

**DEVELOPMENT AGREEMENT
WILLOW GREEN**

51.00
8/11

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into and made between Rocky Mountain HDC, Inc., whose address is 1393 South Santa Fe Drive, Denver CO 80223 ("Owner/Developer"), and the CITY OF ARVADA, COLORADO, a municipal corporation, whose address is 8101 Ralston Road, Arvada, Colorado 80002 (the "City"). This Agreement shall be effective following execution by the Owner/Developer, and immediately upon approval by of the City of Arvada as evidenced by the signature of the Community Development Director on the date indicated below.

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RECITALS AND REPRESENTATIONS:

WHEREAS, the Owner/Developer owns certain real property located in the East Half of the East 28 Acres of the North Half of the South Half of the Northeast Quarter of Section 1, Township 3 South, Range 69 West of the 6th P.M. County of Jefferson, State of Colorado; and

WHEREAS, the 5.26 acre property is zoned PUD-R (Planned Unit Development Residential). The gross density for the Willow Green is 11.36 units per acre. It is comprised of five buildings (12 units per building for a total of 60 units), with a 2,381 sq. ft. activity center and 4 parking garages. The architectural character of the development is a farmhouse style design. The existing wetland located on the southern edge of the property will remain undeveloped and maintained in perpetuity; and

WHEREAS, the Owner/Developer, a faith-based non-profit organization that creates housing geared for working families, has submitted to the City a Final Development Plan (FDP), Minor Plat (MP) and final construction plans (collectively, the "Final Plans") for development of the Willow Green. The construction plans (hereinafter referred to as City Job No. 3191) depict the installation of improvements necessary for the development of the Willow Green. These documents are public records on file and available for review at the City of Arvada's City Hall in the Community Development Department located at 8101 Ralston Road, Arvada, Colorado. The Final Development Plan (FDP), Minor Plat, and final construction plans are incorporated into this Agreement for purposes of illustration and interpretation of the terms and conditions of the Agreement; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein, such consideration being acknowledged as sufficient and of significant value to the parties, IT IS AGREED AS FOLLOWS:

1. PLANS AND AGREEMENT APPROVALS. The Owner/Developer, upon final approval of the Final Development Plan for Willow Green development shall

immediately submit three copies of the approved Final Development Plan to the Community Development Director and further, the Owner/Developer must file with the City Engineer eleven (11) copies of the approved final construction plans for the construction of water lines, sewer lines, storm drains and storm drainage structures, streets, curb, gutter, sidewalk, and emergency response areas associated with Willow Green as required by the City. Said construction drawings shall meet the approval of the City and shall be constructed according to the final construction and development plans. No approval of the public improvements construction plans is conferred by this Agreement and approval shall be independently made by the City Engineer following City staff review and comment and following the City Engineer's determination that the plans meet the applicable City staff review and specifications, commonly accepted engineering practices and all applicable codes, ordinances, and state, federal and local laws. Further the Owner/Developer shall file with the City an original or sepia reproducible copy of the as-built construction plans of said public improvements upon the completion of the improvements. Said as-built plans shall be delivered to the City prior to commencement of the two-year warranty for said public improvements.

2. PUBLIC IMPROVEMENTS. The Owner/Developer shall, at its own expense, design, furnish, construct, and install public improvements including, but not limited to all public streets, driveways, parking areas, water lines, sewer lines, and drainage facilities within and adjacent to Willow Green in accordance with the plans and specifications approved by the City of Arvada, Colorado, City Job No. 3191. All public improvements constructed by the Owner/Developer in public rights-of-way, easements, streets or alleys shall become the property of the City immediately upon acceptance of said improvements by the City and Owner/Developer shall warrant said improvements for two years from the date of acceptance of the City. The Owner/Developer shall complete the process of placing completed public improvements under warranty promptly upon their completion. These improvements must be completed prior to issuance of the first certificate of occupancy for Willow Green unless specified differently herein. The City may request, and Owner/Developer shall provide at the Owner/Developer's cost, documentary evidence satisfactory to the City that any public rights-of-way, easements, or other property dedicated, conveyed, acquired, devised, or granted to the City are free and clear of encumbrances which, in the sole opinion of the City, defeat, limit, or impede the City's ability to use the public property as intended. The Owner/Developer acknowledges that no construction may occur and no building permits may be issued until construction documents for all required public improvements are submitted and approved by the City Engineer.
3. TRANSPORTATION - The Property Owner(s) shall be responsible for designing, financing, and constructing all street improvements required of this development as indicated in the Final Development Plan. The Owner/Developer shall dedicate to the City of Arvada at no cost, and free and clear of all liens and

encumbrances, rights-of-way for public streets for the Willow Green Subdivision upon approval of a Final Plat containing such rights-of-way. The Owner/Developer shall be responsible for designing, financing, and constructing all street improvements required of this development as illustrated in City Job No. 3191.

4. SHERIDAN BLVD. IMPROVEMENTS - The Owner/Developer shall also be responsible for constructing all street improvements including but not limited to a deceleration lane and signing along Sheridan Blvd., required by the Colorado Department of Transportation (CDOT) as depicted in the CDOT construction plans. The Owner/Developer shall also be responsible for obtaining a construction easement (if needed) from either the respective property owners, the City of Westminster, or CDOT in constructing all required street improvements including but not limited to the construction of a full length deceleration lane along Sheridan Blvd and replacement of an existing driveway curb cut for the adjacent property to the north.
5. UNDERGROUNDING OVERHEAD UTILITIES. The Owner/Developer shall be responsible for undergrounding all utilities sufficient to serve the Property. All utility plans shall be subject to the City of Arvada's review and approval.
6. POSTING OF FIRE LANE SIGNS. The Owner/Developer shall install fire lane signs as required by the Arvada Fire Protection District in accordance to the approved Final Plans.
7. INSTALLATION OF FIRE HYDRANTS AND WATER LINES. The Owner/Developer shall meet the requirements of the Arvada Fire Protection District, including requirements for fire hydrants as depicted in the Final Plans and as shown on the City Job No. 3191.
8. DRAINAGE. The Owner/Developer shall be responsible for designing, financing, and constructing drainage improvements associated with the development of the Property as illustrated in City Job No. 3191. The City of Arvada Engineering Division has reviewed and approved the Final Drainage Report for Willow Green. The development of the Property shall comply with Arvada's Best Management Practices (BMP) during construction of improvements and buildings.
9. WATER MAIN. The Owner/Developer shall be responsible for designing, financing, and constructing water mains and service lines associated with the development of the Property as illustrated in City Job No. 3191. Upon acceptance, the City will own and maintain all water mains.
10. SEWER MAIN. The Owner/Developer shall be responsible for designing, financing, and constructing sewer mains and service lines associated with the development of the Property as illustrated in City Job No. 3191. Upon acceptance, the City will own and maintain all sewer mains.

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11. PARK LAND DEDICATION. The Owner/Developer is required to pay a fee in lieu of land dedication for a total 1.43 acres of lands to the City to satisfy the land dedication requirement at the first Certificate of Occupancy (CO) in accordance with Section 7.11.5 of the Arvada Land Development Code.
 12. PARK DEVELOPMENT FEES. The Owner/Developer shall pay the City the per unit park development fee in effect at the first Certificate of Occupancy (CO) in accordance with Section 7.11.6 of the Arvada Land Development Code.
 13. OPEN SPACE. The Owner/Developer or, if conveyed, its successors and assigns shall be responsible for maintaining in perpetuity the existing wetland and open space as shown on the FDP.
 14. INSTALLATION OF LANDSCAPING. The Owner/Developer acknowledges that the City has adopted the City of Arvada Water Conservation Program due to continuing drought conditions which may impact the viability of installing and maintaining the landscaping as illustrated on the Phasing Plan in the Final Plan and according to the final landscape plan for Willow Green. The Owner/Developer shall install, at its sole expense, the landscaping as illustrated on the final landscape plan within ninety (90) days of written notice by the City to proceed. As a prerequisite of the issuance of a C.O., the Owner/Developer shall deposit funds with the City in escrow in an amount of 150% of the estimated cost of providing landscaping in accordance with the final landscape plan. Such estimate shall be made by a landscape contractor acceptable to the City. The City shall release its interest in the escrowed funds only upon completion of the landscaping obligations by the Owner/Developer. In the event that the Owner/Developer defaults upon its obligations as specified in this paragraph following the escrow of funds, the City may apply all funds toward the completion of the Owner/Developer's landscaping obligations "completion" shall mean and include the cost of labor, materials and contract management. The City shall refund all or part of the escrowed funds not applied to completion of landscaping required by the final landscape plan. The method and manner in which the City elects to undertake and complete the landscaping obligations of a defaulting Owner/Developer shall be within the sole discretion of the City; provided however, that nothing herein shall obligate the City to install or complete the landscaping improvements and nothing herein shall prevent, prohibit, or limit the remedies available to the City to enforce the Owner/Developer's obligation under this paragraph.
 15. SCHOOL LAND DEDICATION. The Owner/Developer shall pay to the City fees in lieu-of school land dedication for a total of 0.571 acre at the first Certificate of Occupancy (CO) in accordance with Section 7.12.4 of the Arvada Land Development Code.

16. LEASE AGREEMENT. The Owner/Developer shall include a clause in all applicable lease agreements stating that assigned garages will be used for parking and may not be used for storage by the lessee.
17. RIGHTS-OF-WAY. The Owner/Developer shall comply with all applicable provisions of Chapter 27, Article V, and Sections 27-200 through 27-226 of the Arvada City Code, entitled "Rights-of-Way". This article contains requirements including, but not limited to, developer escrow for public improvements in public rights-of-way and street surface restoration for public streets.
18. UNDERGROUNDING OVERHEAD UTILITIES. The Owner/Developer shall be responsible for undergrounding utilities in conjunction with the construction of this development. These improvements must be completed prior to the issuance of the first certificate of occupancy for Willow Green and shall be completed at no cost to the City.
19. FUGITIVE DUST AND EROSION CONTROL. The Owner/Developer shall meet all requirements and obligations imposed by the State of Colorado concerning management of stormwater and runoff and fugitive dust and shall comply with all State imposed requirements associated with state permits issued or governing the stormwater detention ponds and fugitive dust and erosion control. The Owner/Developer shall provide a copy of said permit to the City Engineer. Further the Owner/Developer shall fully comply with the applicable sections of the City's Soil Erosion and Sediment Control Ordinance, sections 15-50 through and including 15-58 of the Arvada City Code, and in particular shall comply with section 15-54 pertaining to the use of reasonable practices to control soil erosion and sediment generated by the development of the property. Compliance with the erosion control shall be a pre-condition of obtaining building permits or certificates of occupancy, as the case may be. The City may deny or revoke any permit issued to the Owner/Developer in the event of non-compliance with the state or City requirements. The Owner/Developer shall also follow any new standards that the City may adopt for erosion control due to drought conditions.
20. INSTALLATION OF FENCING. The Owner/Developer agrees to install a perimeter fence along the southern edge adjacent to the open space and along the western property line as illustrated on the approved Landscape Plans for Willow Green. The Owner/Developer or successor homeowners association shall be responsible for maintaining and replacing the perimeter fencing as shown on the final plans in perpetuity. Installation of the fence must be completed prior to the issuance of the first Certificate of Occupancy within the Willow Green.
21. FINAL DEVELOPMENT PLAN. The Willow Green subdivision must be in conformance with all aspects of the approved Final Development Plan and shall be installed and complete prior to the issuance of the first certificate of occupancy within subdivision. This shall include, but not be limited to streets,

utilities, detention ponds, drainage system, park trails, opens space, landscape, buildings and all other requirements of the approved plans and codes.

22. INDEMNIFICATION AND HOLD HARMLESS. The Owner/Developer agrees to indemnify, hold harmless, release, and discharge the City and the City's officers, employees, agents, and contractors from all liability, claims and demands, including reasonable attorney's fees and court costs, which arise out of or are in any manner connected with or related to the Final Plans of the Property, or any conditions of approval related thereto. 6
23. WAIVER. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.
24. BINDING EFFECT/RELEASE. The parties hereto agree that the Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns thereof and shall constitute covenants running with the described property. The provisions of this Agreement constitute covenants or servitudes which touch, attach to and run with the Property. The burdens and benefits of this Agreement shall bind and inure to the benefit of all estates and interests in the Property and all successors in interest to the parties to this Agreement. If all or part of the Property is sold, transferred, or otherwise conveyed to additional or multiple parties, all owners shall be jointly and severally responsible for all terms, conditions, and obligations set forth in this Agreement.
25. NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City, and Owner/Developer, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement. It is the express intention of the City and Owner/Developer that any person other than the City or Owner/Developer receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
26. GOVERNING LAW AND ENFORCEMENT. This Agreement shall be governed by the laws of the State of Colorado. If any party defaults under this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of such default, at the address specified in Section 27, and the defaulting party shall have twenty (20) days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such twenty (20) day period and the defaulting party gives written notice to the non-defaulting party within such twenty (20) day period that it is actively and diligently pursuing such cure, the defaulting party shall have a reasonable period of time given the nature of the default following the end of such twenty (20) day period to cure such default, provided that such defaulting party is at all times within such additional time period actively and diligently pursuing such cure. If any default under this

Agreement is not cured as described above, the non-defaulting party shall have the right to enforce the defaulting party's obligation hereunder by an action at law or in equity, including injunction and/or specific performance, and shall be entitled to an award of any damages available at law, in equity, or pursuant to statute. In addition to any other available remedies, it is understood and agreed that the City may withhold any requested permits or certificates, including but not limited to building permits and certificates of occupancy, for any lot within Willow Green in the event of a breach of this Agreement by the Owner/Developer.

27. NOTICES. Any notice or communication required under this Agreement between the City and Owner/Developer must be in writing, and may be given either personally, by Federal Express or similar next-day delivery service, or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar next-day delivery service, a notice shall be deemed to have been given and received on the immediately following business day. If personally delivered, a notice shall be deemed to have been given and received when delivered to the party to whom it is addressed. Any party hereto may at any time, by giving written notice to the other party hereto as provided in this Section, designate additional persons to whom notices or communications shall be given, and designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to the City:

City of Arvada
8101 Ralston Road
Arvada, Colorado 80001
Attention: City Manager

With a required copy to:

City of Arvada
8101 Ralston Road
Arvada, Colorado 80001
Attention: City Attorney

City of Arvada
8101 Ralston Road
Arvada, Colorado 80001
Attention:
Community Development Director

If to Owner/Developer:

Rocky Mountain HDC. Inc.
1393 South Santa Fe Drive
P.O. Box 9189
Denver, CO 80209-0189

Attention:
Joyce Alms-Ransford Executive
Director

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28. PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
 29. INTEGRATION AND AMENDMENT. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.
 30. PUBLIC UTILITY FEES. The Owner/Developer shall pay all installation charges for lighting, electric, and gas required by Xcel Energy for Willow Green.
 31. SUBDIVISION MONUMENTATION. In accordance with the applicable Colorado Revised Statutes, as amended, and with Section 7.7 of the Arvada Land Development Code, the Owner/Developer shall establish all subdivision monumentation and have the monumentation approved by the Engineering Division prior to issuance of any Certificate of Occupancy for any structure Willow Green.
 32. CONTRACTOR LICENSING. Before proceeding with any of the work contemplated herein, the Owner/Developer shall ensure that all contractors and/or subcontractors employed by the Owner/Developer shall be licensed by the City before the contractor and/or subcontractor may commence work on any improvements within or adjacent to Willow Green.
 33. DELAYS. The parties have executed this contract such that completion of the improvements shall be subject to strikes, accidents, acts of God, weather conditions which justify a delay in construction in light of standard practices in the building profession, inability to secure labor, fire regulations or restrictions imposed by any government or governmental agency, or other delay resulting from events which are beyond the control of the delaying party and which are agreed to by the parties as justifying delay.

34. STREET MAINTENANCE. The Owner/Developer shall maintain in a reasonable, suitable and proper condition for travel, ingress, and egress, all streets located within the development until such time as the streets are completed and accepted for maintenance by the City. The Owner/Developer shall take all steps necessary to limit and prevent the accumulation of, and to remove accumulated mud, sediment, dirt, trash, and other debris that is tracked, blown, or otherwise carried onto public property or off-site onto private property during development. Such obligation shall continue until all construction and improvements within all Parcels/Lots are completed. If the Owner/Developer fails to remedy any conditions caused or generated by the development of Willow Green as contemplated by this agreement within twenty-four hours of oral or written notice by the City, the City may enter the streets and public ways to remedy such conditions and the Owner/Developer agrees to pay to the City any costs incurred by the City in remedying such conditions. Payment of such costs shall be made prior to the City's issuance of additional building permits or a Certificate of Occupancy within Willow Green and the Owner/Developer understands and agrees that the City may withhold building permits within Willow Green until such time as costs contemplated by this development are paid in full. Nothing herein shall obligate the City to remedy such conditions or shall limit the City in its selection of the method or manner of remedy, including but not limited to contracting with an individual or company to remedy such conditions.

35. SEVERABILITY. Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement so long as enforcement of the remaining provisions would not be inequitable to the party against whom they are being enforced under the facts and circumstances then pertaining.

36. RECORDATION OF AGREEMENT AND MINOR PLAT. The City shall record this Agreement and the corresponding Willow Green Minor Plat with the Clerk and Recorder's Office of Jefferson County at the sole cost of the Owner/Developer. The Owner/Developer shall deliver to the City three copies of this Agreement with original signatures on each along with a check made out to the "City of Arvada" in the amount equal to \$5.00 per page. The Owner/Developer shall submit a Mylar and one copy of the Minor Plat with original signatures on each along with a check made out to the "City of Arvada" in the amount equal to \$15.00 per sheet.

37. INCORPORATION OF EXHIBITS. Unless otherwise stated in this Agreement, exhibits referenced in this Agreement shall be incorporated into this Agreement for all purposes.

38. FURTHER ASSURANCES. Each party shall execute and deliver to the other all such other further instruments, documents, resolutions or ordinances as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other party the full and complete enjoyment of its rights and privileges under this Agreement.

