

FRA96WIL

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: **DEVELOPMENT IMPROVEMENTS AGREEMENT**

NAME OF APPLICANT OR DEVELOPER: WILLOW RIDGE LLC BY OLIVER
E. FRASCONA

PROJECT/SUBDIVISION: WILLOW RIDGE SUBDIVISION

LOCATION: BROADWAY & MAYFIELD DRIVE

PARCEL NO.: VICINITY OF 2945-164-00-232

FILE NO.: FPP-1995-133

CITY DEPARTMENT: COMMUNITY DEVELOPMENT

YEAR: 1996

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

Kathy Portner
3/1/96 KUP

DEVELOPMENT IMPROVEMENTS AGREEMENT

1. **Parties:** The parties to this Development Improvements Agreement ("the Agreement") are WILLOW RIDGE, LLC ("the Developer") and THE CITY OF GRAND JUNCTION, Colorado ("the City").

THEREFORE, for valuable consideration, the receipt and adequacy of which is acknowledged, the Parties agree as follows:

2. **Effective Date:** The Effective Date of the Agreement will be the date that this agreement is recorded which is not sooner than recordation of the Final Plat

RECITALS

The Developer seeks permission to develop property within the City to be known as Willow Ridge Subdivision Entry Feature, which property is more particularly described on Exhibit "A" attached and incorporated by this reference (the "Property"). The City seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements in the development and limiting the harmful effects of substandard developments. The purpose of this Agreement is to protect the City from the cost of completing necessary improvements itself and is not executed for the benefit of materialmen, laborers, or others providing work, services or material to the development or for the benefit of the purchasers or users of the development. The mutual promises, covenants, and obligations contained in this Agreement are authorized by state law, the Colorado Constitution and the City's land development ordinances.

DEVELOPER'S OBLIGATION

3. **Improvements:** The Developer will design, construct and install, at its own expense, those on-site and off-site improvements listed on Exhibit "B" attached and incorporated by this reference. The Developer agrees to pay the City for inspection services performed by the City, in addition to amounts shown on Exhibit B. The Developer's obligation to complete the improvements is and will be independent of any obligations of the City contained herein.

4. **Security:** To secure the performance of its obligations under this Agreement (except its obligations for warranty under paragraph 6), the Developer will enter into an agreement which complies with either option identified in paragraph 28, or other written agreement between the City and the Developer.

5. **Standards:** The Developer shall construct the Improvements according to the standards and specifications required by the City Engineer or as adopted by the City.

6. **Warranty:** The Developer warrants that the Improvements, each and every one of them, will be free from defects for a period of twelve (12) months from the date that the City Engineer accepts or approves the improvements completed by the Developer.

7. **Commencement and Completion Periods:** The improvements, each and every one of them, will be completed within One Year from the Effective Date of this Agreement (the "Completion Period").

8. **Compliance with Law:** The developer shall comply with all relevant federal, state and local laws, ordinances, and regulations in effect at the time of final approval when fulfilling its obligations under this Agreement.

9. **Notice of Defect:** The Developer's Engineer shall provide timely notice to the Developer, contractor, issuer of security and the City Engineer whenever inspection reveals, or the Developer's Engineer otherwise has knowledge, that an improvement does not conform to City standards and any specifications approved in the

development application or is otherwise defective. The developer will have thirty (30) days from the issuance of such notice to correct the defect.

10. **Acceptance of Improvements:** The City's final acceptance and/or approval of improvements will not be given or obtained until the Developer presents a document or documents, for the benefit of the City, showing that the Developer owns the improvements in fee simple and that there are no liens, encumbrances, or other restrictions on the improvements. Approval and/or acceptance of any improvements does not constitute a waiver by the City of any rights it may have on account of any defect in or failure of the improvement that is detected or which occurs after approval and/or acceptance.

11. **Use of Proceeds:** The City will use funds deposited with it or drawn pursuant to any written disbursement agreement entered into between the parties only for the purpose of completing the Improvements or correcting defects in or failure of the Improvements.

12. **Events of Default:** The following conditions, occurrences or actions will constitute a default by the Developer during the Completion Period:

- a. Developer's failure to complete each portion of the Improvements in conformance with the agreed upon time schedule; the City may not declare a default until a fourteen (14) calendar day notice has been given to the Developer;
- b. Developer's failure to demonstrate reasonable intent to correct defective construction of any improvement within the applicable correction period; the City may not declare a default until a fourteen (14) calendar day notice has been given to the Developer;
- c. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer; in such event the City may immediately declare a default without prior notification to the Developer;
- d. Notification to the City, by any lender with a lien on the property, of a default on an obligation; the City may immediately declare a default without prior notification to the Developer;
- e. Initiation of any foreclosure action of any lien or initiation of mechanics lien(s) procedure(s) against the Property or a portion of the Property or assignment or conveyance of the Property in lieu of foreclosure; the City may immediately declare a default without prior notification to the Developer.

