

When Recorded, Return To:

City of Anacortes
Planning, Community, & Economic Development Department
904 6th Street / P.O. Box 547
Anacortes, WA 98221

**GEOLOGICALLY HAZARDOUS AREA COVENANT,
CONDITIONS, AND RESTRICTIONS:**

PARCEL(S) #: _____

**PROJECT
FILE #** _____

**PROJECT
NAME:** _____

**PROPERTY
ADDRESS:** _____ **ZIP
CODE:** _____

**LANDOWNER
NAME:** _____

**MAILING
ADDRESS:** _____ **ZIP
CODE:** _____

LEGAL DESCRIPTION (attach additional pages if needed):

SECTION ONE: ACKNOWLEDGEMENT AND ACCEPTANCE OF RISK:

- 1.1.** The undersigned is (are) the Grantor/Covenantor/owner(s) of or has (have) a substantial interest in the value, use, enjoyment, and occupation of the real property described above (“Property”);
- 1.2.** The Grantee/Covantee, the City of Anacortes (City) has a substantial interest in the effective and safe use of lands within its borders, and in the health, safety, and welfare of its citizens;
- 1.3.** Grantor/Covantee/Landowner acknowledges that the property is located in an environmentally sensitive area more specifically defined as a “geologically hazardous area” in Article IV of the Anacortes Municipal Code;
- 1.4.** “Geologically hazardous areas” are known by the City and undersigned to be subject to landslides and other soils movement that may result in the damage or destruction, in whole or in part, of any building, structure, dwelling, or lands within or adjacent to such areas;
- 1.5** Grantor/Covantee/Landowner understands and acknowledges that there are unique risks associated with development of this property including but not limited to property damage, loss of use, personal injury, and death resulting from soil movement;
- 1.5.** This Covenant is to be signed, acknowledged and recorded in the records of Skagit County as a restrictive covenant, restricting and limiting use of geologically hazardous property before the City will issue any Permit(s) to do any work on property within a “geologically hazardous area”; and
- 1.6.** This Covenant concerns the Covenantor/Grantor’s use, occupation or enjoyment of the Property and benefits the City as Covantee/Grantee. This Covenant is intended to bind successors and assigns and run with the land.

SECTION TWO: RESTRICTIONS ON OCCUPATION, USE, AND DEVELOPMENT OF THE PROPERTY:

- 2.1.** The Property may not be occupied, used or developed, and no residential or commercial building, structure, or dwelling shall be erected or constructed on the Property, without first obtaining the Permit(s) from the City.
- 2.2.** The City will not issue any Permit(s) to Owner of Property unless and until Owner signs a contractual agreement (Agreement) with the City expressly providing that:
 - 2.2.1.** Owners(s) and his/her (their) heir(s), successor(s), legal representative(s) and assign(s) shall provide, design, construct, erect, maintain, repair, rebuild, or improve such structure(s), building(s), barriers(s), or dwelling(s) as is reasonably necessary to prevent, control or avoid damage from the adverse impacts from soils movement within or adjacent to the Property, whether caused by Owners(s) and his/her (their) heir(s), successor(s), legal representative(s), and assign(s) or otherwise, for the continued use and enjoyment of the Property;
 - 2.2.2.** It is the sole burden and responsibility of Owners(s) and his/her (their) heir(s), successor(s), legal representative(s) and assign(s) to obtain, ensure, and fund any design, approval, authorization, material, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments necessary or required to prevent, control or avoid damage from the adverse impacts from soils movement within or adjacent to the Property;
 - 2.2.3.** In consideration of the issuance of the Permit(s), Owner(s) on his/her (their) own behalf and on behalf of his/her (their) heirs, successors, legal representatives, and assigns hereby releases and waives any right to assert any claim or course of action related to any loss or damage

to people or property either on or off the Property resulting from soils movement by reason of or arising out of issuance of the Permit(s) by the City for development on the Property and agrees to indemnify (including reasonable attorney's fees) and hold the City, its officers, employees and agents harmless from any claim(s) or courses of action related to any loss or damage to people or property either on or off the Property resulting from soil movement (including but not limited to lateral spreading and seismically induced total and differential settlement); loss of soil strength and bearing capacity; loss of axial, end-bearing and lateral resistance of deep foundations; flotation of underground tanks; damage to buried utilities; amplification of earthquake ground motions; water movement; flooding; and water collection by reason of or arising out of issuance of the Permit(s) for development on the Property; Provided, nothing herein shall require the Owner(s) and his/her (their) heirs, successors, legal representatives, and assigns to indemnify and hold harmless the City, its officers, agents and employees from claims or courses of action caused solely by the negligence of the City, its officer, employees and agents, and provided further, that if the claims or courses of action are caused by or result from the concurrent negligence of (1) the Owner(s), his/her(their) heirs, successors, assigns and agents, and (2) the City, its officer, agents and employees, the indemnity provisions provided herein shall be valid and enforceable only to the extent provided by law; and

2.2.4. Owners(s) and/or his/her (their) heir(s), successor(s), legal representative(s) and assign(s) will inform his/her (their) heirs, successors, legal representatives, and assigns that the Property is in a geologically hazardous area, that there may be actual or potential risks associated with development thereon, of any conditions or prohibitions on development, and of any features in this design which will require maintenance or modification to address anticipated soils changes.

SECTION THREE: SUBSEQUENT PROPERTY OWNERS:

3.1. By accepting title to any or all of the Property, any subsequent owners of the Property, including any heir(s), successor(s), legal representative(s) and assign(s) of the Owner, (Subsequent Owners) shall accept and ratify the Agreement regardless of whether such party was a signatory to that Agreement.

3.2. By the terms of that Agreement, Subsequent Owner(s) and/or his/her (their) heir(s), successor(s), legal representative(s), and assign(s) shall:

3.2.1. Provide, design, construct, erect, maintain, repair, rebuild, or improve such structure(s), building(s), barriers(s), or dwelling(s) as is reasonably necessary to prevent, control or avoid damage from the adverse impacts from soils movement within or adjacent to the Property, whether caused by Owner(s), his/her (their) heir(s), successor(s), legal representative(s), and assign(s), or otherwise, for the continued use and enjoyment of the Property;

3.2.2. Assume the sole burden and responsibility to obtain, fund and ensure any design, approval, authorization, material, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments necessary or required to prevent, control or avoid damage from the adverse impacts from soils movement within or adjacent to the Property; and

3.2.3. Release and waive any right to assert any claim or cause of action related to any loss or damage to people or property either on or off the Property resulting from soils movement by reason of or arising out of issuance of the Permit(s) by the City for development on the Property and agrees to indemnify (including reasonable attorney's fees) and hold the City, its officers, employees and agents harmless from any claim(s) or causes of action related to any loss or damage to people or property either on or off the Property resulting from soils movement by reason of or

arising out of issuance of the Permit(s) for development on the Property; Provided, nothing herein shall require the Subsequent Owner(s) and his/her (their) heir(s), successor(s), legal representative(s) and assign(s) to indemnify and hold harmless the City, its officers, agents and employees from claims or causes of action caused solely by the negligence of the City, its officer, employees and agents, and provided further, that if the claims or causes of action are caused by or result from the concurrent negligence of (1) the Owner(s), his/her(their) heirs, successors, assigns, and agents, and (2) the City, its officer, agents and employees, the indemnity provisions provided herein shall be valid and enforceable only to the extent provided by law.

SECTION FOUR: RESERVATIONS, RESTRICTIONS, AND COVENANTS:

4.1. The undersigned declare that the Property is held and shall be conveyed subject to the reservations, restrictions, and covenants set forth in this Declaration and in the Agreement.

SECTION FIVE: MISC. GENERAL PROVISIONS:

5.1. It is expressly understood and agreed that invalidation of any covenant contained in this document, or any portion of such covenant, by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

SECTION SIX: RUNNING COVENANT:

6.1. The covenants, agreements, and restrictions contained herein are intended to be restrictive covenants and not conditions, that shall run with the affected Property, that shall extend to and be binding upon the undersigned and his/her (their) heir(s), agent(s), assign(s), legal representative(s), and successor(s) in interest, and that shall be contained in any future title report applicable to the Property.

SECTION SEVEN: RECORDING:

7.1. This Covenant shall be recorded in the real estate records of the Auditor's Office of Skagit County, Washington.

SECTION EIGHT: INSURANCE:

8.1. Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, agrees to further inform all subsequent heirs, successors and assigns of the advisability of obtaining insurance in addition to standard homeowner's insurance to specifically cover the risks posed by proposed development in a Geologically Hazardous prone area including without limitation those risks described above.

DATED THIS _____ DAY OF _____, 20__ .

Grantor

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument and acknowledged it to be free and voluntary act of said person for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, _____.

(Signature of Notary)

Legibly Print or Stamp Name of Notary)
Notary public in and for the State of Washington,
residing at _____
My appointment expires _____