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Skagit County Auditor

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

Rain Garden / Drainage Maintenance Covenant

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

1. **LG Anacortes, LLC**

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:

**Lot 1, Anacortes Short Plat (SPL-2019-0001), recorded under
AF#201907050088. Being a portion of the Southeast Quarter of
Section 24, Township 35 North, Range 1 East, W.M.**

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

240⁶ L Avenue Short Plat

Located in **SE1/4 qtr. NE1/4 qtr. SE1/4** Sec.24 Twp. 35 N., 01 Rge. E., W.M.

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: **P31773**

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 **Page 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 **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 Stormwater Management Manual for Western Washington in use by the City of Anacortes (herein referred to as "the Manual") for all elements of the stormwater 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 stormwater conveyance pipes,, rain gardens and all other stormwater quality or flow control system.

The inspections conducted on all facility/BMPs shall be performed annually, following attached guidelines or other such guidelines provided by the City. The scope of this covenant and right of entry shall be adequate to provide for the access, inspection, and maintenance of the stormwater 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

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 Stormwater 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.
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 Grantor 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 16th day of December 2019

Provide Routine Maintenance

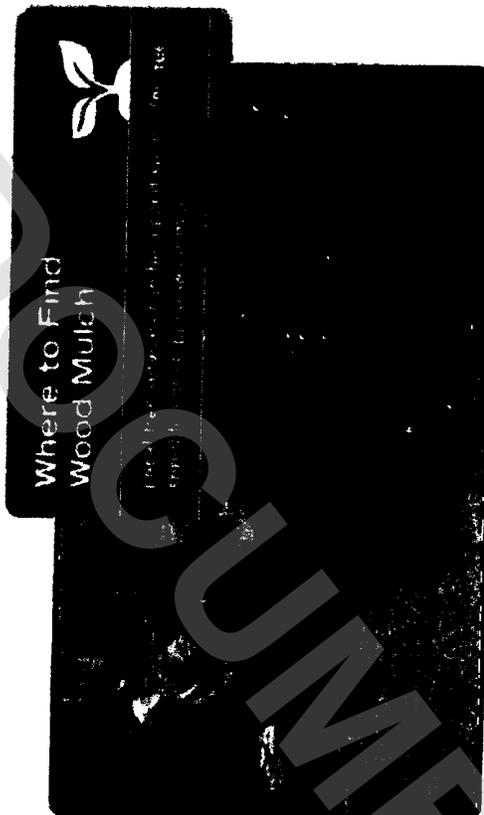


In the short term (during the first 2 to 3 years), more frequent maintenance will be needed until the plants in your rain garden become established. The following routine activities should be part of your maintenance program.

Replenish Mulch

Mulch prevents erosion, controls weeds, retains moisture, adds organic material to the soil, and improves drainage. Every year check the mulch layer and, if needed, replenish to maintain a depth of 2 to 3 inches. Spread mulch between plants and on bare ground. Added mulch should be shredded or chipped hardwood or softwood. Mulch can be applied any time of year, but maintaining a sufficient mulch layer for the dry summer and rainy winter months is particularly beneficial.

Avoid using mulch that has been stockpiled for extended periods of time since it may contain weed seeds.



Watering

For the first 1 to 3 years, most plants in your rain garden will need deep watering during the dry season to establish healthy root systems. If you have selected the appropriate plants including native species and others adapted to western Washington, your rain garden will need little or no watering after 2 or 3 years. However, watering may be necessary during prolonged dry periods even if plants are established. During these periods watch for signs of stress, such as wilting leaves or fading evergreen needles.



David Hyman

Lee-Ann W. King, King County

WATERING FREQUENCY (DURING THE DRY SEASON)

Year 1:

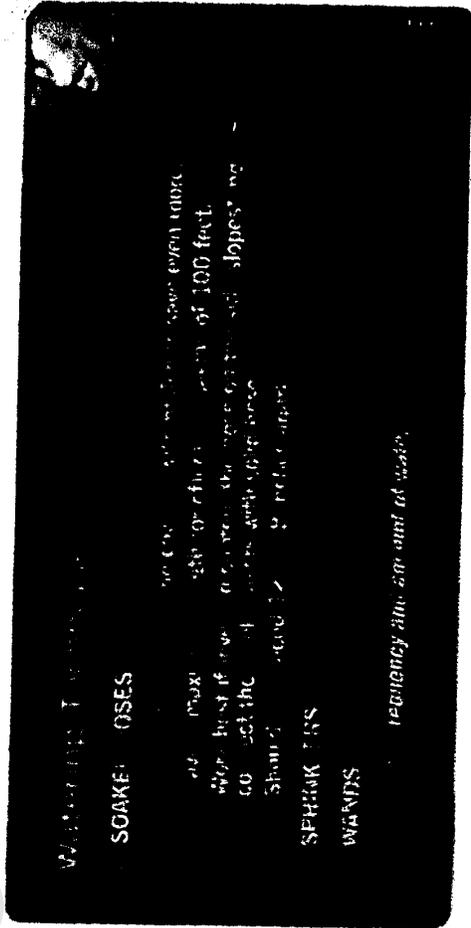
- During planting and the first week after installation: water plants as soon as they are planted and every day or every other day.
- From the second week after installation and until fall rains begin: water 2 or 3 times per week (watch for signs of water stress and adjust watering if necessary).

Year 2:

- Water deeply about every 1 to 3 weeks depending on your plants and site conditions.

Year 3 and Beyond:

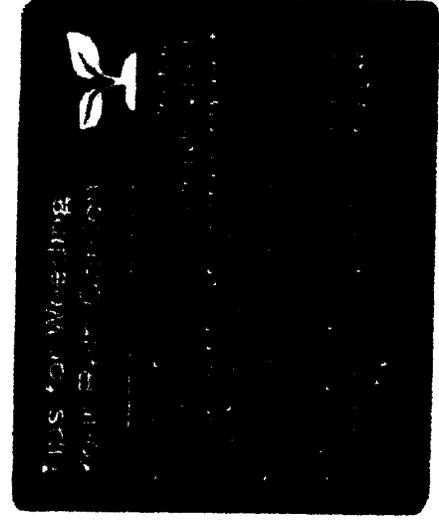
- Minimal or no water should be needed, except during prolonged periods of drought.



Weeding

More weeding may be needed during the first 1 to 2 years after your rain garden is installed, until plants become established and start to knit together, leaving less space for weeds to grow. Rain gardens will soak up and filter stormwater even if weeds are present. However, the plants will not likely grow as well with all the competition, and your rain garden will not be as attractive.

Weed by hand and be careful to avoid compacting the soil in your rain garden.



Plant Care

Maintaining healthy plants in your rain garden minimizes weed germination, improves drainage, and reduces erosion.

- If certain plants continue to do poorly or fail, they may be the wrong plants for that location. Consider the sun exposure, soil moisture, adjacent plants, and other growing factors, and replace the plants with varieties better suited for that location in the rain garden.
- You may need to thin out some plants—plants often grow rapidly to full size in rain gardens due to the healthy soil and good moisture.

Minimal pruning should be needed in your rain garden, but occasionally you may need to:

- Prune or trim back shrubs to keep sidewalks and sight distances at driveways and along roadways clear.
- If you find that the same plants need to be trimmed back too frequently, consider replacing with lower-growing alternatives.
- Remove broken and dead branches and suckers.
- Clear vegetation growth from water inflow and overflow areas.
- Cut back perennials and ornamental grasses in late winter, before spring perennials and new flower stalks emerge.



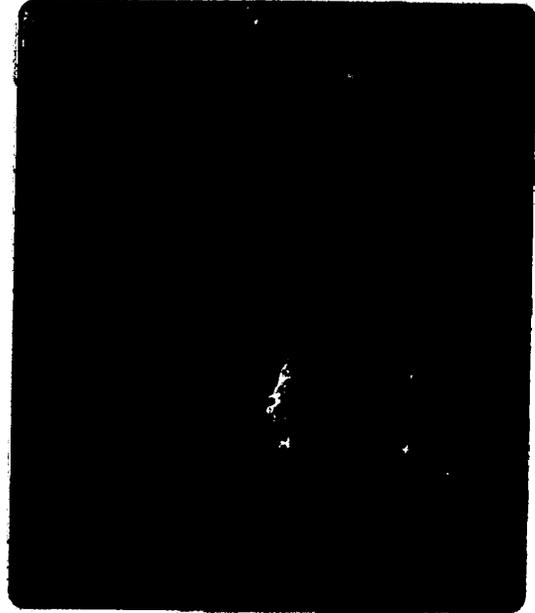
Avoid Fertilizers, Herbicides, and Pesticides

Do not apply fertilizers, herbicides, or pesticides in or near your rain garden. The rain garden soil mix provides plenty of nutrients, and if you have selected the appropriate native species and/or plants adapted to this region, no fertilizing will be needed.



Check Your Berm

If you have a berm around your rain garden, check it for settling, and add and compact soil as needed. Cover bare spots with mulch or plants to minimize erosion.



Clean Up Debris and Sediment

To maintain an attractive year-round rain garden, remove litter and debris. Although natural leaf debris can serve as beneficial compost for the garden, other debris and trash should be removed. Fine sediments can clog the soil layer and interfere with drainage. Remove sediment, rake the soil, and replenish wood mulch annually to reduce sediment problems.



Maintenance Checklist

RAIN GARDEN LOCATION	CONDITION	MAINTENANCE ACTIVITY
Side Slopes	Persistent soil erosion on slopes	See "Minimize Exposed Soil and Erosion."
Rain Garden Bottom Area	Visible sediment in the rain garden that reduces drainage rate	<ul style="list-style-type: none"> Remove sediment accumulation. If sediment is deposited from water entering the rain garden, determine the source and stabilize the area. See "Minimize Exposed Soil and Erosion."
	Matted accumulation of leaves reducing drainage rate	Remove leaves.
Ponded Water	Ponded water remains in the basin more than 3 days after the end of a storm	<p>Confirm leaf, debris or sediment buildup is not reducing drainage rate. If necessary, remove leaf litter, debris or sediment. If this does not solve the problem, consult a professional with rain garden expertise to evaluate the following:</p> <ul style="list-style-type: none"> Check for other water inputs (e.g., groundwater). Verify that the rain garden is sized appropriately for the contributing area. Confirm that the contributing area has not increased. Determine if the soil is clogged by sediment or if the soil is compacted.
Pipe Inlet/Outlet	Water is backing up in pipe	Clear pipes of sediment and debris with snake and/or flush with water.
	Damaged or cracked drain pipes	Repair or seal cracks, or replace if repair is insufficient.
Water Inlet	Rock or cobble is removed or missing and flow is eroding soil.	Maintain a cover of rock or cobbles to protect the ground where water flows into the rain garden from a pipe or swale.
Weeds	Problem weeds are present.	<ul style="list-style-type: none"> Remove weeds by hand, especially in spring when the soil is moist and the weeds are small. Dig or pull weeds out by the roots before they go to seed. Apply mulch after weeding (see "Mulch").



RAIN GARDEN LOCATION	CONDITION	MAINTENANCE ACTIVITY
Vegetation	Dying, dead, or unhealthy plants	<ul style="list-style-type: none"> • Maintain a healthy cover of plants. • Remove any diseased plants or plant parts and dispose to avoid risk of spreading the disease to other plants. • Disinfect gardening tools after pruning to prevent the spread of disease. • Re-stake trees if they need more support, but plan to remove stakes and ties after the first year.
Vegetation reduces sight distances and sidewalks.	Vegetation is crowding inlets and outlets.	<p>Keep sidewalks and sight distances on roadways clear. Choose low-growing species where sight lines are required.</p> <p>Keep water inlets and outlets in the rain garden clear of vegetation. Move vegetation if problem persists.</p>
Yellowing, poor growth, poor flowering, spotting or curled leaves, weak roots or stems	Bare spots (without mulch cover) are present or mulch depth less than 2 inches.	<ul style="list-style-type: none"> • Test soil to identify specific nutrient deficiencies. • Consult with a professional knowledgeable in natural amendments or refer to natural lawn and garden care experts. • Do not use synthetic fertilizers. • Consider selecting different plants for soil conditions. • Supplement mulch with hand tools to a depth of 2 to 3 inches. • Keep all mulch away from woody stems.
Mulch		