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04/08/2024 12:16 PM Pages: 1 of 5 Fees: $307.50
Skagit County Auditor

Return Address:
City of Anacortes
Planning and Community Development
904 6th Street
Post Office Box 547
Anacortes, WA 98221

Drainage BMP Facility Maintenance Covenant

Grantor(s) hereinafter referred to as **Grantor:**

1. **Terrell Culbertson**
2.

Grantee: City of Anacortes, hereinafter referred to as the **City,** a Political Subdivision under the Laws of the State of Washington.

Legal Description of property encumbered by covenant: Abbreviated: (1.3398 ac) THAT PORTION OF TRACT B,'WOODS ADDITION TO ANACORTES, WASHINGTON, AS PER PLAT RECORDED IN VOLUME 4 OF PLATS, PAGE 35, RECORDS OF SKAGIT COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT B; THENCE NORTH 89-40-16 EAST FOR A DISTANCE OF 30.01 FEET; THENCE NORTH 89-40-16 EAST FOR A DISTANCE OF 125.38 FEET ALONG THE NORTHERN BOUNDARY OF SAID TRACT B; THENCE SOUTH 0-04-00 WEST FOR A DISTANCE OF 124.99 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89-40-16 EAST FOR A DISTANCE OF 316.92 FEET; THENCE SOUTH 0-03-55 EAST FOR A DISTANCE OF 237.51 FEET; THENCE SOUTH 89-56-05 WEST FOR A DISTANCE OF 182.85 FEET; THENCE NORTH 00-03-55 WEST FOR A DISTANCE OF 124.50 FEET; THENCE SOUTH 89-56-05 WEST FOR A DISTANCE OF 134.32 FEET; THENCE NORTH 0-04-00 EAST FOR A DISTANCE OF 111.55 FEET TO THE POINT OF BEGINNING. SURVEY AF#202212090090

Common Name of the Development of the property encumbered by covenant:

Site address not yet identified – Parcel #60629

Located in *qtr* **SE** Sec.**21** Twp.**35** Rge.**01**

Reference Number(s) of documents assigned, released, or modified: N/A

Assessor's Property Tax Parcel/Account Number(s) of property(s) encumbered by the drainage covenant: P-60629

Grantor's Initials TRC

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Grantor has a record interest in the property encumbered by the covenant and agrees that the obligations of Grantor shall inure to the benefit of and be binding upon the heirs, successors, and assigns. Grantor agrees that this covenant touches and concerns the land described in **Exhibit 1 of this agreement** and shall run with the land.

Grantor by execution of this covenant acknowledges that the benefits of this covenant inure to Grantor, downstream property owners, and the general public, and that the City as third-party beneficiary of this covenant has the right, but not the obligation, to enforce this covenant on behalf of downstream property owners and the general public. The City requires this covenant to protect private and public property, private and public drainage infrastructure, and natural resources of downstream property owners and the general public.

Grantor in consideration of real property described in Exhibit **Page #1** and in consideration of other valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby covenants to perform regular inspections upon the drainage facilities installed, or to be installed, upon Grantor's property. These inspections shall compare the facility/BMP device to the standards described in the current Storm water Management Manual for Western Washington in use by the City of Anacortes (herein referred to as "the Manual") for all elements of the storm water drainage system. For any BMP facility approved by the City of Anacortes, but not included in the Manual; maintenance standards shall be as described in the manufacturer's operation and maintenance manual; which shall also be referred to as the Manual. As applicable, the system shall include the storm water conveyance pipes, ditches, swales, and catch basins; storm water flow regulation system detention ponds, vaults, pipes, retention ponds, flow regulation and control structures; infiltration systems, rain gardens and all other storm water quality or flow control system.

The inspections conducted on all facility/BMPs shall be performed by qualified personnel who have received professional training in the aspects of storm water management for which they are responsible to inspect. For example a person qualified to perform an inspection on a detention pond must demonstrate that they have received professional training specifically on detention pond maintenance and compliance with standards.

The City shall request a record of the inspection annually. The Grantor shall provide to the City a written record of the inspection performed and the condition of the facility/BMP upon request. The record shall provide an explanation of each maintenance component and potential defect identified in the maintenance standards in the Manual for each specific BMP/facility. Where measurements must be taken to (trash or debris exceeds 60% of the sump…) the actual field measurements must be included on the report. Pictures of each BMP facility shall be included, and the date(s) of the inspections must be clearly identified.

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The scope of this covenant and right of entry shall be adequate to provide for the access, inspection, and maintenance of the storm water drainage system, and shall be subject to the following terms and conditions:

1. The City shall have the perpetual right of entry across adjacent lands of the Grantor for purposes of inspecting, auditing, or conducting required maintenance of the drainage BMP facility.

2. The facility specific maintenance standards contained in the Manual are intended to be conditions for determining if maintenance actions are required. The standards are not intended to be a measure of the facility's required condition at all times. Discovery through inspection that a facility's condition is in exceedance of a standard does not constitute a violation of this agreement.

3. Should a facility be discovered in a condition that constitutes an exceedance of any described standard, maintenance shall be performed on the following schedule:

    a. Within nine months for typical maintenance of facilities, except catch basins.
    b. Within three months for catch basins.
    c. Within eighteen months for any maintenance that requires capital construction or expenditure over $25,000

4. In the event that Grantor fails to complete the required maintenance within the identified time period, the City shall have the right to immediately and without further notice perform or contract with others to perform all maintenance necessary to return the facility/BMP to compliance with the standard. This work shall be performed at the sole expense of the Grantor.

5. If the City in its sole discretion determines that an imminent or present danger exists, that any condition exists that could constitute a threat to human health, welfare or the environment, or any condition exists that could cause the City to be found in violation of the Western Washington Phase II Municipal Storm water NPDES permit issued to the City of Anacortes, or any other environmental permit, the City may take any action required including beginning maintenance or repairs immediately at Grantor's expense without prior notice to Grantor. In such event, the City shall provide Grantor with a written statement and accounting of all work -performed and the fees, charges, and expenses incurred in making such repairs. Grantor shall agree to reimburse the City or pay the City's vendors directly for all reasonable fees, charges, and expenses identified in the City's statement.

6. If the City is required to act as a result of Grantor's failure to comply with this covenant, the City may remove any obstructions and/or interferences that in the sole opinion of the City impair the operation of the drainage BMP facility or the maintenance thereof. Grantor agrees to hold the City, its officers, employees, and agents harmless from any and all claims, actions, suits, liability, loss, expenses, damages and judgments of any nature whatsoever, including costs and attorney's fees, incurred by the removal of vegetation or physical interference from the drainage BMP facility.

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7. When exercising the maintenance provisions of the covenant, in the event of nonpayment, the City may bring suit to recover such costs, including attorney's fees, and upon obtaining a judgment, such amount shall become a lien against the property of Granter as provided in RCW 4.56.190.

8. Grantor covenants that the owners of the property described herein are the person or persons identified on page 1 of this covenant as Grantors, that they have the right to grant this covenant on the property, and that the title to the property is free and clear of any encumbrances which would interfere with the ability to grant this covenant.

Executed this 8th day of March 2024

Grantors:

Signature(s): Terrell R Culberton _____ Printed Name(s): Terrell R Culberton

Title of Authorized Representative(s): (if signing on behalf of a corporation)

_____ _____

Accepted and approved for the City of Anacortes:

JILL BYSEGGER NOTARY PUBLIC STATE OF WASHINGTON COMM. EXP. 08/11/2028 COMM. NO. 22029810

_____ Date: 4/5/2024
Director
City of Anacortes Department of Planning and Community Development Services

Grantor's Initials TRC

STATE OF WASHINGTON)
) ss
City of Anacortes)

On this day personally appeared before me, Ferrel Culbertson and _____, to me known to be the individuals described in and who executed the foregoing agreement and acknowledged that he\she signed the same as his\her free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal this 8th day of March, ~~2019~~ 2024

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

JILL BYSEGGER
COMM. EXP. 08/11/2028
NOTARY PUBLIC
COMM. NO. 220298110
STATE OF WASHINGTON

Jill Bysegger
(Printed Name)
Residing in Anacortes, Washington

My commission expires: 8/11/2026

Grantor's Initials TRC

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