13. **Measure of Damages:** The measure of damages for breach of this Agreement by the Developer will be the reasonable cost of satisfactorily completing the Improvements plus reasonable City administrative expenses. For improvements upon which construction has not begun, the estimated costs of the Improvements as shown on Exhibit "B" will be prima facie evidence of the minimum cost of completion; however, neither that amount nor the amount of a letter of credit, the subdivision improvements disbursement agreement or cash escrow establish the maximum amount of the Developer's liability.

14. **City's Rights Upon Default:** When any event of default occurs, the City may draw on the letter of credit, escrowed collateral, or proceed to collect any other security to the extent of the face amount of the credit or full amount of escrowed collateral, cash, or security less ninety percent (90%) of the estimated cost (as shown on Exhibit "B") of all improvements previously accepted by the City or may exercise its rights to disbursement of loan proceeds or other funds under the improvements disbursement agreement. The City will have the right to complete improvements itself or it may contract with a third party for completion, and the Developer grants to the City, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes

of constructing, reconstructing, maintaining, and repairing such improvements. Alternatively, the City may assign the proceeds of the letter of credit, the improvements disbursement agreement, the escrowed collateral, cash, or other funds or assets to a subsequent developer (or a lender) who has acquired the development by purchase, foreclosure or otherwise who will then have the same rights of completion as the City if and only if the subsequent developer (or lender) agrees in writing to complete the unfinished improvements and provides reasonable security for the obligation. In addition, the City may also enjoin the sale, transfer, or conveyance of lots within the development, until the improvements are completed or accepted. These remedies are cumulative in nature and are in addition to any other remedies the City has at law or in equity.

15. **Indemnification:** The Developer expressly agrees to indemnify and hold the City, its officers, employees and assigns harmless from and against all claims, costs and liabilities of every kind and nature, for injury or damage received or sustained, or alleged to be received or sustained, by any person or entity in connection with, or on account of, any act or failure to act concerning the performance of work at the development or the Property pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named in an action concerning the performance of work or the failure to perform work pursuant to this Agreement. The Developer is not an agent or employee of the City.

16. **No Waiver:** No waiver of any provision of this Agreement by the City will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both City and Developer; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.

17. **Amendment or Modification:** The parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the City by the City Manager or his designee and by the Developer or his authorized officer. Such amendment or modification shall be properly notarized before it shall be deemed effective.

18. **Attorney's Fees:** Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party; any City obligation under this section shall be subject to the overriding provisions of section 15, above. If the court awards relief to both parties, the attorney's fees may be equitably divided between the parties by the decision maker, subject to the overriding provisions of section 15, above.

19. **Vested Rights:** The City does not warrant by this Agreement that the Developer is entitled to any other approval(s) required by the City, if any, before the Developer is entitled to commence development or to transfer ownership of property in the development.

20. **Third Party Rights:** No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.

21. **Time:** For the purpose of computing the Abandonment and Completion Periods, and time periods for City action, such times in which war, civil disasters, or acts of God occur or exist will not be included if such times prevent the Developer or City from performing its obligations under the Agreement.

22. **Severability:** If any part, term, or provision of this Agreement is held by a court or courts of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.

EXHIBIT "A"

TYPE LEGAL DESCRIPTION BELOW, USING ADDITIONAL SHEETS AS NECESSARY. USE SINGLE SPACING WITH A ONE (1) INCH MARGIN ON EACH SIDE.

Beginning at a point on the East Section line of Section 16, Township 1 South, Range 1 West of the U.M. that is North 02° 16'30" West 900 feet from the Southeast corner of said Section 16, thence South 69°13'00" West 184.3 feet, thence South 65° 37'30" West 487.2 feet, thence North 0°28'00" East 663.07 feet to the South line of the right of way of the Redlands Irrigation and Power Company's Power Canal, thence South 57°00'00" East 728.15 feet to the Point of Beginning, Mesa County, Colorado.

23. **Benefits/burdens:** The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also shall be binding on the heirs, successors, and assigns of the Developer, and shall be a covenant(s) running with the Property. There is no prohibition on the right of the City to assign its rights under this Agreement. The City will expressly release the original Developer's guarantee or obligations under the improvements disbursement agreement if it accepts new security from any developer or lender who obtains the Property. However, no other act of the City will constitute a release of the original Developer from his liability under this Agreement.

24. **Notice:** Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

If to Developer:

Willow Ridge, LLC
4750 Table Mesa Drive
Boulder, CO 80303

If to City:

City of Grand Junction
Community Development Director
250 N. 5th Street
Grand Junction, Colorado 81501

25. **Recordation:** Developer shall pay for all costs to record a copy of this Agreement in the Clerk and Recorder's Office of Mesa County, Colorado.

26. **Immunity:** Nothing contained in this Agreement constitutes a waiver of the City's immunity under any applicable law.

27. **Personal Jurisdiction and Venue:** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement, letter of credit, improvements disbursements agreement, or cash escrow agreement or any action to collect security will be deemed to be proper only if such action is commenced in Mesa County, Colorado. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

28. **Improvements guarantee.** The improvements guarantee required by the City to ensure that the improvements described in the improvements agreement are constructed to City standards may be in one of the following forms: (If I or II, then attach as Exhibit C.)

