

**Cooperative Agreement  
Between the  
Natural Resources Conservation Service  
And the  
Fairbanks North Star Borough**

**Superceding the Agreement dated 9/27/2004**

This agreement is entered into upon receipt of the last signature by the Natural Resources Conservation Service herein referred to as NRCS, an agency of the United States Government, and the Fairbanks North Star Borough herein referred to as the Borough. It replaces in its entirety the Agreement between the parties dated September 27, 2004.

**I. Authority:**

Watershed Protection and Flood Prevention Act, Public Law 83-566, 68 Stat. 666, as amended: Public Law 84-1018, 70 Stat. 1088; Public Law 85-624, 72 Stat. 563; Public Law 85-865, 72 Stat. 1605; Public Law 86-468, 74 Stat. 131, 132; Public Law 86-545, 74 Stat. 254; Public Law 87-170, 75 Stat. 408, Public Law 87-703, 76 Stat. 608; Public Law 89-337, 79 Stat. 1300; Public Law 90-361, 82 Stat. 250; Public Law 97-98, 95 Stat. 1213; Public Law 99-662, 100 Stat. 4196; Public Law 101-624, 104 Stat. 3359. Special Provisions for Grants and Cooperative Agreements Act of 1977 (Attachment A). Applicant participation in this project is voluntary; therefore, any acquisition made under this project is not subject to the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.

**II. Background and Objective:**

The Pile Driver Slough area, located in the Fairbanks North Star Borough, approximately 30 miles south of Fairbanks, Alaska, experiences annual flooding associated with the Tanana River. Residents of the area are seeking financial and technical assistance to alleviate damages associated with the Tanana River flooding. The Fairbanks North Star Borough and the NRCS have a mutual interest in implementing a voluntary flood plain acquisition program to restore and enhance the floodplain's functions and values while helping landowners relocate to avoid future damages. This acquisition program is specifically intended to acquire a fee title interest by the Borough from the landowners who choose to participate in the program. Following the acquisition of the fee interest from the landowner, the Borough agrees to convey an easement deed to the NRCS (Attachment B). Furthermore, it is not the intent of either party to pursue acquisitions if that would be contrary to the planned extension of the Alaska Railroad to Delta Junction. A map depicting the area is attached (Attachment C).

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**III. The Fairbanks North Star Borough agrees to:**

1. In coordination with NRCS conduct public meetings in the Pile Driver Slough area to explain program benefits to the affected landowners.
2. Provide input into the development of the Implementation Plan and Environmental Assessment for the Tanana River Floodplain Acquisition Project at Salcha, Alaska. The document will, at a minimum, describe the background of the project and the policies and procedures for implementation, including participant application, eligibility criteria and ranking process, cost-sharing arrangements, responsibilities, proposed schedule, special conditions, and estimated costs. This document, when completed and approved by both parties, will become part of this agreement.
3. In consultation with NRCS, provide public notice of program sign up dates (up to 30 days prior to the beginning of application/program sign up).
4. Based on NRCS concurrence, acquire appraisal, land survey, environmental site analysis, closing agent services, and other related professional services for all approved applications. Funding for these tasks will be advanced or reimbursed from the program funds listed in part IV.
5. Contract for structure demolition and site clean up. Funding for these tasks will be advanced or reimbursed from the program funds listed in part IV. The proceeds of the Borough's sale of structures, materials, or contents will be reinvested into the floodplain acquisition program and shall not be considered Program Income (as defined in Subpart C.25 of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State or Local Governments) to be deducted from federal outlays (program funds).
6. Be responsible for making all payments associated with the acquisition to landowners as appropriate. Funding for these tasks will be advanced or reimbursed from the program funds listed in part IV.
7. Be responsible for acquiring all needed Federal, State, and local permits required by law and making all payments for costs associated with their acquisition. Applicable permits will be identified by the Borough and the NRCS prior to the initiation of the acquisition phase of the program. Funding for these tasks will be advanced or reimbursed from the program funds listed in part IV.
8. Be responsible for managing, as long as the parcel is owned by the Borough, all fee acquisitions deeded to the Borough as part of the voluntary acquisition process. Management will be in accordance with Attachment B, Easement Deed.
9. Convey to the NRCS as soon as is practical after acquisition by the Borough or its agents, Easement Deeds in the format described in Attachment B.

