

## ATTACHMENT B - Easement Deed

THIS EASEMENT DEED is made between Fairbanks North Star Borough, a subdivision of the State of Alaska, Grantor, (hereinafter referred to as “Borough”), and the United States of America, acting through the Natural Resources Conservation Service, United States Department of Agriculture (hereinafter referred to as “NRCS”), Grantee.

WITNESSETH:

PURPOSE AND INTENT: The purpose of this easement deed is to convey sufficient land ownership interests to Grantee to allow Grantee to restore, protect, manage, maintain and enhance the functional values of the floodplain adjacent to the Tanana River, while reserving to the Grantor the right to grant a railroad right of way, certain public easements and/or dedicate public rights of way as outlined below, within the floodplain easement area described herein. It is the intent of the parties to co-operate in the restoration and management activities on the easement area.

NOW, THEREFORE, and in consideration of the mutual co-operation of the parties, Borough hereby grants and conveys to NRCS, its successors and assigns, all development rights of Grantor for the real property described herein, including, but not limited to, the exclusive right to construct, operate and maintain all buildings, structures, transportation facilities, and improvements of any kind, and including the right to grant public access to the floodplain area, reserving to Borough only those rights, title and interest expressly enumerated herein. It is the intention of Borough to convey and relinquish any and all other property rights not so reserved.

I. Description of the Easement Area: The lands encumbered by this easement deed, referred to hereafter as the “floodplain easement area”, are described as follows:

II. Reservations to the Borough on the Easement Area:

A. Title. Record title, along with the 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, and to retain any proceeds from said grant;
- 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, and to retain any proceeds from said grant or dedication. 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, and to retain any proceeds from said grant.

III. Prohibitions. Unless authorized by NRCS as a compatible use hereunder, it is expressly understood that the rights to the following activities and uses have been acquired by the United States and are prohibited of the Landowner on the easement area:

- A. Constructing any building, structure, or facility for human occupancy.
- B. Dumping refuse, wastes, sewage, or other debris.

IV. Rights of the United States. The rights of NRCS include:

- A. Management Activities. NRCS shall have the right to enter into the easement area to undertake, at its own expense or on a cost-share basis with Borough or other entity, any activities to restore, protect, manage, maintain, enhance, and monitor the easement area for purposes of floodplain protection;

- B. Public Access. NRCS shall have the right to regulate or prohibit public access to the easement area upon its determination that such use is injurious to the land or incompatible with protection of the floodplain;
- C. Government Access. NRCS has a right of reasonable ingress and egress to the easement area, for the exercise of any of the rights of the United States under this easement deed. The authorized representatives of NRCS may use vehicles and other reasonable modes of transportation for access purposes;
- D. Easement Management. The Secretary of Agriculture, by and through the Alaska State Conservationist, may delegate all or part of the management, monitoring or enforcement responsibilities under this easement to any entity authorized by law that he or she determines to have the appropriate authority, expertise and resources necessary to carry out such delegated responsibilities. State or federal agencies may utilize their general statutory authorities in the administration of any delegated management, monitoring, or enforcement responsibilities for this easement;
- E. Violations and Remedies - Enforcement. The Parties hereto agree that this easement deed may be introduced in any enforcement proceeding as the stipulation of the Parties. If there is any failure of Borough to comply with any of the provisions of this easement deed, the United States shall have any legal or equitable remedy provided by law, including the right to:
  - i. Enter upon the easement area to perform necessary work for prevention of or remediation of damage to floodplain protection values; and
  - ii. Reasonable attorneys fees and costs for enforcing this easement.

V. General Provisions:

- A. Successors in Interest. The rights granted to the United States shall accrue to any of its agents, successors, or assigns. All obligations of the Landowner under this easement deed shall also bind the Landowner's heirs, successors, agents, assigns, lessees, and any other person claiming under it.
- B. Rules of Construction and Special Provisions. All rights in the easement area not reserved by the landowner shall be deemed acquired by the United States. Any ambiguities in this easement deed shall be construed in favor of the United States to affect the floodplain protection purposes for which this easement deed is conveyed.

**To Have and to Hold**, this Easement Deed is granted to the United States of America, its successors and assigns forever. The Landowner covenants that it is vested with good title to the easement area and will warrant and defend the same on behalf of the United States against all claims and demands. The Landowner covenants to comply with the terms and conditions enumerated in this document for the use of the easement area, and to refrain from any activity not specifically allowed or that is inconsistent with the purposes of this easement deed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005

Landowner: Fairbanks North Star Borough

\_\_\_\_\_  
By: Mayor

ATTEST:

APPROVED:

\_\_\_\_\_  
Borough Clerk

\_\_\_\_\_  
Borough Attorney

ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  ) ss  
FAIRBANKS NORTH STAR BOROUGH)

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2005 by Jim Whitaker, Mayor of the Fairbanks North Star Borough, a municipal corporation of the State of Alaska, on behalf of the corporation.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary public in and for the State of Alaska

My commission expires \_\_\_\_\_

FAIRBANKS RECORDING DISTRICT

Return to:  
Natural Resources Conservation Service, USDA  
800 West Evergreen Avenue, Suite 100  
Palmer, AK 99645-8539