- (I) disbursement agreement between a bank doing business in Mesa County and the City, or
- (II) a good and sufficient letter of credit acceptable to the City, or
- (III) depositing with the City cash equivalent to the estimated cost of construction of the improvements under the following terms:

(a) The Finance Department of the City may act as disbursing agent for disbursements to Developer's contractor(s) as required improvements are completed and accepted if agreed to in writing pursuant to a disbursement agreement; and

(b) The Finance Department of the City will disburse any deposit or any portion thereof, with no more than three checks, at no charge. If disbursements are made in excess of three checks, the developer will be charged \$100 per transaction for every transaction in excess of three.

29. **Conditions of Acceptance.**

- a. The City shall have no responsibility or liability with respect to any street, or other improvement(s), notwithstanding the use of the same by the public, unless the street or other improvements shall have been accepted by the City. "Acceptance by the City" means a separate writing wherein the City specifies which improvements have been accepted and the date from which warranty(ies) shall run.
- b. Prior to requesting final acceptance of any street, storm drainage facility, or other required improvement(s), the Developer shall: (i) furnish to the City Engineer as-built drawings in reproducible form, blueline stamped and sealed by a professional engineer and in computer disk form and copies of results of all construction control tests required by City specifications; (ii) provide written evidence to the City Engineer under signature of a qualified expert that the earth, soils, lands and surfaces upon, in and under which the improvements have been constructed, or which are necessary for the improvements, are free from toxic, hazardous or other regulated substances or materials; (iii) provide written evidence to the City Engineer that the title to lands underlying the improvements are merchantable and free and clear from all liens and encumbrances, except those liens and encumbrances which may be approved in writing by the City Engineer.

30. **Phased Development.** If the City allows a street to be constructed in stages, the Developer of the first one-half street opened for traffic shall construct the adjacent curb, gutter and sidewalk in the standard location and shall construct the required width of pavement from the edge of gutter on his side of the street to enable an initial two-way traffic operation without on-street parking. That Developer is also responsible for end-transitions, intersection paving, drainage facilities, and adjustments to existing utilities necessary to open the street to traffic.


ACTING Director of Community Development Date 6/10/96

City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

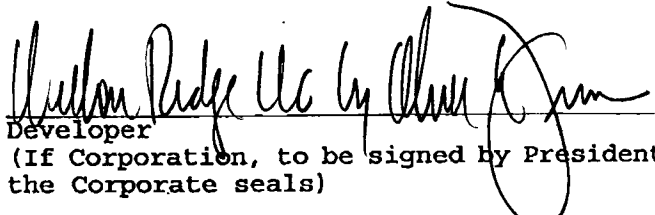

Developer Date 6/7/96
(If Corporation, to be signed by President and attested to by Secretary together with the Corporate seals)

image2.6/22/95

EXHIBIT "B"

IMPROVEMENTS LIST/DETAIL
(Page 1 of 3)

DATE: 07 June 96

NAME OF DEVELOPMENT: WILLOW RIDGE SUBDIVISION (Entry Feature)

LOCATION: Colorado State Highway 340 (Broadway and Willow Ridge Court)

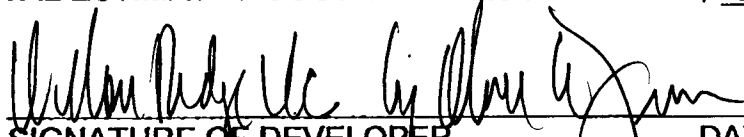
PRINTED NAME OF PERSON PREPARING: Oliver E. Frasca & Kenneth L. Schmohe
Willow Ridge, LLC

	UNITS	TOTAL QTY.	UNIT PRICE	TOTAL AMOUNT
I. SANITARY SEWER				
1. Clearing and grubbing				
2. Cut and remove asphalt				
3. PVC sanitary sewer main (incl. trenching, bedding & backfill)				
4. Sewer Services (incl. trenching, bedding, & backfill)				
5. Sanitary sewer manhole(s)				
6. Connection to existing manhole(s)				
7. Aggregate Base Course				
8. Pavement replacement				
9. Driveway restoration				
10. Utility adjustments				
II. DOMESTIC WATER				
1. Clearing and grubbing				
2. Cut and remove asphalt				
3. Water Main (incl. excavation, bedding, backfill, valves and appurtenances)				
4. Water services (incl. excavation, bedding, backfill, valves, and appurtenances)				
5. Connect to existing water line				
6. Aggregate Base Course				
7. Pavement Replacement				
8. Utility adjustments				
III. STREETS				
1. Clearing and grubbing				
2. Earthwork, including excavation and embankment construction				
3. Utility relocations				


