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## DEVELOPMENT AGREEMENT

for

Harbour Pointe

BETWEEN CITY OF MUKILTEO and **XXX**-MONTGOMERIE, LLC

This Development Agreement (“**Agreement**”) is entered into as of the Effective Date by and among the CITY OF MUKILTEO, Washington, a municipal corporation operating under the provisions of RCW Chapter 35A (“**Mukilteo**” or “**City**”), and **XXX**-WLD MONTGOMERIE, LLC, a Washington Limited Liability Company (each may be individually referred to as a “**Party**” and collectively referred to as the “**Parties**”).

### RECITALS

- A. **XXX**-WLD MONTGOMERIE, LLC (“**OWNER**”) is the current owner of the single real parcel legally described in Exhibit A (the “**Property**”). The property currently vacant and has no address. It is comprised of the following, singular Snohomish County tax parcel: 28042100103200.
- B. OWNER and the City are the sole Parties to this Agreement.
- C. OWNER proposes to subdivide the individual residential dwelling units within each townhouse building into fee-simple, single-family residential lots in accordance with applicable provisions of Mukilteo Municipal Code (MMC) Chapter 16 as amended by City Ordinance No. 1516. Each of these unit lots would be for sale lots.
- D. OWNER desires to develop the Property exclusively as a residential townhome community without any commercial uses or affordable housing units as stipulated by the provisions of MMC 17.16.040.B.17.
- E. OWNER desires to reduce the front yard setback for the Property from the standard 25 feet required by MMC 17.20.040 under the current zoning of the Property to 10 feet.
- F. The Property is comprised of a single zoning designation being Planned Community Business South (“**PCB(S)**”). The townhouses and attached single-family residential dwelling units (“**du**”) proposed under the terms of this Agreement are permitted uses per MMC 17.16 as a mixed-use project with a commercial component or with a portion of the project designated as affordable.
- G. This Agreement recognizes and provides for the reduced front yard setback and exclusive residential use of the Property, all as generally described herein and as depicted on the attached Exhibit B.

NOW THEREFORE, in consideration of the understanding and mutual agreements contained herein and other good and valuable consideration—the sufficiency, and receipt of which are hereby acknowledged—the Parties hereby voluntarily mutually agree to enter a Development Agreement as follows:

## AGREEMENT

1. **Allowable uses.** Uses on the site shall be in accordance with the permitted uses provided by MMC 17.16.040, *Permitted Use Matrix* for its current PCB(S) zoning designation including but not limited to residential townhouses except that the provisions/requirements of 17.16.040.B.17 shall not apply.
2. **Structure Bulk Regulations.** The bulk standards provided by MMC 17.20.030.A, *Structure Standards* for the PCB(S) shall be applicable to the Property with the following superseding allowances and modifications:

Structure Bulk Standards	
Property Line Setbacks:	
Front	10 feet

3. **Building height measurement.** The building height is the vertical distance from an average finished grade plane to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable or roofline of a gable or pitched roof. The average finished grade plane is a level surface positioned at an elevation equal to the arithmetic mean of the elevations of the post-development, finished ground at the four corners of rectangle drawn to enclose all of the current or proposed building walls containing the habitable, working, storage, common and garage areas.
4. **Vesting.** Project permit applications shall be vested to the substantive standards in the City's codes adopted as of the Effective Date of this Agreement, together with the terms and standards in this Development Agreement, provided however, that:
  - a. Building codes do not vest, and building permits will be subject to the codes in effect on the date the building permit applications are filed.
  - b. The City reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.
5. **Term of Agreement.** This Agreement shall remain in effect for a period of 10 years from the Effective Date.
6. **Effective Date.** The last date of the signatures below shall be the effective date of this Agreement ("Effective Date").
7. **General Provisions.**

**15.1 Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

**15.2 Binding on Successors.** This Agreement shall be binding upon and vest to the benefit of the Parties and their respective successors and assigns.

**15.3 Recording.** This Agreement shall be recorded against the Property as a covenant running with the land and shall be binding on OWNER and its successors and assigns.

**15.4 Authority; Severability.**

**15.4.1 Authority.** The City and OWNER represent and warrant that they have the respective power and authority, and are duly authorized to execute, deliver and perform an obligations under this Agreement.

**15.4.2 Severability.** If any provisions of this Agreement are determined to be unenforceable or invalid by a court of law, then this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law.

**15.5 Amendment.** This Agreement shall not be modified or amended without the express written approval of the Parties or their successors and assigns.

**15.6 Other Agreements.** This Development Agreement supersedes and replaces any prior Development Agreements and land use binder approvals that may be recorded against the Property title.

[SIGNATURE BLOCKS AND DATES OF SIGNATURES]

**Exhibit A**

**Legal Description for the  
Property**

**Exhibit B**

**Site Plan for the Property  
Development**