or the other party. In the event of any such excused delay, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Parties of the nature

and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

12. Agreement to Run with the Land. It is intended by Parties that this Agreement shall run with the land described herein and shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, representatives, successors in interest and assigns.

13. Entire Agreement. This Agreement constitutes the entire agreement of the Parties hereto relative to the subject matter hereof and shall not be modified or amended except by a written instrument executed by all the Parties.

14. Contact Information. Any notices, requests, or demands required or desired to be given hereunder shall be made to the Parties as follows:

For Developer:

Dave Laloli
ALS Development
2273 n 2825 w
Plain City, Utah 84404
Dave@ipaveutah.com

Name

Company Name

Address

City, state, zip

email


For City:

Amy Mabey, City Administrator
Pleasant View City
520 W. Elberta Dr.
Pleasant View, UT 84414
amabey@pleasantviewcity.com

For Escrow Agent:

By: Kerri Jo Christofferson
Five T Corporation, INC

Name


~~Mountain View Title Co.~~
~~5372 South 1475 East #100~~
~~South Ogden Utah, 84403~~
~~Kerrijo@mvte.com~~

Company Name **Five T Corp. INC**
Address **5732 S 1475 E #100**
Ogden, Utah
84403
City, state, zip
email **kerrijo@oldrepublictitle.com**

Any party may change its address by giving written notice to the other parties in accordance with the provisions of this section.

15. **Exhibits to this Agreement.** Exhibits to this Agreement are enumerate as follows:

- 15.1. Exhibit A – Project Area
- 15.2. Exhibit B – Engineer’s Estimate

16. **Assignment.** This Agreement shall not be further assigned or in any way transferred without first obtaining the written consent of the non-assigning Party, which consent shall not be unreasonably withheld.

(continued on next page)

IN WITNESS WHEREOF, Parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first above written.

FOR ESCROW AGENT



By: (Print name)

Kerri J. Christoffersen

Its: (title)

Authorized Agent

FOR DEVELOPER



By: (Print name) *Dave Laloli* *Tau LLC*
Its: (title) *Manager*

FOR PLEASANT VIEW CITY

By: (name) _____
Its: Mayor

Attest:
City Recorder

Approved as to Form: _____
City Attorney

ACKNOWLEDGMENT OF ESCROW AGENT

STATE OF UTAH }
§
COUNTY OF }

On the 14 day of June, 20 22, personally appeared before me
Kerri Jo Christoffersen, who being by me duly sworn did say that
he/she is the Authorized Agent of
Five T Corporation Inc, a corporation, and Escrow Agent named in the foregoing
Escrow Agreement, and that the Escrow Agreement is signed on behalf of said corporation by his/her
signature under authority of its Board of Directors, and said Kerri Jo Christoffersen
acknowledged to me that the said corporation executed the same and Escrow acknowledges that there is
on deposit at Bank of Utah a sum of money in the amount of \$
#204,900.00, pursuant to the terms of the Escrow Agreement.

Witness my hand and official seal.

Katherine Clawson
Notary Public signature



(seal)

(Printed Name)

Katherine Clawson

ACKNOWLEDGMENT OF DEVELOPER

STATE OF UTAH }

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COUNTY OF *Weker*

On the *14* day of *June*, 20 *22*, personally appeared before me *David LaLoli*, who being by me duly sworn, did say that he/she is the *Manager* of *ALS Development*, and that the Escrow Agreement was signed on behalf of said corporation by his/her signature under authority of a resolution of its Board of Directors, and said *David LaLoli* acknowledged to me that said corporation executed the same.

Witness my hand and official seal.

[Signature]
Notary Public signature



(Printed Name) *Kerri Jo Christoffersen* (seal)

**EXHIBIT A
PROJECT AREA**

**EXHIBIT B
ENGINEER'S ESTIMATE**

Rush FunPlex
May 2022
ESCROW SUMMARY



	TOTAL COST FOR IMPROVEMENTS	TOTAL COST REMAINING
CULINARY WATER SUBTOTAL	\$ 96,517.50	\$ 96,517.50
SECONDARY WATER SUBTOTAL	11,848.75	11,848.75
SANITARY SEWER SUBTOTAL	24,420.75	24,420.75
STORM DRAIN SUBTOTAL	18,990.50	18,990.50
SITE & STREET IMPROVEMENTS SUBTOTAL	84,962.44	84,962.44
MISCELLANEOUS SUBTOTAL (Not subject to guarantee)	12,129.00	12,129.00
TOTAL IMPROVEMENTS COST	\$ 248,868.94	\$ 248,868.94
5% CONTINGENCY	12,443.45	12,443.45
10% GUARANTEE	23,673.99	23,673.99
TOTAL ESCROW AMOUNT		\$ 284,986.38