	UNITS	TOTAL QTY.	UNIT PRICE	TOTAL AMOUNT
4. Aggregate sub-base course (square yard)				
5. Aggregate base course (square yard)				
6. Sub-grade stabilization				
7. Asphalt or concrete pavement (square yard)				
8. Curb, gutter & sidewalk (linear feet)				
9. Driveway sections (square yard)				
10. Crossspans & fillets				
11. Retaining walls/structures				
12. Storm drainage system				
13. Signs and other traffic control devices				
14. Construction staking				
15. Dust control				
16. Street lights (each)				
IV. LANDSCAPING				
1. Design/Architecture	NA			
2. Earthwork (includes top soil, fine grading, & berming)	INCLUDED IN	WORK PREVIOUSLY DONE		
3. Hardscape features (includes walls, fencing, and paving)	INCLUDED IN	ITEM NO. 6 BELOW		
4. Plant material and planting				
5. Irrigation system				
6. Other features (incl. statues, water displays, park equipment, and outdoor furniture)	LS	\$18,500.00		\$18,500.00
ENTRY WALL & GATE HOUSE				
7. Curbing	INCLUDED IN	WORK PREVIOUSLY DONE		
8. Retaining walls and structures				
9. One year maintenance agreement	NA			
V. MISCELLANEOUS				
1. Design/Engineering	NA			
2. Surveying				
3. Developer's inspection costs				
4. Quality control testing				
5. Construction traffic control				
6. Rights-of-way/Easements				

	TOTAL QTY.	UNIT PRICE	TOTAL AMOUNT
7. City inspection fees			
8. Permit fees			
9. Recording costs			
10. Bonds			
11. Newsletters			
12. General Construction Supervision			
13. Other			
14. Other			

TOTAL ESTIMATED COST OF IMPROVEMENTS: \$ 18,500.00

 6/7/96
 SIGNATURE OF DEVELOPER DATE
 (If corporation, to be signed by President and attested to by Secretary together with the corporate seals.)

I have reviewed the estimated costs and time schedule shown above and, based on the plan layouts submitted to date and the current costs of construction, I take no exception to the above.

 6-10-96
 CITY ENGINEER DATE

 COMMUNITY DEVELOPMENT DATE

s:impagmt.rev-4/95

DEVELOPMENT IMPROVEMENTS AGREEMENT

1. Parties: ^{WILLOW RIDGE LLC by:} The parties to this Development Improvements Agreement ("the Agreement") are OLIVER E. FRASCONA ("the Developer") and THE CITY OF GRAND JUNCTION, Colorado ("the City").

THEREFORE, for valuable consideration, the receipt and adequacy of which is acknowledged, the Parties agree as follows:

2. Effective Date: The Effective Date of the Agreement will be the date that this agreement is recorded which is not sooner than recordation of the FINAL PLAT

RECITALS

The Developer seeks permission to develop property within the City to be known as WILLOW RIDGE SUBDIVISION which property is more particularly described on Exhibit "A" attached and incorporated by this reference (the "Property"). The City seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements in the development and limiting the harmful effects of substandard developments. The purpose of this Agreement is to protect the City from the cost of completing necessary improvements itself and is not executed for the benefit of materialmen, laborers, or others providing work, services or material to the development or for the benefit of the purchasers or users of the development. The mutual promises, covenants, and obligations contained in this Agreement are authorized by state law, the Colorado Constitution and the City's land development ordinances.

DEVELOPER'S OBLIGATION

3. Improvements: The Developer will design, construct and install, at its own expense, those on-site and off-site improvements listed on Exhibit "B" attached and incorporated by this reference. The Developer agrees to pay the City for inspection services performed by the City, in addition to amounts shown on Exhibit B. The Developer's obligation to complete the improvements is and will be independent of any obligations of the City contained herein.

4. Security: To secure the performance of its obligations under this Agreement (except its obligations for warranty under paragraph 6), the Developer will enter into an agreement which complies with either option identified in paragraph 28, or other written agreement between the City and the Developer.

5. Standards: The Developer shall construct the Improvements according to the standards and specifications required by the City Engineer or as adopted by the City.

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6. **Warranty:** The Developer warrants that the Improvements, each and every one of them, will be free from defects for a period of twelve (12) months from the date that the City Engineer accepts or approves the improvements completed by the Developer.

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8. **Compliance with Law:** The developer shall comply with all relevant federal, state and local laws, ordinances, and regulations in effect at the time of final approval when fulfilling its obligations under this Agreement.

9. **Notice of Defect:** The Developer's Engineer shall provide timely notice to the Developer, contractor, issuer of security and the City Engineer whenever inspection reveals, or the Developer's Engineer otherwise has knowledge, that an improvement does not conform to City standards and any specifications approved in the development application or is otherwise defective. The developer will have thirty (30) days from the issuance of such notice to correct the defect.

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- a. Developer's failure to complete each portion of the Improvements in conformance with the agreed upon time schedule; the City may not declare a default until a fourteen (14) calendar day notice has been given to the Developer;
- b. Developer's failure to demonstrate reasonable intent to correct defective construction of any improvement within the applicable correction period; the City may not declare a default until a fourteen (14) calendar day notice has been given to the Developer;

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- c. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer; in such event the City may immediately declare a default without prior notification to the Developer;
- d. Notification to the City, by any lender with a lien on the property, of a default on an obligation; the City may immediately declare a default without prior notification to the Developer;
- e. Initiation of any foreclosure action of any lien or initiation of mechanics lien(s) procedure(s) against the Property or a portion of the Property or assignment or conveyance of the Property in lieu of foreclosure; the City may immediately declare a default without prior notification to the Developer.

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in connection with, or on account of the performance of work at the development or the Property pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance of work pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance of work pursuant to this Agreement except where such suit is brought by the Developer against the City. The Developer is not an agent or employee of the City.

16. **No Waiver:** No waiver of any provision of this Agreement by the City will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both City and Developer; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.

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20. **Third Party Rights:** No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.

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22. **Severability:** If any part, term, or provision of this Agreement is held by a court or courts of competent jurisdiction to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.

23. Benefits: The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also will be binding on the heirs, successors, and assigns of the Developer, and shall be a covenant(s) running with the Property. There is no prohibition on the right of the City to assign its rights under this Agreement. The City will expressly release the original Developer's guarantee or obligations under the improvements disbursement agreement if it accepts new security from any developer or lender who obtains the Property. However, no other act of the City will constitute a release of the original Developer from his liability under this Agreement.

24. Notice: Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

If to Developer:

~~KENNETH L. SCHMONE~~
~~C/O DESIGN AFFILIATES, LLC~~ WILLOW RIDGE, LLC
~~2690 REGIS DRIVE~~ 1910 STONY HILL ROAD
BOULDER, CO 80303

If to City:

City of Grand Junction
Community Development Director
250 N. 5th Street
Grand Junction, Colorado 81501

25. Recordation: Developer will pay for all costs to record a copy of this Agreement in the Clerk and Recorder's Office of Mesa County, Colorado.

26. Immunity: Nothing contained in this Agreement constitutes a waiver of the City's sovereign immunity under any applicable law.

27. Personal Jurisdiction and Venue: Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement, letter of credit, improvements disbursements agreement, or cash escrow agreement or any action to collect security will be deemed to be proper only if such action is commenced in Mesa County, Colorado. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

28. The improvements guarantee required by the City Code to ensure that the improvements described in the improvements agreement are constructed to City standards may be in one of the following forms:

WLL

- _____ (I) disbursement agreement between a bank doing business in Mesa County and the City, or
- _____ (II) a good and sufficient letter of credit acceptable to the City, or
- _____ (III) depositing with the City cash equivalent to the estimated cost of construction of the improvements.
- * (IV) other; see attached. Improvements are fully completed

The Finance Department of the City may act as disbursing agent for disbursements to Developer's contractor(s) as required improvements are completed and accepted if agreed to in writing pursuant to a disbursement agreement.

The Finance Department of the City will disburse any deposit or any portion thereof, with no more than three checks, at no charge. If disbursements are made in excess of three checks, the developer will be charged \$100 per transaction for every transaction in excess of three.

Exhibit C, attached hereto and incorporated herein by this reference as if fully set forth, is the City approved and accepted guarantee for this project.

29. a. Conditions of Acceptance: The City shall have no responsibility or liability with respect to any street, or other improvement(s), notwithstanding the use of the same by the public, unless the street or other improvements shall have been accepted by the City.

Prior to requesting final acceptance of streets, storm drainage facilities, or other required improvements, the Developer shall furnish to the City Engineer as-built drawings in reproducible form, blue-line stamped and sealed by a professional engineer and in computer disk form and copies of results of all construction control tests required by City specifications.

- b. Phased Development: If the City allows a street to be constructed in stages, the Developer of the first one-half street opened for traffic shall construct the adjacent curb, gutter and sidewalk in the standard location and shall construct the required width of pavement from the edge of gutter on his side of the street to enable an initial two-way traffic operation without on-street parking. That Developer is also responsible for end-transitions, intersection paving, drainage facilities, and adjustments to existing utilities necessary to open the street to traffic.

Will

Attest:

Stephanie Nye
City Clerk

Date

Director of Community Development

Date

City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

x William Pugh LLC by Oliver G. Jones 2/14/96
Developer Date

(If Corporation, to be signed by President
and attested to by Secretary together with
the Corporate seals)

7.

WPC

TYPE LEGAL DESCRIPTION BELOW, USING ADDITIONAL SHEETS AS NECESSARY.
USE SINGLE SPACING WITH A ONE INCH MARGIN ON EACH SIDE.

EXHIBIT A

Beginning at a point on the East Section line of Section 16,
Township 1 South, Range 1 West of the U.M. that is North 02°
16'30" West 900 feet from the Southeast corner of said Section
16, thence South 69°13'00" West 184.3 feet, thence South 65°
37'30" West 487.2 feet, thence North 0°28'00" East 663.07 feet to
the South line of the right of way of the Redlands Irrigation and
Power Company's Power Canal, thence South 57°00'00" East 728.15
feet to the Point of Beginning, Mesa County, Colorado.

WALL

IMPROVEMENTS LIST/DETAIL

PROBABLE OPINION OF QUANTITIES AND COSTS

DATE: 2-13-96

NAME OF DEVELOPMENT: WILLOW RIDGE SUBDIVISION (OFF-SITE WATER/HWY IMPROVEMENTS)

LOCATION: COLORADO STATE HWY 340 (BROADWAY & EAST MAYFIELD DRIVE)

PRINTED NAME OF PERSON PREPARING: MARK D. YOUNG (ROLLAND ENGINEERING)

	UNITS	TOTAL QTY.	UNIT PRICE	TOTAL AMOUNT
I. SANITARY SEWER (CONSTRUCTED PER MATS SUBDIVISION SEWER IMPROVEMENT DISTRICT)				
1. Clearing and grubbing	N/A			
2. Cut and remove asphalt	N/A			
3. PVC sanitary sewer main (incl. trenching, bedding & backfill)	N/A			
4. Sewer Services (incl. trenching, bedding, & backfill)	N/A			
5. Sanitary sewer manhole(s)	N/A			
6. Connection to existing manhole(s)	N/A			
7. Aggregate Base Course	N/A			
8. Pavement replacement	N/A			
9. Driveway restoration	N/A			
10. Utility adjustments	N/A			
II. DOMESTIC WATER (OFF-SITE HWY WATERLINE X-ING PER EXISTING 24" CMP SLEEVE)				
1. Clearing and grubbing	LS	1	500 ⁰⁰	500 ⁰⁰
2. Cut and remove asphalt	SY	30	23 ⁰⁰	690 ⁰⁰
3. Water Main (incl. excavation, bedding, backfill, valves and appurtenances)	LF	350	207 ⁵⁰	7262 ⁵⁰
4. Water services (incl. excavation, bedding, backfill, valves, and appurtenances)	N/A			
5. Connect to existing water line	EA	1	970 ⁰⁰	970 ⁰⁰
6. Aggregate Base Course	N/A			
7. Pavement Replacement	INCLUDED IN ITEM NO. 2 ABOVE			
8. Utility adjustments	LS	1	1000 ⁰⁰	1000 ⁰⁰
III. STREETS (OFF-SITE HIGHWAY IMPROVEMENTS)				
1. Clearing and grubbing	LS	1	2000 ⁰⁰	2000 ⁰⁰
2. Earthwork, including excavation and embankment construction	CY	300	390	1170 ⁰⁰
3. Utility relocations	N/A			
4. Aggregate sub-base course (square yard) (12" THICK CLASS 1)	SY	910	540	4914 ⁰⁰
5. Aggregate base course (square yard) (6" THICK CLASS 6)	SY	910	290	2639 ⁰⁰
6. Sub-grade stabilization	SY	910	0 ⁸⁰	728 ⁰⁰
7. Asphalt or concrete pavement (4" HESP)	SY	1044	5 ⁸⁰	6055 ²⁰
(square yard) (1 1/2" HESP)	SY	2964	2 ²⁰	6520 ⁸⁰
8. Curb, gutter & sidewalk (linear feet)	N/A			
9. Driveway sections (square yard)	N/A			
10. Crosspans & fillets	N/A			
11. Retaining walls/structures	N/A			
12. Storm drainage system (24" RCP)	LF	120	45 ⁰⁰	5400 ⁰⁰
(15" RCP)	LF	65	27 ⁰⁰	1755 ⁰⁰

IMPROVEMENTS LIST/DETAIL
 PROBABILE OPINION OF QUANTITIES AND COSTS

DATE: 2-13-96
 NAME OF DEVELOPMENT: WILLOW RIDGE SUBDIVISION (ON-SITE IMPROVEMENTS)
 LOCATION: COLORADO STATE HWY 340 (BROADWAY & EAST MAYFIELD DRIVE)
 PRINTED NAME OF PERSON PREPARING: MARK D. YOUNG (ROLLAND ENGINEERING)

	UNITS	TOTAL QTY.	UNIT PRICE	TOTAL AMOUNT
I. SANITARY SEWER (CONSTRUCTED PER MAPS SUBDIVISION SEWER IMPROVEMENT DISTRICT)				
1. Clearing and grubbing	N/A			
2. Cut and remove asphalt	N/A			
3. PVC sanitary sewer main (incl. trenching, bedding & backfill)	N/A			
4. Sewer Services (incl. trenching, bedding, & backfill)	N/A			
5. Sanitary sewer manhole(s)	N/A			
6. Connection to existing manhole(s)	N/A			
7. Aggregate Base Course	N/A			
8. Pavement replacement	N/A			
9. Driveway restoration	N/A			
10. Utility adjustments	N/A			
II. DOMESTIC WATER (ON-SITE IMPROVEMENTS)				
1. Clearing and grubbing	LS	1	500 ⁰⁰	500 ⁰⁰
2. Cut and remove asphalt	N/A			
3. Water Main (incl. excavation, (8" DIA.) bedding, backfill, valves and (4" DIA.) appurtenances)	LF	575	18 ⁷⁵	10 781 ²⁵
	LF	150	13 ²⁵	1 987 ⁰⁰
4. Water services (incl. excavation, bedding, backfill, valves, and appurtenances)	EA	14	475 ⁰⁰	6 650 ⁰⁰
5. Connect to existing water line	N/A			
6. Aggregate Base Course	N/A			
7. Pavement Replacement	N/A			
8. Utility adjustments	N/A			
III. STREETS (ON-SITE IMPROVEMENTS)				
1. Clearing and grubbing	LS	1	1 800 ⁰⁰	1 800 ⁰⁰
2. Earthwork, including excavation and embankment construction	CY	2 700	2 ¹²	5 670 ⁰⁰
3. Utility relocations	N/A			
4. Aggregate sub-base course (square yard)	N/A			
5. Aggregate base course (6" THICK CLASS 6) (square yard)	SY	2 600	3 ⁰⁰	7 800 ⁰⁰
6. Sub-grade stabilization	SY	2 600	0 ⁹⁵	2 470 ⁰⁰
7. Asphalt or concrete pavement (square yard) (3" THICK HBP)	SY	2 260	4 ⁰⁰	9 040 ⁰⁰
8. Curb, gutter & sidewalk (6.5' WIDE) (linear feet)	LF	870	14 ⁰⁰	12 180 ⁰⁰
9. Driveway sections (square yard)	N/A			
10. Crosspans & fillets	N/A			
11. Retaining walls/structures	N/A			
12. Storm drainage system (INCLUDING, DETENTION POND, INLET & OUTLET STRUCTURES, AND PIPE)	LS	1	6 025 ⁰⁰	6 025 ⁰⁰

WRC

13. Signs and other traffic control devices	LS	1	2 750 ⁰⁰	2 750 ⁰⁰
14. Construction staking	LS	1	2 000 ⁰⁰	2 000 ⁰⁰
15. Dust control	INCLUDED IN OTHER ITEMS			
16. Street lights (each)	N/A			
IV. LANDSCAPING				
1. Design/Architecture	N/A			
2. Earthwork (includes top soil, fine grading, & berming)	N/A			
3. Hardscape features (includes walls, fencing, and paving)	N/A			
4. Plant material and planting	N/A			
5. Irrigation system	N/A			
6. Other features (incl. statues, water displays, park equipment, and outdoor furniture)	N/A			
7. Curbing	N/A			
8. Retaining walls and structures	N/A			
9. One year maintenance agreement	N/A			
V. MISCELLANEOUS				
1. Design/Engineering	N/A			
2. Surveying	N/A			
3. Developer's inspection costs	LS	1	500 ⁰⁰	500 ⁰⁰
4. Quality control testing	LS	1	4 500 ⁰⁰	4 500 ⁰⁰
5. Construction traffic control	LS	1	6 000 ⁰⁰	6 000 ⁰⁰
6. Rights-of-way/Easements	N/A			
7. City inspection fees	LS	1	300 ⁰⁰	300 ⁰⁰
8. Permit fees	N/A			
9. Recording costs	N/A			
10. Bonds	N/A			
11. Newsletters	N/A			
12. General Construction Supervision	LS	1	700 ⁰⁰	700 ⁰⁰
13. Other	N/A			
14. Other HWY WATERLINE X-ING PER EXIST. 24" CMP INCLUDING ALL MATERIALS & LABOR	LF	150	55 ⁰⁰	8 250 ⁰⁰

TOTAL ESTIMATED COST OF IMPROVEMENTS: \$ 66,364⁵⁰

* William D. [Signature]
 SIGNATURE OF DEVELOPER
 (If corporation, to be signed by President and attested to by Secretary together with the corporate seals.)

2/14/96
DATE

I have reviewed the estimated costs and time schedule shown above and, based on the plan layouts submitted to date and the current costs of construction, I take no exception to the above.

[Signature]
 CITY ENGINEER

 COMMUNITY DEVELOPMENT

2-22-96
 DATE

 DATE

13. Signs and other traffic control devices	N/A			
14. Construction staking	LS	1	1 000 ⁰⁰	1 000 ⁰⁰
15. Dust control	INCLUDED IN OTHER ITEMS			
16. Street lights (each)	EA	2	250 ⁰⁰	500 ⁰⁰
IV. LANDSCAPING				
1. Design/Architecture	N/A			
2. Earthwork (includes top soil, fine grading, & berming)	INCLUDED IN STREETS			
3. Hardscape features (includes walls, fencing, and paving)	INCLUDED IN ITEM No. 6 BELOW			
4. Plant material and planting	LS	1	9 300 ⁰⁰	9 300 ⁰⁰
5. Irrigation system	LS	1	3 950 ⁰⁰	3 950 ⁰⁰
6. Other features (incl. statues, water displays, park equipment, and outdoor furniture) ENTRY WALL & GATE HOUSE)	LS	1	21 350 ⁰⁰	21 350 ⁰⁰
7. Curbing	LF	70	10 ⁰⁰	700 ⁰⁰
8. Retaining walls and structures	LS	1	3 375 ⁰⁰	3 375 ⁰⁰
9. One year maintenance agreement	N/A			
V. MISCELLANEOUS				
1. Design/Engineering (AS-BUILTS)	LS	1	1 000 ⁰⁰	1 000 ⁰⁰
2. Surveying	LS	1	1 000 ⁰⁰	1 000 ⁰⁰
3. Developer's inspection costs	LS	1	1 400 ⁰⁰	1 400 ⁰⁰
4. Quality control testing	INCLUDED IN OTHER ITEMS			
5. Construction traffic control	INCLUDED IN OTHER ITEMS			
6. Rights-of-way/Easements	N/A			
7. City inspection fees	LS	1	800 ⁰⁰	800 ⁰⁰
8. Permit fees	N/A			
9. Recording costs	N/A			
10. Bonds	N/A			
11. Newsletters	N/A			
12. General Construction Supervision	LS	1	2 100 ⁰⁰	2 100 ⁰⁰
13. Other FIRE HYDRANTS	EA	2	2 000 ⁰⁰	4 000 ⁰⁰
14. Other				

TOTAL ESTIMATED COST OF IMPROVEMENTS: \$ 115,378⁷⁵

* William P. [Signature]
 SIGNATURE OF DEVELOPER
 (If corporation, to be signed by President and attested to by Secretary together with the corporate seals.)

2/14/96
DATE

I have reviewed the estimated costs and time schedule shown above and, based on the plan layouts submitted to date and the current costs of construction, I take no exception to the above.

[Signature]
 CITY ENGINEER

 COMMUNITY DEVELOPMENT

2-22-96
 DATE

 DATE

WPK

MEMORANDUM OF IMPROVEMENTS AGREEMENT & GUARANTEE
Grand Junction Community Development Department
File # FPP-95-133

This memorandum relates to an improvements agreement and guarantee dated June 07, 1996 ~~1995~~,
by and between Willow Ridge, LLC (Developer) and the City of Grand Junction
(City) pertaining to WILLOW RIDGE SUBDIVISION (Project) in the City of Grand Junction..

Legal Description:

See Attached Exhibit

1760519 0234PM 06/13/96
MONIKA TODD CLK&REC MESA COUNTY CO

Whereas, Developer is required to install and construct certain public and private improvements as a
condition of approval of the Project, which completion is guaranteed by an improvements agreement and
guarantee in the sum of \$ 18,500⁰⁰, and

Whereas, the City of Grand Junction and other agencies possessing regulatory authority over the Project
and/or the improvements to be constructed, must inspect the improvements and accept the same before the
improvements agreement and guarantee are released or if not constructed the City may use the proceeds or
collateral of the guarantee to install the improvements, and

Whereas, the existence of the improvements agreement and guarantee may affect certain rights,
responsibilities and actions of the Developer, the City or any other person or entity,

NOW THEREFORE, this memorandum is recorded to be notice to the world of the existence of said
improvements agreement and guarantee. This memorandum is not a complete summary of the improvements
agreement and guarantee. Provisions of this memorandum shall not be used to interpret the terms or
provisions of the improvements agreement and/or guarantee. In the event of conflict between this
memorandum and the unrecorded improvements agreement and/or guarantee, the unrecorded improvements
agreement and guarantee shall control. The improvements agreement and guarantee may be inspected at the
City of Grand Junction Community Development Department, 250 N. 5th Street, Grand Junction, CO.

CITY OF GRAND JUNCTION:

Daniel L. Montano 6/10/96
ACTING Director of Community Development date

DEVELOPER:

Willow Ridge LLC by Chris [Signature] 6/6/96
date *managing member*

After recording mail to:

Kathy Portner
c/o Community Development Department
City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501

EXHIBIT "A"

TYPE LEGAL DESCRIPTION BELOW, USING ADDITIONAL SHEETS AS NECESSARY. USE SINGLE SPACING WITH A ONE (1) INCH MARGIN ON EACH SIDE.

Beginning at a point on the East Section line of Section 16, Township 1 South, Range 1 West of the U.M. that is North 02° 16'30" West 900 feet from the Southeast corner of said Section 16, thence South 69°13'00" West 184.3 feet, thence South 65° 37'30" West 487.2 feet, thence North 0°28'00" East 663.07 feet to the South line of the right of way of the Redlands Irrigation and Power Company's Power Canal, thence South 57°00'00" East 728.15 feet to the Point of Beginning, Mesa County, Colorado.

OLIVER E. FRASCONA
4750 TABLE MESA DRIVE
BOULDER, CO 80303

1809

6/10/96

82-436/1070
0900101952

PAY TO THE ORDER OF City of Grand Junction \$ 18,500

Eight thousand five hundred DOLLARS

WALLET

WALNUT STREET OFFICE
1375 WALNUT
BOULDER, CO 80302
CUSTOMER SERVICE (303) 758-6000
ACCESSLINE (303) 843-9300

MEMO 2000 Oliver E. Frasca

⑆ 107004365⑆0900101952⑆ 1809

SAFETY PAPER

Gave check & copy of DIA to Robbie
6/13/96. KKA

Recorded Memorandum & Exhibit A
6/13/96
KKA