

SAMPLE Easement Deed

THIS EASEMENT DEED is made between Kenai Peninsula Borough, a subdivision of the State of Alaska, (hereinafter referred to as "KPB"), Grantor, 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 Lost Creek in the Old Mill Subdivision approximately six miles north of Seward, Alaska. It is the intent of the parties to cooperate in the restoration and management activities on the easement.

NOW, THEREFORE, and in consideration of the mutual cooperation of the parties, KPB 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 KPB only those rights, title, and interest expressly enumerated herein. It is the intention of KPB to convey and relinquish any and all other property rights not so reserved.

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

II. Reservations to KPB on the Floodplain Easement: KPB reserves:

- A. Title. Record title, along with KPB'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, including the right to grant public access to the easement 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. Flood Protection Measures. The right to use, or contract for the use of the property to access flooded areas for the purpose of flood mitigation and response activities as required, provided there is no stockpiling on the site.
- 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 KPB on the easement;
- 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 to undertake, at its own expense or on a cost-share basis with KPB or other entity, any activities to restore, protect, manage, maintain, enhance, and monitor the easement for purposes of floodplain protection;
 - B. Public Access. NRCS shall have the right to regulate or prohibit public access to the easement 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, 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 KPB to comply with any of the provision 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 attorney 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 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 KPB covenants that it is vested with good title to the easement and will warrant and defend the same on behalf of the United States against all claims and demands. The KPB covenants to comply with the terms and conditions enumerated in this document for the use of the easement, and to refrain from any activity not specifically allowed or that is inconsistent with the purposes of this easement deed.

Dated this ____ day of _____, 2009.

GRANTOR:
Kenai Peninsula Borough

GRANTEE:
Natural Resources Conservation Service

By: David R. Carey, Borough Mayor

By:

ATTEST:

Johni Blankenship, Borough Clerk

Approved as to form and legal sufficiency:

Colette Thompson, Borough Attorney

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

In witness whereof, I hereunto set my hand and official seal.

My commission expires_____

STATE OF ALASKA)
) ss.
____ JUDICIAL DISTRICT)

In witness whereof, I hereunto set my hand and official seal.

My commission expires_____

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