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10. Reserve to itself the following rights of ownership:

- A. Title: Record title, along with Borough's right to convey, transfer and otherwise alienate title to these reserved rights;
- B. Quiet Enjoyment: The right of quiet enjoyment of the rights reserved on the easement area, including the right to grant public access to the easement area that is compatible with floodplain protection;
- C. Vegetative Management. The right to establish, restore and maintain native vegetation and to control invasive species;
- D. Floodplain Management. The right to take other appropriate measures to protect the floodplain, including the right to demolish or remove existing structures and or improvements, but not to construct any buildings or structures intended for human occupancy;
- E. Railroad Right of Way Grant. The right to grant an easement to any federal or state entity to enable said entity to construct, operate and maintain a railroad line within the floodplain easement area described herein;
- F. Existing Grants or Easements. The right to take appropriate action, including granting public utility easements and/or dedicating public rights of way required for the maintenance, upgrade and/or realignment of existing road and utilities (including the Richardson Highway) servicing properties not acquired by this project. The Borough agrees to notify the NRCS of any grant anticipated under either paragraph F or G of this section.
- G. Other Management Rights. The right to grant temporary uses such as, but not limited to, agricultural practices or timber harvest, etc., as long as those uses do not include the erection of any permanent structures and are consistent with the protection of the floodplain.

11. Encourage through reasonable efforts, all landowners living in the flood plain to purchase flood insurance if they do not participate in the floodplain acquisition project.

12. Continue to participate in and comply with applicable Federal floodplain management and flood insurance programs.

13. Coordinate with NRCS in the fieldwork related to the services identified in Sections III and IV.

14. Arrange for and conduct final inspection of all completed measures and ensure that all work was performed in accordance with all local, State and Federal laws and regulations and with all contractual requirements.

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15. This grant does not cover staff costs incurred by the Borough in the execution of the Program contemplated under this agreement.
  16. Submit to NRCS, not more frequently than monthly, not less frequently than quarterly, Form SF-270, Request for Advance or Reimbursement, with documentation to support reimbursement for work completed.

**IV. The Natural Resources Conservation Service agrees to:**

1. Provide local NRCS staff person in Fairbanks to work with program applicants/participants;
2. In coordination with the Borough, conduct public meetings in Pile Driver Slough area to explain program benefits to the affected landowners;
3. Complete the Implementation Plan and Environmental Assessment for the Tanana River Floodplain Acquisition, Project at Salcha, Alaska;
4. Accept, prioritize, and select applications for program participation;
5. In cooperation with the Borough, conduct field work, such as, but not limited to, coordinating contractual services, such as environmental assessments, decommissioning wells, fuel tanks and septic systems, disconnecting utilities, demolition of buildings, Interact and communicate with landowners and other members of the public interested in or affected by this project;
6. Upon receipt of a request for advance or reimbursement, (SF 270) reimburse or advance the Borough in the amount not to exceed \$850,000.00 for all of the project related expenses.
7. Extend and secure Option to Purchase Agreement to all program participants.
8. In a timely fashion, approve the closing documents including those that are to be recorded.
9. Be responsible for monitoring all the acquired easement areas for purposes of flood plain protection.
10. Participate in final inspections mentioned in Section III.14, above.
11. Indemnify and defend the Borough against all claims that may be made against the Borough asserting that the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, is applicable to activities authorized by this agreement.

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**V. It is mutually agreed:**

1. The total amount of funds provided under this agreement is \$850,000.00. This agreement shall be in effect on the date appearing in the first paragraph and shall continue in effect until September 30, 2006.
2. This agreement may be modified or extended by mutual consent. Termination of this agreement will be in accordance with section V. - 11 of this agreement.
3. Advance payments can be made for immediate disbursement needs up to the maximum of 30 days (Treasury Circular 1075). These shall be requested on a SF-270 with documentation supporting anticipated costs to be incurred within the 30-day period. Advances will only be provided once the Borough has demonstrated;
  - A. Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the Borough, and
  - B. A financial management system that meets the standards for fund control and accountability as described in 7 CFR 3015, Subpart H Section 3015.61.
4. Billing documents must reference this agreement number and shall be directed to the NRCS at the following address:

USDA, NRCS  
State Administrative Officer  
800 West Evergreen Suite 100  
Palmer AK 99645
5. It is the intent of the NRCS to fulfill its obligations under this agreement. However, the NRCS cannot make commitments in excess of the \$850,000.00 appropriated funds obligated on this agreement.
6. The Borough will retain all records dealing with the award and administration of the agreement for three (3) years from the date of the last submission for the final request for disbursement or until final audit findings have been resolved or if any litigation is started before the expiration of the three-year period, whichever is longer. All records must be made available to the Comptroller General of the United States or his duly authorized representative and accredited representatives of the Department of Agriculture or cognizant audit agency for the purpose of performing an audit, examination, excerpts and transcriptions.
7. No more than 10% of these funds shall be used for indirect costs.
8. Personal property purchased under this agreement shall be for the primary purpose of accomplishing the objectives of this agreement. Examples of personal property include, but are not limited to, office supplies, computer supplies, operating supplies, repair and

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maintenance supplies, clothing and personal items, motor fuels and equipment, laptop computers, cameras, hand tools, GPS devices, etc.

