

Return To:

Robert Banks
Assistant County Attorney
301 North Olive Avenue
West Palm Beach, FL 33401

R2002-1247

JUL 25 2002

**TRANSFER OF DEVELOPMENT RIGHTS
ESCROW AGREEMENT**

Palm Beach County, (the "County"), being the stated beneficiary of this agreement, Town & Country Builders, Inc. ("Developer") and Boose, Casey, Ciklin, Lubitz, Martens, McBane & O'Connell (the "Escrow Agent"), in consideration of the mutual covenants contained in this Agreement, hereby agree as follows:

1. Developer received approval for and has contracted to buy Sixty-Six (66) TDR units in Palm Beach County, Florida for use in the development known as Diamond "C" Ranch P.U.D., at a price of Nine Thousand Eight Hundred Eighty-Three Dollars (\$9,883.00) a TDR. The approval for the transfer of these TDR units was granted by Resolution #R-2000-0900. The County requires that Developer pay County for the TDR units at the time the first building permit other than for sales models or a temporary real estate sales and management office is issued by County to Developer. Developer is to pay Six Hundred Fifty-Two Thousand Two Hundred Seventy-Eight and 00/100 Dollars (\$652,278.00) for the purchase of Sixty-Six (66) TDR units.
2. Establishment of Escrow Account. The parties hereby authorize and direct the Escrow Agent to establish an Escrow Account (the "Account") at CitiBank F.S.B., a national banking association, located at 201 South Biscayne Boulevard, Suite 3100, Miami, Florida 33131 (the "Bank") to be held pursuant to the terms of this Agreement. The account shall be an interest bearing account, maintained in a segregated account which is not a loan reserve or hold back of bank funds. When the escrowed funds are released to the County, all interest earned by such funds while in escrow shall accrue to the County. If the County is not entitled to the funds, the interest earned by such funds shall accrue to the Developer. Developer shall pay all costs, fees and expenses of Bank and Escrow Agent arising from or in connection with the Account.
3. Deposit of Funds. Prior to certification of the Preliminary Development ("PDP") by the DRC, Developer shall deposit Six Hundred Fifty-Two Thousand Two Hundred Seventy-Eight and 00/100 Dollars (\$652,278.00) into the Account. The Escrow Agent shall hold funds in escrow. Developer shall evidence such deposit by delivering to County *two* copies of a sworn receipt (which is attached hereto as Exhibit "A") executed by Escrow Agent.
4. Deposit of Deed. Upon receipt of the evidence of deposit of funds, County shall deliver to Escrow Agent an executed deed conveying the Sixty-Six (66) TDR units to developer. This deed shall be held by the Escrow Agent.
5. Disbursement of Escrowed Funds. Escrow agent shall hold the escrow funds until it receives written notice from County that a building permit (as described in Paragraph 1 above) for the development has been approved. Within ten (10) days after receipt of notice from County, escrow agent shall disburse the funds to the County. Building permits to be issued simultaneous with dispersal of funds. Any accrued interest earned on the escrow account shall be disbursed to the County.

6. Release of Deed. After the disbursement of funds to the County, Escrow Agent shall deliver the deed to Developer to be recorded in the public records by the Developer.
7. Revocation or abandonment of Approval. In the event that the approval of this development is revoked in accordance with Section 5.8 of the Palm Beach County Unified Land Development Code, or formally abandoned by the Developer and that the abandonment has been approved by the County, the County shall send written notification to Escrow Agent. Escrow Agent shall then disburse all funds to Developer and return the deed to County.
- a. Dispute Resolution. In the event of dispute between County and Developer, Escrow Agent may, at its option, continue to hold any disputed funds until Developer and County mutually agree to disbursement, or until a final administrative or judicial order is issued; or Escrow Agent may interplead such disputed sums in the Circuit Court for Palm Beach County, Florida. County and Developer agree that Escrow Agent shall not be liable to any person for its acts pursuant to this Agreement other than for Escrow Agent's willful breach of this Agreement or Escrow Agent's gross negligence.
9. Standard Provisions:
 - A. Additional Instruments. Each of the parties shall from time to time at the request of the other, execute, acknowledge and deliver to the other party any and all further instruments that may be reasonably required to give full force and effect to the provisions of this Agreement.
 - B. The Entire Agreement. This Agreement constitutes the entire understanding of the parties and there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
 - C. Modification. A modification or waiver of any of the provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement.
 - D. Waiver. The failure of either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default of the same or similar nature.
 - E. Severability. If any provisions of this Agreement are held to be invalid or unenforceable, all of the other provisions shall nevertheless continue in full force and effect.
 - F. Notices. Unless otherwise specifically provided herein, all notices shall be in writing and sent to the parties by certified mail, return receipt requested, postage prepaid, or by other nationally recognized overnight courier service. Unless otherwise specifically provided herein said notices shall be effective on the third (3rd) day following such notice being deposited in the United States mails or one (1) business day following mailing by overnight express mail.

