

AFTER RECORDING RETURN TO:
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BELLINGHAM, WA 98226
360-392-2880
April 5, 2017



Skagit County Auditor

6/2/2017 Page

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Land Title and Escrow

01-162693-0E

TITLE OF DOCUMENT: JOINT USE, MAINTENANCE & COST SHARING COVENANT
AF# OF AFFECTED DOCUMENT: 201705020029
GRANTOR: 48 NORTH ON FIDALGO ISLAND, L.L.C.
GRANTEE: 48 NORTH ON FIDALGO ISLAND, L.L.C., and
THE GENERAL PUBLIC
ABBREV. LEGAL DESCRIPTION: Lots 2, 3, 4, 18, 19, 20, 21, 27, 28, 29 & 30, and Tracts A and
B, 48 North Plat & PUD AF# 201705020028
TAX PARCEL NOS.: P133660, P133661, P133662, P133676, P133677, P133678
P133679, P133685, P133686, P133687, P133688

JOINT USE, MAINTENANCE & COST SHARING COVENANT

THIS COVENANT is made this 31st day of May, 2017, by 48 NORTH ON FIDALGO ISLAND, L.L.C., ("48 North") for the purpose of securing perpetual rights of use, maintenance, repair and replacement of certain private drainage lines serving certain Lots and Tracts located in the 48 North Plat and PUD.

WITNESSETH THAT:

WHEREAS, 48 North owns certain parcels of real property situate in Skagit County, Washington, known herein as "The Benefitted Lots" and legally described as:

Lots 2, 3, 4, 18, 19, 20, 21, 27, 28, 29 & 30 in the 48 North Plat & PUD, as per the Map thereof recorded at Auditor's File No. 201705020028, Records of Skagit County, Washington [the "PUD Plat."

WHEREAS, The Benefitted Lots, along with Common Area Tracts A and B "Common Area Tracts", are burdened with three separate private drainage easements appearing on the face of the PUD Plat; within such easement areas, private drain pipes or lines ["Drainage Lines"] will be constructed to serve The Benefitted Lots.

WHEREAS, Section 4.7 of a certain "Declaration of Covenants, Conditions, Restrictions and Reservations for 48 North Plat & PUD" [the "Declaration"] recorded at Auditor's File No. 201705020029, Records of Skagit County, Washington, requires that the Owners of The

Benefitted Lots properly maintain the private Drainage Lines. Sections 4.7 and 10.1.7 of the Declaration contain provisions requiring that maintenance, repair and replacement of the Drainage Lines shall occur at the sole cost of the Owners of such The Benefitted Lots under the terms of a certain "Joint Maintenance Covenant" described in Section 16.2.3 of the Declaration. This Covenant is prepared and recorded by 48 North to serve as such "Joint Maintenance Covenant" for the benefit of the future Owners of The Benefitted Lots, in satisfaction of the requirements of Sections 4.7, 10.1.7 and 16.2.3 of the Declaration.

NOW, THEREFORE, for and in consideration of the several matters described above, for the mutual benefit of 48 North and the future Owners of The Benefitted Lots, ["Lot Owners" or "Parties"], 48 North grants and dedicates the following Covenant and associated easement rights:

1. Grant of Reciprocal Easements for Maintenance. 48 North hereby grants to and for the benefit of the Lot Owners, and to their respective contractors and licensees, perpetual non-exclusive easements on, over under and across the easement areas depicted on the PUD Plat for the purpose of joint maintenance, repair and replacement of the Drainage Lines, as hereinafter provided.

3. Provisions for Joint Maintenance. The Lot Owners shall perpetually maintain, repair and replace their respective Drainage Lines as necessary to keep them in good condition for their mutual use and benefit, so that they may properly provide necessary drainage for their respective Lots.

4. Periodic Inspections – Repair Work to Follow. Representatives of the Lot Owners and the 48 North Association ["Association"] shall periodically inspect the Drainage Lines and their associated Common Area Tracts to determine the nature and scope of any maintenance or repairs that are necessary to keep the Drainage Lines functional, in good repair, for the benefit of all Lot Owners and the Association and its other members. Any necessary maintenance or repair work shall be performed by a licensed, bonded contractor doing business in Skagit County, Washington selected by the Lot Owners. The Lot Owners shall determine which of the Lot Owners or, if necessary, the Association shall enter into a contract for such repairs; the Non-contracting Parties shall be liable to the Contracting Party as hereinafter provided.

2. Apportionment of Costs - Maintenance Share. Each Lot Owner shall bear an equal percentage of the total cost of maintenance and repair of the Drainage Lines serving such Owner's Lot, in common with the other Lots sharing such Drainage Lines, which percentage shall be known as that Party's "Maintenance Share." Applicable percentages of Maintenance Share are described with particularity on the attached Exhibit A. If any Party, or the invitee, licensee or agent of a Party should damage any portion of any Drainage Line to a degree beyond ordinary wear and tear, such Party ["Responsible Party"] shall promptly take action to repair said damage in a competent manner. In the event that the Responsible Party does not complete repairs within thirty days of the occurrence of such damage, any other affected Party may cause the damage to be repaired. The costs of repairing such damage shall constitute a portion of the Maintenance Share of the Responsible Party and shall be due and payable within thirty days following the presentation of an invoice of bill

therefor, presented either by the contractor doing the work or by the Party who has paid the contractor for such work.

3. Adjustment of Accounts for Maintenance Share – Reserve Account Authorized. Upon completion of any required maintenance to the Drainage Lines, the Lot Owners' respective liabilities for Maintenance Share shall be determined. The non-contracting Parties shall pay their Maintenance Share for such costs to the Contracting Party within 30 days of presentation of an invoice or bill therefor presented either by the contractor doing the work or by the Party who has paid the contractor for such work. Any portion of a Party's Maintenance Share remaining unpaid longer than 30 days following its due date shall bear interest at the rate of 12% per annum, or the rate charged by the contractor on the unpaid balance, whichever is greater. Alternatively, or in addition, the Lot Owners may agree to establish and maintain, at a reputable financial institution or with the Association, a reserve fund designed to provide funding for long-term maintenance and repair to the Drainage Lines. In the event that such a reserve fund is established, the Lot Owners' respective payments made into such account shall be deemed to constitute portions of the Maintenance Shares of the Parties.

4. Lien against Lots to Secure Maintenance Share. Properly allocated costs of maintenance and repair constituting a Party's Maintenance Share shall be the personal obligation of each Party, and shall in addition constitute an equitable lien against such Party's Lot. If unpaid when due, this obligation may be judicially enforced by the Contracting Party, or by any person or entity [including the Association] who or which has paid or has become obligated to pay all or any portion of the Maintenance Share of a defaulting Party, through an action for damages or in the manner prescribed by law for foreclosure of a mortgage of real property, at the option of the aggrieved Party. The prevailing party in any such proceeding shall be entitled to an award of attorney's fees and costs incurred, whether or not such suit is filed or a judgment or decree awarded.

7. Enforcement by Homeowners Association. In the event that the Lot Owners, or any of them, fail to adhere to the maintenance requirements established above in this Covenant, the Association may provide any necessary maintenance, repair and replacement to affected Drainage Lines at the sole expense of the Lot Owners sharing the use of such Drainage Lines pursuant to Sections 4.7 and 10.1.7 of the Declaration.

8. Benefits and Burdens – Binding Equitable Servitudes. The provisions of this Covenant shall benefit, burden, and run with the land of The Benefitted Lots and Tract T; the terms and provisions of this Covenant shall be binding upon and shall inure to benefit of each of the Lot Owners, and their respective family members, tenants, other lawful occupants, successors, assigns, beneficiaries, grantees, devisees, heirs at law, next of kin, personal and legal representatives, without limitation.

11. Alternative Forms of Dispute Resolution Authorized.

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DOCUMENT

In the event that affected Lot Owners become deadlocked for any reason, or shall be unable or unwilling to act with respect to any matter within their powers and authority, in addition to any other remedies which may be available under applicable law, such matter may be resolved by private arbitration conducted under the procedures hereinafter described. Any affected Party may initiate such arbitration proceedings, which arbitration shall be conducted substantially in accordance with the procedures established for Mandatory Arbitration under the Local Rules of the Skagit County Superior Court, irrespective of whether the dispute is one which is subject to Mandatory Arbitration under law, and without the necessity of actually filing formal proceedings in said Superior Court. If the Lot Owners cannot agree upon the identity of an arbitrator within thirty (30) days of notice by such Party to the other Lot Owners that a dispute requiring arbitration hereunder is to be arbitrated, any such Party may apply to any Judge of the Superior Court, sitting in Chambers, and the Judge is hereby authorized to select an arbitrator from the Court's master list of potential arbitrators. Unless the Arbitrator determines otherwise, all costs, fees and expenses of the Arbitrator, including an advance retainer if requested by the Arbitrator shall become the personal obligation of all Lot Owners, jointly and severally, and shall be payable as the Arbitrator may determine; provided, however, that the decision of the Arbitrator may include an award to a prevailing Party of those sums previously paid and/or incurred by such prevailing Party for such costs. The decision of the arbitrator shall be binding upon all Lot Owners, and may be enforced in the manner provided in RCW 7.04A.

IN WITNESS WHEREOF, 48 North has caused this Covenant to be executed effective as of the date first written above.

48 NORTH ON FIDALGO ISLAND, L.L.C.

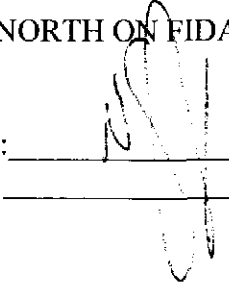
BY:  _____, its member

EXHIBIT A
Schedule of Maintenance Shares

Lots 2, 3 & 4: 33.3333% each

Lots 18, 19, 20 & 21 25% each

Lots 27, 28, 29 & 30 25% each