

When Recorded, Return to

Department of Planning and Development

700 5th Avenue, Suite 2000

P.O. Box 34019

Seattle, WA 98124-4019

**COVENANT RUNNING WITH THE LAND WITH ACKNOWLEDGEMENT AND
ACCEPTANCE OF RISK, DUTY TO INFORM, NEED FOR INSURANCE,
INDEMNITY AND WAIVER
(Potential Landslide Area)**

GRANTOR: 1) _____

2) _____

3) _____

Additional Owners/Grantors on page _____

GRANTEE: THE CITY OF SEATTLE

LEGAL DESCRIPTION (ABBREVIATED):

The complete legal description is found on Exhibit A of the Covenant.

STREET ADDRESS: _____

ASSESSOR'S TAX PARCEL ID NO(S). _____

Permit Applications:

Type(s) of permit sought: _____

Date(s) of application: _____

Application Number(s): _____

**COVENANT RUNNING WITH THE LAND,
WITH ACKNOWLEDGEMENT AND ACCEPTANCE OF RISK,
DUTY TO INFORM, NEED FOR INSURANCE, INDEMNITY
AND WAIVER
(Potential Landslide Area)**

This Covenant is executed in favor of the City of Seattle (“City”) by the undersigned owner(s) (“Grantor”) of the real property described on Exhibit A (the “Property”) on behalf of Grantor and Grantor’s heirs, successors and assigns. The Property is located at the following street address:

The Property is assigned the following assessor’s tax parcel identification number(s):

The undersigned warrants that Grantor has bargained for and negotiated this Covenant with the City and that all owners of the Property have executed this document.

A. ACKNOWLEDGEMENT AND ACCEPTANCE OF RISK

1. Grantor acknowledges that the Property is located in or contains a potential landslide area as described in SMC 25.09.020, that the Property is subject to the provisions of SMC Chapter 25.09, SMC Chapter 22.170 and the rules and regulations adopted by the Director of the Department of Planning and Development, and that this Covenant is being executed pursuant to SMC 22.170.080.

2. Grantor understands and acknowledges that there are unique risks associated with development of this Property. Risks of developing in a potential landslide area include without limitation property damage, loss of use, personal injury and death resulting from soil movement (such as landslides and mudslides), water movement, and water collection occurring on the Property or on other property in the vicinity. Grantor acknowledges that not all risks have been eliminated by the design and engineering of proposed development on the Property.

3. Grantor understands and acknowledges that the design and capacity of any public drainage system (existing or future) may not be sufficient to prevent system overflows, flooding, or ponding resulting from storm events and agrees on behalf of Grantor and Grantor’s heirs, successors and assigns that the City has no obligation to Grantor or Grantor’s heirs, successors or assigns to update or improve any such system or to construct a new

system. Grantor also acknowledges and agrees on behalf of Grantor and Grantor's heirs, successors and assigns that the design and capacity of Grantor's private drainage system (existing or future) may not be sufficient to prevent system overflows, flooding, or ponding resulting from storm events and that the City has no obligation or liability to Grantor or Grantor's heirs, successors or assigns for such system.

4. Grantor has decided to proceed with development. Grantor agrees on behalf of Grantor and Grantor's heirs, successors and assigns to accept any and all risks of loss, damage and injury associated with (a) use of the Property; (b) development or construction on the Property; or (c) any combination thereof.

B. WAIVER

Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, hereby waives any right to assert any and all present and future claims against the City, whether known or unknown, for any loss or damage occurring either on or off the Property, including without limitation personal injury, death, property damage, and loss of use by reason of or arising out of (1) issuance of any permit or approval by the City for development or alteration of the Property, except only for such losses that directly result from the sole negligence of the City; and (2) the risks described in Section A above, except only for such losses that directly result from the sole negligence of the City.

C. INDEMNITY

1. To the full extent of Grantor's negligence and the full extent of the negligence of Grantor's heirs, successors and assigns, as well as the negligence of agents and employees of any of the above, Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, agrees to indemnify, hold harmless and defend the City and its officers, agents and employees from and against any and all claims, losses, costs and damages including without limitation personal injury, death, property damage, loss of use, and attorneys' fees, arising out of or relating to the City's involvement in permit issuance, inspection, or approval of any development or alteration of the Property, and/or any of the risks described in Section A above, and caused by or resulting from the concurrent negligence of the City or the City's agents or employees, and:

- (a) Grantor or Grantor's agents or employees;
- (b) Grantor's heirs, successors or assigns;
- (c) the agents or employees of Grantor's heirs, successors or assigns; or
- (d) any combination thereof.

2. Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, agrees to indemnify, hold harmless and defend the City and its officers, agents and employees from and against any and all claims, losses, costs and damages, including without limitation personal injury, death, property damage, loss of use, and attorneys' fees, arising out of or relating to the City's involvement in permit issuance, inspection, or approval of any development or alteration of the Property, and/or any of the risks described in Section A

above, and caused by or resulting from the non-concurrent negligence of the City or the City's agents or employees, and:

- (a) Grantor or Grantor's agents or employees;
- (b) Grantor's heirs, successors or assigns;
- (c) the agents or employees of Grantor's heirs, successors or assigns; or
- (d) any combination thereof.

3. Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, agrees to indemnify, hold harmless and defend the City and its officers, agents and employees from and against any and all claims, losses, costs and damages, including without limitation personal injury, death, property damage, loss of use, and attorneys' fees, arising out of or relating to any of the risks described in Section A above, and caused by or resulting from the negligence of any and all persons and entities involved in the design, construction, or maintenance of improvements to the Property, other than:

- (a) Grantor and Grantor's agents and employees;
- (b) Grantor's heirs, successors and assigns; and
- (c) the agents or employees of Grantor's heirs, successors or assigns.

4. Nothing in this Section is intended to require indemnification of the City for damages or other losses caused by or resulting from the sole negligence of the City, its agents or employees.

5. Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, specifically and expressly agrees to waive Grantor's and Grantor's heirs', successors' and assigns' immunity under industrial insurance, Title 51 of the Revised Code of Washington, to the extent necessary to provide the City with a full and complete indemnity from claims made by employees of Grantor or Grantor's heirs, successors and assigns. Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, specifically and expressly agrees that such waiver of immunity was mutually negotiated by the parties.

D. DUTY TO INFORM

1. Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, agrees to inform all subsequent heirs, successors and assigns of the Property that: (a) the Property is in or contains a potential landslide area, and (b) that there are risks associated with the Property and development thereon, as described above in Section A.

2. Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, agrees to provide a copy of this Covenant to any prospective purchaser or assignee of the Property prior to closing or assignment

3. Grantor, on behalf of Grantor and Grantor's heirs, successors and assigns, agrees to inform all subsequent heirs, successors and assigns of the Property of any conditions or prohibitions on development and of any features of the Property, natural or constructed, or of the development, that will require monitoring, maintenance, modification or replacement.

E. INSURANCE

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 potential landslide area, including without limitation those risks described above in Section A.

F. RECORDING

This Covenant shall be recorded in the real estate records of the Office of Records and Elections of King County, Washington.

G. RUNNING COVENANT

The parties intend that this Covenant shall run with the land and be binding on Grantor and on Grantor's heirs, successors and assigns.

H. SEVERABILITY

If any provision of this Covenant is held invalid, the remainder of the Covenant is not affected. If the application of this Covenant to any person or circumstance is held invalid, the application of the Covenant to other persons or circumstances is not affected.

**EXHIBIT A
TO COVENANT RUNNING WITH THE LAND WITH ACKNOWLEDGEMENT AND
ACCEPTANCE OF RISK, DUTY TO INFORM, NEED FOR INSURANCE, INDEMNITY
AND WAIVER**

COMPLETE LEGAL DESCRIPTION OF PROPERTY SUBJECT TO COVENANT:

**(CORPORATE OWNER, PARTNERSHIP OWNER, LIMITED LIABILITY COMPANY
OWNER/OTHER LEGAL ENTITY OWNER—attach more pages if needed)**

Date: _____

State of Washington)
)ss
County of _____)

Owner/Grantor

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ (type of authority, e.g., partner, trustee, title of officer, personal representative, guardian, attorney in fact for a principal, etc.) of _____ (name of owner/entity on behalf of whom instrument was executed), to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

By _____

Date: _____

NOTARY PUBLIC in and for the State of Washington
Residing at _____
My commission expires: _____
PRINT NAME: _____

Printed Name

Its _____



Use this space for Notary Seal

Date: _____

State of Washington)
)ss
County of _____)

Owner/Grantor

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ (type of authority, e.g., partner, trustee, title of officer, personal representative, guardian, attorney in fact for a principal, etc.) of _____ (name of owner/entity on behalf of whom instrument was executed), to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Printed Name

By _____

Date: _____

NOTARY PUBLIC in and for the State of Washington
Residing at _____
My commission expires: _____
PRINT NAME: _____

Printed Name

Its _____



Use this space for Notary Seal