9. This agreement shall be enforced and interpreted in accordance with the applicable Federal laws and regulations, directives, circulars, or other guidance. When signed, this agreement will become binding on all parties in accordance with 7 CFR part 3015 (Uniform Federal Assistance Regulations) and part 3016 (Uniform Administrative Requirements for Grants and Cooperative Agreements and sub-awards to Non-Profit Organizations).
10. Upon execution of this agreement, contact the National Finance Center (NFC) Miscellaneous Payments Section at 1-800-421-0323 or (504) 255-4647 to obtain the Electronic Funds Transfer (EFT) enrollment package. The enrollment package will contain specific instructions, as well as the assigned nine-digit Vendor Identification Number, and forward to the completed package to NFC. The EFT enrollment package may also be obtainable at the following web address: <http://www.nfc.usda.gov/dcia/index.html>. Disregard if the Vendor Identification Number is already obtained.
11. All parties may terminate this agreement in whole or in part when it is determined that one party has failed to comply with any of the provisions of this agreement or that it is clear that the Program is not achieving its stated objectives. The terminating party shall promptly notify the other parties in writing of the determination, and reasons for termination, together with the effective date. In the event that this agreement is terminated for any reason, the financial obligations of the parties will be set forth in 7 CFR 3015 and 3016.
12. This agreement may be temporarily suspended by either party if it is determined that corrective action is needed to meet the provisions of the agreement. Further, all parties may suspend this agreement if it is evident that a determination is pending.
13. As a condition of this agreement, the parties agree and certify that they are in compliance with all and will comply in the course of this agreement with all OMB Circulars for grants and cooperative agreements awarded under this agreement.
14. Employees of the Fairbanks North Star Borough and of the United States shall not be considered employees or agents of the other entity for any purpose under this agreement.
15. It is agreed that this is not a contract subject to the contract disputes Act 41 USC 601 et seq.
16. Implementation of this agreement by the Borough is subject to appropriation of the above-mentioned funds by the Fairbanks North Star Borough.
17. Any funds generated by the sale of the real property, a grant of easement for a railroad or any highway or utility rights of way re-alignments will belong to the Borough.

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18. The program or activities conducted under this agreement will be in compliance with the nondiscrimination provisions as contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and in accordance with the regulations of the Secretary of Agriculture (7 CFR 15, Subparts A & B), which provide that no person in the United States shall, on the grounds of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Agriculture or any agency thereof.

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**VI. Technical and Administrative Contact:**

Assistant State Conservationist, Programs  
800 West Evergreen, Suite 100  
Palmer, AK 99645  
(907) 761-7780

Cassie Storms, State Admin Officer  
800 West Evergreen, Suite 100  
Palmer, AK 99645  
(907) 761-7776

The above aforementioned employees of NRCS shall participate in efforts under this agreement solely as representatives of the United States. To this end, they shall not participate as directors, officers' employees, or otherwise serve or hold themselves out as representatives of the state. They also shall not assist either party, or any member, with efforts to lobby Congress, or to raise money through fund raising efforts. Further, NRCS employees shall report to their immediate supervisor any negotiations with either party, or any member, concerning future employment and shall refrain from participation in efforts regarding such party until approved by the agency.

**VII. Sponsor Point of Contact:**

**Program**

Paul Costello, SR/WA,  
Director, Department of Land Management  
Fairbanks North Star Borough  
809 Pioneer Road  
P.O. Box 71267  
Fairbanks, Alaska 99707-1267  
Office 907-459-1236, Fax 907-459-1122  
Email paulc@co.fairbanks.ak.us

**Financial**

Michael E. Lamb  
Chief Financial Officer  
Fairbanks North Star Borough  
809 Pioneer Road  
P.O. Box 71267  
Fairbanks, Alaska 99707-1267  
Office 907-459-1370, Fax 907-459-1379  
Email: mlamb@co.fairbanks.ak.us

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JIM WHITAKER, Mayor  
Fairbanks North Star Borough

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Date

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Febe Ortiz, Acting State Conservationist  
United States Department of Agriculture  
Natural Resources Conservation Service

\_\_\_\_\_  
Date

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