City Engineer Review & Recommendation

	05/23/2022
Dana Q. Shuler, P.E. - Jones & Associates	Date
City Engineer	

Rush FunPlex

COST ESTIMATE FOR ESCROW SETUP

David Laloli

NO.	LINE ITEM DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL COST FOR IMPROVEMENTS	QUANTITY COMPLETE	QUANTITY REMAINING	TOTAL COST REMAINING
CULINARY WATER SYSTEM								
1	Furnish and install 8" C-900 DR-14 waterline (includes bedding and testing)	1,658	l.f.	\$ 22.50	37,305.00	-	1,658	37,305.00
2	Furnish and install 8" gate valve	6	ea.	1,575.00	9,450.00	-	6	9,450.00
3	Furnish and install fire hydrant assembly (8" line)	2	ea.	5,500.00	11,000.00	-	2	11,000.00
4	Connect new waterline to existing 14" DI waterline	1	ea.	3,375.00	3,375.00	-	1	3,375.00
5	Furnish and install 14" butterfly valve	2	ea.	5,600.00	11,200.00	-	2	11,200.00
6	Furnish and install 8"x1" service tap (pipe included)	1	ea.	1,450.00	1,450.00	-	1	1,450.00
7	Furnish and install 8" fittings	1	l.s.	2,505.00	2,505.00	-	1	2,505.00
8	Raise water valve box to grade following paving with concrete collar	4	ea.	305.00	1,220.00	-	4	1,220.00
9	Eclipse blowoff	2	ea.	3,000.00	6,000.00	-	2	6,000.00
10	Imported backfill	1,041	ton	12.50	13,012.50	-	1,041	13,012.50
CULINARY WATER SUBTOTAL					\$ 96,517.50			\$ 96,517.50
SECONDARY WATER SYSTEM								
11	Furnish and install 2" drain	1	ea.	\$ 1,605.00	1,605.00	-	1	1,605.00
12	Furnish and install 6" C-900 DR-14 waterline (includes bedding and testing)	195	l.f.	16.75	3,266.25	-	195	3,266.25
13	Furnish and install 6" fittings	1	l.s.	1,140.00	1,140.00	-	1	1,140.00
14	Connect new waterline to existing 6" main	1	ea.	2,175.00	2,175.00	-	1	2,175.00
15	Furnish and install service connection on 6" mainline	1	ea.	2,500.00	2,500.00	-	1	2,500.00
16	Imported backfill	93	ton	12.50	1,162.50	-	93	1,162.50
SECONDARY WATER SUBTOTAL					\$ 11,848.75			\$ 11,848.75

NO.	LINE ITEM DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL COST FOR IMPROVEMENTS	QUANTITY COMPLETE	QUANTITY REMAINING	TOTAL COST REMAINING
SANITARY SEWER SYSTEM								
17	Furnish and install 8" ASTM D-3034 SDR 35 sewer line	241	l.f.	\$ 35.75	8,615.75	-	241	8,615.75
18	Furnish and install 18"x4" service wye off of existing sewer line (includes 4" pipe)	1	ea.	2,500.00	2,500.00	-	1	2,500.00
19	Furnish and install 4' diameter manhole	1	ea.	2,750.00	2,750.00	-	1	2,750.00
20	Construct new 5' diameter manhole on existing sewer line	1	ea.	5,350.00	5,350.00	-	1	5,350.00
21	Trench/asphalt repair	60	l.f.	40.00	2,400.00	-	60	2,400.00
22	Raise manhole to grade following paving with concrete collar	1	ea.	405.00	405.00	-	1	405.00
23	Imported backfill	192	ton	12.50	2,400.00	-	192	2,400.00
SANITARY SEWER SUBTOTAL					\$ 24,420.75			\$ 24,420.75

STORM DRAIN SYSTEM								
24	Furnish and install 15" RCP	15	l.f.	\$ 42.70	\$ 640.50	-	15	\$ 640.50
25	Furnish and install curb inlet on existing 36" storm drain	1	ea.	4,500.00	4,500.00	-	1	4,500.00
26	Furnish and install combo box on existing 36" storm drain	2	ea.	6,500.00	13,000.00	-	2	13,000.00
27	Raise manhole to grade following paving with concrete collar	2	ea.	425.00	850.00	-	2	850.00
STORM DRAIN SUBTOTAL					\$ 18,990.50			\$ 18,990.50

SITE & STREET IMPROVEMENTS								
28	Clear and grub for new roadway	718	c.y.	\$ 2.00	\$ 1,436.00	-	718	\$ 1,436.00
29	Furnish and install 8" granular borrow	9,789	s.f.	0.85	8,320.65	-	9,789	8,320.65
30	Furnish and install 5" untreated base course	9,789	s.f.	0.80	7,831.20	-	9,789	7,831.20
31	Construct 3" hot mix asphaltic concrete pavement	9,789	s.f.	1.48	14,487.72	-	9,789	14,487.72
32	Furnish and install concrete curb and gutter	810	l.f.	21.25	17,212.50	-	810	17,212.50
33	Construct drive approach	1	ea.	1,200.00	1,200.00	-	1	1,200.00
34	Furnish and install 5' wide concrete sidewalk	805	l.f.	38.25	30,791.25	-	805	30,791.25
35	Furnish and install ADA ramps	2	ea.	1,450.00	2,900.00	-	2	2,900.00
36	Fine grade subgrade	9,789	s.f.	0.08	783.12	-	9,789	783.12
SITE & STREET IMPROVEMENTS SUBTOTAL					\$ 84,962.44			\$ 84,962.44

NO.	LINE ITEM DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL COST FOR IMPROVEMENTS	QUANTITY COMPLETE	QUANTITY REMAINING	TOTAL COST REMAINING
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MISCELLANEOUS (not included in guarantee)

37	Prepare and implement SWPPP and temporary controls	1	l.s.	\$ 8,865.00	8,865.00	-	1	8,865.00
38	Seal coat (paid for by developer, installed by City)	1,088	s.y.	3.00	3,264.00	-	1,088	3,264.00

MISCELLANEOUS SUBTOTAL \$ 12,129.00 \$ 12,129.00

PROJECT TOTAL = \$ 248,868.94 REMAINING TOTAL = \$ 248,868.94