As to County: Palm Beach County Zoning Division
100 Australian Avenue
West Palm Beach, Florida 33406

cc: Palm Beach County Attorney
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401
ATTN: Landuse Section

As to Developer: Town & Country Builders, Inc.
Attn: Timothy Kelly, President
Suite 140, 2295 Corporate Boulevard, NW
Boca Raton, Florida 33431
cc: Thomas J. Zagami, Esquire
Suite 400
901 Dulaney Valley Road
Towson, Maryland 21204

As to Escrow Agent: Boose, Casey, Ciklin, Lubitz,
Martens, McBane & O'Connell
515 North Flagler Drive
West Palm Beach, Florida 33401

- G.** Captions. Captions contained in this Agreement are inserted only as a matter of convenience or for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.
- H.** Venue. This instrument shall be governed by and enforced and construed under the laws of the State of Florida. Venue for all actions shall be in Palm Beach County.

IN WITNESS WHEREOF, the parties have executed this Escrow Agreement this _____ day of _____, 200__.

Witnesses:

Sally Hamermer

Sally Hamermer
Typed or Printed Name

Date: June 5, 2002

Jill Tachen

Jill Tachen
Typed or Printed Name

Witnesses:

Leslie J. Campbell

Leslie J. Campbell
Typed or Printed Name

Cottie E. Rankin

Cottie E. Rankin
Typed or Printed Name

DEVELOPER

TOWN & COUNTRY BUILDERS INC.

[Signature]
Typed or Printed Name

Date: JUNE 5, 2002

561-893-0029
Telephone Number

ESCROW AGENT

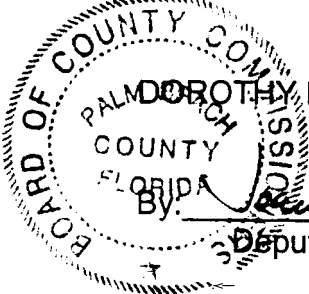
Boose Casey Clikin

WILLIAM R. BOOSE
Typed or Printed Name

Date: July 10, 2002

561-832-5900
Telephone Number

ATTEST:



DOROTHY H. WILKEN, Clerk

[Signature]
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: [Signature]
County Attorney

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: [Signature]
FOR Warren H. Newell, Chairman

R2002 1247

JUL 25 2002

EXHIBIT A

CERTIFIED RECEIPT

STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me, the undersigned authority, personally appeared Escrow Agent, who, being by me first duly sworn, deposes and says:

1. Escrow Agent hereby acknowledges that it has received \$652,278.00 (\$9,883.00 per TDR Unit) to be held by Escrow Agent pursuant to the Transfer of Development Rights Escrow Agreement dated JUL 25 2002 in connection with Resolution #R-2000-0900 of the Development known as Diamond "C" Ranch P.U.D., Zoning Petition TDR97-121, in connection with the purchase of 66 development rights.

2. Escrow Agent acknowledges that this Affidavit is being given as an inducement to Palm Beach County to deliver an executed deed conveying the development rights to the Escrow Agent.

Further Affiant sayeth not.

BOOSE, CASEY, CIKLIN, LUBITZ,
MARTENS, MCBANE & O'CONNELL

By: _____

William R. Boose, III, Esquire
19th Floor North Bridge Tower
515 North Flagler Drive
West Palm Beach, Florida 33401
561-820-0327 (telephone)
561-833-4209 (facsimile)

SWORN TO before me this 10th day of July, 2002.



Leslie J. Campbell
MY COMMISSION # CC774197 EXPIRES
December 14, 2002
BONDED THRU TROY FAIN INSURANCE, INC.

NOTARY PUBLIC

My commission expires: