

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF TUMWATER AND TUMWATER 70TH
AVE LLC FOR
CONVERSION OF ONSITE SEPTIC TO PUBLIC SEWER SERVICE**

This Development Agreement is made and entered into on the Effective Date by and between the City of Tumwater, a Washington municipal corporation, hereinafter the “City”, and Tumwater 70th Ave LLC, a Washington Limited Liability Company, herein after the “Developer” relating to the conversion of private onsite septic system(s) to the public wastewater utility for the Velkommen Mobile Home Park.

RECITALS

WHEREAS, the Washington State Legislature has authorized the execution of a development agreement between a local government and entities with ownership or control of real property within its jurisdiction;

WHEREAS, the City of Tumwater is a municipal corporation under the laws of the State of Washington with authority to enact laws and enter into agreements to promote the health, safety, and welfare of its residents;

WHEREAS, the City of Tumwater Housing Action Plan includes specific strategies to achieve affordable housing goals, including Strategy 1.i *Fund development projects that increase low-income housing through grants or loans*, and Strategy 1.m. *Extend public water and sewer to unserved areas to allow infill development in underdeveloped areas*;

WHEREAS, Tumwater 70th LLC owns property at Velkommen Mobile Home Park, located at 2535 70th Ave. SW, Tumwater, WA, hereinafter the “Property”;

WHEREAS, the Property provides space for thirty-nine (39) mobile home units, all of which are on septic systems and Tumwater 70th LLC wishes to install city sewer services to its tenants and remove deteriorating onsite septic systems;

WHEREAS, deteriorating and failing septic systems negatively impact water quality;

WHEREAS, the 2015 Urban Septic Assessment Report estimated that there are 989 parcels in Tumwater with septic systems and an additional 1,630 parcels within the Urban Growth Boundary;

WHEREAS, the Velkommen Mobile Home Park is ranked as a high to very high risk to Groundwater due to density of septic systems onsite;

WHEREAS, the City of Tumwater applied for and received a grant from the Department of Ecology to assist with septic removal and replacement with sewer service and, because of this funding, all mobile home units now served by multiple onsite septic systems are planned to be converted to city sewer;

WHEREAS, Agreement No. WQC-2023-Tumwat-0050 with the Department of Ecology, hereinafter the “Grant Agreement,” states the City “will create a more effective septic to sewer conversion program specifically for high-density septic systems in mobile home communities;”

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1));

WHEREAS, for the purposes of this development agreement, “development standards” include, but are not limited to, all the standards listed in RCW 36.70B.170(3);

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW (RCW 36.70B.170(1)) and as required by the City through the standard Development Review process;

WHEREAS, the Property is designated Manufactured Home Park (“MHP”) in the City Comprehensive Plan and Zoning maps;

WHEREAS, the purpose of the MHP designation is to ensure the development of well-planned designated manufactured home facilities and to ensure the compatibility of such facilities with adjacent existing and planned use (TMC 18.48.110);

WHEREAS, designated manufactured home parks shall be complete developments and are required to include facilities such as sanitary sewage disposal, as approved by the community development department (TMC 18.48.110(B));

WHEREAS, after a public hearing, by Resolution No. R2025-008, the City Council authorized the Mayor to sign this Development Agreement with the Developer;

NOW, THEREFORE, the parties agree as follows:

- 1. Property.** The Property, commonly known as Velkommen Mobile Home Park, is located at 2535 70th Ave SW, Tumwater, WA 98512. The Property is legally described in Exhibit 1 attached hereto and incorporated herein by reference. A survey of the Property is attached in Exhibit 2, attached hereto, and incorporated herein by reference. The Developer contemplates a minor lot line adjustment which, if approved by the City, will change the legal description and survey. Said lot line adjustment will have no impact on the contemplated work or scope of the Project.
- 2. Project.** The Project consists of the conversion of thirty-nine (39) existing mobile home units from onsite septic systems to public sewer service. Development and use of the Property will be in conformance with the Development Agreement, the Grant Agreement, the City's MHP zoning, and the Comprehensive Plan and Development Regulations. The Project does not contemplate any improvements to the existing homes, aside from connection to public sewer. As such, no improvements are required by the City for this Project.
- 3. Exhibits.**
 - (a) Exhibit 1 – Property Legal Description
 - (b) Exhibit 2 – [Property Site Plan](#)
 - (c) Exhibit 3 - [Grant Agreement WQC-2023-Tumwat-00050](#)
- 4. Parties.**
 - (a) The “City” is the City of Tumwater, a Washington municipal corporation, having a mailing address of 555 Israel Road SW, Tumwater, WA 98501.
 - (b) The “Developer” is the Tumwater 70th Ave LLC, a limited liability company organized under the laws of the State of Washington, which owns the Property, and whose principal office is located at and has a mailing address of GP Realty Finance, Inc., 12600 SE 38th Street, #103, Bellevue, WA, 98006.
- 5. Definitions.** As used in this Development Agreement, the following terms, phrases, and words shall have the meanings and be interpreted as set forth in this Section.
 - a) “Adopting Resolution” means the Resolution which approves this Development Agreement, as required by RCW 36.70B.200.

- b) "Council" means the duly elected legislative body governing the City of Tumwater.
 - c) "Design Guidelines" means the Tumwater Development Guide, as adopted by the City.
 - d) "Director" means the City's Community Development Director.
 - e) "Effective Date" means the effective date of the Adopting Resolution.
 - f) "Existing Land Use Regulations" means the ordinances adopted by the City Council of Tumwater in effect on the Effective Date, including the adopting ordinances that govern the permitted uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Property, including, but not limited to the Comprehensive Plan, the City's Official Zoning Map and development standards, the Development Guide, the Public Works Standards, SEPA, Concurrency Ordinance, and all other ordinances, codes, rules and regulations of the City establishing subdivision and building standards. Existing Land Use Regulation does not include non-land use regulations such as taxes and impact fees.
 - g) "Project" means the anticipated development of the Subject Property, as specified in Section 2 and as provided for in all associated permits and approvals, and all incorporated exhibits.
- 6. Project is a Private Undertaking.** It is agreed among the parties that the Project is a private development, and that the City has no interest therein except as authorized in the exercise of its governmental functions.
- 7. Term of Agreement.** This Development Agreement shall commence upon the Effective Date of the Adopting Resolution approving this Development Agreement and shall continue in force for a period of two (2) years unless extended or terminated as provided herein.
- 8. Grant-Eligible Project Elements.** In partnership with Developer, the City of Tumwater will use grant funding from the Department of Ecology to help offset costs for converting existing multiple septic systems that serve thirty-nine (39) existing mobile home units at the Property. The City will reimburse for all or part of the following items, dependent upon funds available and to the extent the project's elements are eligible for grant

reimbursement from the Department of Ecology pursuant to the Grant Agreement:

- a. Septic system abandonment;
- b. Trench restoration and repaving;
- c. The purchase and installation of a manhole(s) necessary to serve the existing thirty-nine (39) units;
- d. 8-inch (or other as approved by City) gravity sewer piping;
- e. Construction to connect existing manufactured homes to public sanitary sewer;
- f. Latecomer's fee;
- g. City sewer connection fees;
- h. LOTT Capacity Development Charges;
- i. Permitting costs for each mobile home unit and site plan submission charges.

9. Developer's Responsibilities. The Developer shall be responsible for the following:

- a. Advertising, bidding, hiring, and contracting with a construction firm or firms to complete the conversion of the existing septic systems;
- b. Paying for the design, permitting, and construction costs in advance before requesting reimbursement from the City, no more frequently than quarterly. The Developer is responsible for paying prevailing wages for construction, and providing the City with an Affidavit to Pay Prevailing Wages;
- c. Removing all existing onsite septic systems, abandoning any remaining septic tanks, and decommissioning all existing drain fields related to this project according to federal, state, and local regulations.
- d. Connecting all existing thirty-nine (39) mobile home units to the City's sanitary sewer system. All costs associated with connecting any additional units beyond the thirty-nine (39) existing units contemplated by this Development Agreement on the Property will be the sole responsibility of the Developer.
- e. Providing for all future, routine, on-going maintenance costs associated with the Property.
- f. If the Developer contemplates additional units, pads, or homes beyond the existing thirty-nine (39) units to ease the administrative burden, the Developer will make every effort to separate that work from the Project contemplated by this Development Agreement.
- g. The Developer will make any contract(s) for other work as part of this Project available, upon request, to all parties for review to insure an appropriate segregation of costs.

- h. The Developer agrees that the new sanitary sewer system constructed as part of this Project is within the mobile home park located on private property and will not be dedicated to the City. Maintenance, repair, future replacement, and any new extensions of the sanitary sewer system from connection to the Main on 70th Avenue SW and within the park is the sole responsibility of Developer.
- i. Deliver to the City all appropriate documentation required for the City to complete reimbursement requests per the Grant Agreement. Appropriate documentation includes, but not limited to, all relevant invoices, change orders, documentation of work progress, and daily construction notes. Such documentation shall be sent to the City as noted in the schedule below.

Reporting Period		Reports due to City	Reports due to Ecology
Quarter 1	January 1 – March 31	April 20, 2025	April 30, 2025
Quarter 2	April 1 – June 30	July 20, 2025	July 30, 2025
Quarter 3	July 1 – September 30	October 20, 2025	October 30, 2025
Quarter 4	October 1 – December 31	January 20, 2026	January 30, 2026

- j. The Developer shall provide the City with the following documents for review by the Department of Ecology as required by the Grant Agreement:
 - i. Copies of all required permits
 - ii. Final Bid Package
- k. Prior to selecting a construction contractor by the Developer, the Developer shall provide responses to Ecology comments on the Final Bid Package, as needed, following a 15-day review period of the Final Bid Package performed by the Department of Ecology.
- l. Prior to start of construction, the Developer shall provide the City a signed and dated construction contract;
- m. During and following construction, the Developer shall provide the City:
 - i. Any Change Order(s)
 - ii. Complete Construction Completion Form
- n. Failure to provide all the abovementioned deliverables may result in the loss of grant funding and termination of this Development Agreement.

10. City Responsibilities. The City shall:

- a. Administer the Grant Agreement;

- b. Be the primary contact for the Department of Ecology and submit all deliverables on behalf of the Developer and the City;
- c. Provide Developer reimbursement for the Project to the extent the projects elements are eligible for grant reimbursement and all documentation from the Developer has been received pursuant to the Grant Agreement.
 - i. The Department of Ecology reviews the payment request(s) from the City and, if approved, provides reimbursement of eligible expenses to the City of Tumwater for 75% of the total amount requested, up to a total reimbursement amount of \$666,666.67.
 - ii. If the Department of Ecology does not provide full reimbursement (or the total grant limit of \$666,666.67 has been reached), Developer shall be notified that the reimbursement will be limited to what is approved by the Department of Ecology.
 - iii. If required by Developer's Lender in writing, City will remit reimbursements directly to Lender.
- d. In total, the City will spend no more than \$666,666.67, or such lesser amount as approved and reimbursed by Department of Ecology under the Grant Agreement, assisting Developer of eligible costs for converting their existing onsite septic system(s) to City sewer. Reduction or termination of grant reimbursements shall not constitute a breach or default under this Agreement.
- e. In accordance with the Grant Agreement with Ecology, all these funds must be spent by November 21, 2025.
- f. The City agrees to give advanced notice, preferably 30 days, to the Developer and any secured lender in the event of a potential loss and/or termination of grant funding so the Developer and lender can cure any potential items of default.

- 11. Construction Schedule** It is anticipated that the total work will take six (6) months or less to complete.
- a. Parties recognize the Property is occupied and the contractor will need to stage the work to maintain resident ingress and egress.
 - b. 70th Ave LLC and the contractor will provide the City with a construction schedule before work begins and provide regular updates to the City, once per month at a minimum.
 - c. Should the schedule change, the Developer shall notify the City as soon as the change has been identified. An updated schedule shall be provided to the City upon request.

- 12. Vested Rights of Developer.** During the term of this Agreement, unless sooner terminated in accordance with the terms hereof, in developing the

Subject Property consistent with the Project described herein, Developer is assured, and the City agrees, that the development rights, obligations, terms and conditions specified in this Agreement are fully vested in the Developer and may not be changed or modified by the City, except as may be expressly permitted by, and in accordance with, the terms and conditions of this Agreement, including the Exhibits hereto, or as expressly consented thereto by the Developer.

13. Permitted Uses and Development Standards. The permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation and dedication of land or payment of fees in lieu of dedication for public purposes, the construction, installation and extension of public improvements, development guidelines and standards for development of the Subject Property shall be those set forth in this Agreement, the permits and approvals identified herein, and all exhibits incorporated herein.

14. Minor Modifications. Minor modification from the exhibits attached hereto may be approved in accordance with the provisions of the City of Tumwater's code and shall not require an amendment to this Development Agreement.

15. Further Discretionary Actions. The Developer acknowledges that the Existing Land Use Regulations contemplate the exercise of further discretionary powers by the City. These powers include, but are not limited to, review of additional permit applications under SEPA (State Environmental Policy Act, Ch. 43.21C RCW and Ch. 16.04 TMC). Nothing in this Development Agreement limits the authority or the obligation of the City of Tumwater to hold legally required public hearings or limits the discretion of the City or any of its officers or officials in complying with or applying Existing Land Use Regulations.

16. Default.

- a. Subject to extensions of time by mutual consent in writing, failure or delay by either party or Landowner not released from this Agreement, to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner not less than thirty (30) days' notice in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day

period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

- b. After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce the City's Codes, and to obtain penalties and costs as provided in the Tumwater Municipal Code for violations of this Development Agreement and the Code.

17. Annual Review. The City shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with this Agreement. The City may charge fees as necessary to cover the costs of conducting the annual review.

18. Termination. This Agreement shall expire and/or terminate as provided below.

- a. This Agreement shall expire and be of no further force and effect if the development contemplated in this Agreement and all the permits and/or approvals issued by the City for such development are not underway prior to expiration of such permits and/or approvals. Nothing in this Agreement shall extend the expiration date of any permit or approval issued by the City for any development.
- b. This Agreement shall expire and be of no further force and effect if the Developer does not construct the Project as contemplated by the permits and approvals identified in this Agreement and submits applications for development of the Property that are inconsistent with such permits and approvals.
- c. This Agreement shall terminate upon the expiration of the term identified in Section 7 or when the Subject Property has been fully developed, whichever first occurs, and all the Developer's obligations in connection therewith are satisfied as determined by the City.

19. Effect upon Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the City Comprehensive Plan and the terms and conditions of any applicable zoning code(s) or subdivision map or other land use entitlements approved with respect to the Subject Property, any other conditions of any other development specified in the Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees or taxes.

- 20. Effects upon Termination on City.** Upon any termination of this Agreement as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the property affected by such termination (provided that vesting of such entitlements, conditions or fees may then be established for such property pursuant to the then existing planning and zoning laws). Dependent upon the status of the project and reimbursements made to the Developer by the City, the City may seek to recover payments made to the Developer if project is not completed before termination.
- 21. Assignment and Assumption.** The Developer shall have the right to sell, assign or transfer this Agreement with all their rights, title, and interests therein to any person, firm, or corporation at any time during the term of this Agreement. The Developer shall provide the City with written notice of any intent to sell, assign, or transfer all or a portion of the Subject Property, at least 30 days in advance of such action.
- 22. Covenants Running with the Land.** The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The Developer, Landowner and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned, or transferred to it.
- 23. Non-Enforcement not Waiver.** Failure by any party to enforce the Agreement shall not be construed as a waiver of any right to do so.
- 24. Amendment to Agreement; Effect of Agreement on Future Actions.** This Agreement may be amended by mutual consent of all the parties, provided that any such amendment shall follow the process established by law for the adoption of a development agreement (see, RCW 36.70B.200). However, nothing in this Agreement shall prevent the City Council from making any amendment to its Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations affecting the Subject Property

during the next five years, as the City Council may deem necessary to the extent required by a serious threat to public health and safety. Nothing in this Development Agreement shall prevent the City Council from making any amendments of any type to the Comprehensive Plan, Zoning Code, Official Zoning Map, or development regulations relating to the Subject Property five years from the anniversary date of the Effective Date of this Agreement.

25. Releases. Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the buyer, assignee, or transferee expressly assumes the obligations under this Agreement as provided herein.

26. Notices. Notices, demands, correspondence to the City and the Developer shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in Section 4. Notice to the City shall be to the attention of both the Water Resources & Sustainability Director and the City Attorney. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners and Lender of record who have given the City written notice of their address for such notice. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

27. Reimbursement for Agreement Expenses of the City. The Developer agrees to reimburse the City for actual expenses incurred over and above fees paid by Developer as an applicant incurred by City directly relating to this Agreement, including recording fees, publishing fees and reasonable staff and consultant costs not otherwise included within application fees. This Development Agreement shall not take effect until the fees provided for in this section, as well as any processing fees owed to the City for the Project, are paid to the City. Upon payment of all expenses, the Developer may request written acknowledgement of all fees. Such payment of all fees shall be paid, at the latest, within thirty (30) days from the City's presentation of a written statement of charges to the Developer.

28. Applicable Law and Attorney's Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. If litigation is initiated to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. Venue for any action shall lie in Thurston County Superior Court or the U.S. District Court for Western Washington.

29. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner to challenge this Agreement or any provision herein, the City may elect to tender the defense of such lawsuit or individual claims in the lawsuit to Developer and/or Landowner(s). In such event, Developer and/or such Landowners shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit or individual claims in the lawsuit, including but not limited to, attorneys' fees and expenses of litigation, and damages awarded to the prevailing party or parties in such litigation. The Developer and/or Landowner shall not settle any lawsuit without the consent of the City. The City shall act in good faith and shall not unreasonably withhold consent to settle.

30. Specific Performance. The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Development Agreement by any party in default hereof.

31. Severability. If any phrase, provision or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of the ordinance adopting this Development Agreement, and either party in good faith determines that such provision or provisions are material to its entering into this Agreement, that party may elect to terminate this Agreement as to all of its obligations remaining unperformed.

****Signatures on the following page****

(Signature)
Notary Public in and for the State of
Washington
My appointment expires _____

EXHIBIT 1: PROPERTY LEGAL DESCRIPTION

SURVEY INFORMATION

LEGAL DESCRIPTION

TPN: 31560000100

LOT 1 OF ANDERSON P.U.D DIVISION NO. 1 MOBILE HOME PARK PUD, AS RECORDED IN VOLUME 20 OF PLATS, PAGE 45; AND LOT 2 OF ANDERSON P.U.D DIVISION NO. 2 MOBILE HOME PARK PUD, AS RECORDED IN VOLUME 21 OF PLATS, PAGE 46; EXCEPT THAT PORTION CONVEYED TO THE CITY OF TUMWATER AS RECORDED MARCH 14, 2006 UNDER AUDITOR'S FILE NO. 3815093; ALSO EXCEPT ANY MOBILE OR MANUFACTURED HOME LOCATION THEREON.

SITUATE IN THURSTON COUNTY, WASHINGTON STATE.

EXHIBIT 2 – PROPERTY SITE PLAN

[EXHIBIT 3 – GRANT AGREEMENT WQC-2023-Tumwat-00050](#)