



**Federal Conservation Easement
Port Valdez Lands (Meals Hill Parcels, PWS 4009)**

THIS Conservation Easement is entered into this 22nd day of October, 2019, by **THE PORT VALDEZ COMPANY, INC.**, and its successors and assigns (hereinafter "Grantor"), whose address of record is 13598 Via Varra, Unit 203, Broomfield, Colorado, 80020, and the **UNITED STATES OF AMERICA** and its successors and assigns ("United States" or "Grantee"), whose address is Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska, 99513, under the authority of 43 U.S.C. § 1715 and pursuant to the AGREEMENT FOR SALE AND PURCHASE OF LANDS AT PORT VALDEZ, ALASKA (MEALS HILL PARCELS, PWS 4009), between Grantor, the City of Valdez ("City"), the State of Alaska, and the Grantee dated 29th day of April, 2019 ("Agreement"). Grantor and Grantee are also referred to individually in this Conservation Easement as "a Party" and collectively as "the Parties."

WHEREAS, the real property subject to this Conservation Easement (the "Protected Property") is situated at Port Valdez, within the municipal boundaries of the City of Valdez, in Prince William Sound, Alaska, as is further described below; and

WHEREAS, the Grantor is the owner of fee title to the Protected Property subject to the Lease of Pipeline Easement between The Port of Valdez Company, Inc. and Petro Star Inc., for a term of ten (10) years beginning January 1, 2016 (involving a pipeline shown within a twenty-foot wide easement at the base of Meals Hill); the City's rights with respect to a water storage tank, access road, and accessory piping and transmission lines located in the northwest corner of Tract C, Port Valdez Subdivision, Plat 77-1; and the rights of the owners of Lots 1-4, Plat 99-17, to use the sixty-foot-wide road easement for access and delivery of utility services; and

WHEREAS, the Protected Property contains significant natural, scenic, wooded and non-wooded lands and waters that provide important habitat and protection supporting species of migratory birds, fish, and wildlife, including many that were injured as a result of the *Exxon Valdez* oil spill. The natural, scenic, forested, non-forested, wetlands and marine coastal shoreline habitat values for fish and wildlife described herein are collectively referred to as the "Conservation Values" of the Protected Property; and

WHEREAS, the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the City of the Protected Property, subject to Conservation Easement rights to be held by the Grantee in order to assure that the restoration objectives for use of the settlement funds are achieved in perpetuity; and

WHEREAS, Grantor intends to convey fee title to all of its interests in the Protected Property, including all surface and subsurface interests, rights, privileges, immunities, easements, and appurtenances thereto, of whatsoever nature, in the Protected Property, to the City by Warranty Deed; and

WHEREAS, Grantor wishes to convey a protective Conservation Easement to the United States as Grantee, and to provide the Grantee with an independent right in perpetuity to enforce the restrictive covenants set forth in this Conservation Easement on the Protected Property against the actions, claims, or demands of Grantor or any other person or entity; and

WHEREAS, the City shall preserve and protect the Protected Property in perpetuity in order to restore, enhance, and rehabilitate natural habitat and resources injured by the *Exxon Valdez* oil spill, and to support the services, including recreation and tourism, provided by those natural resources.

NOW THEREFORE, pursuant to the laws of the United States, and in particular 43 U.S.C. § 1715, and in accordance with the provisions of the Agreement, for good and valuable consideration received, Grantor does hereby grant and convey to Grantee, its successors and assigns, forever, with special warranties of title noted herein, subject to conditions, restrictions, and limitations of record, if any, a conservation easement (“Conservation Easement”) in perpetuity on the Protected Property, of the nature and character and to the extent hereinafter set forth, as to the Protected Property more fully described as follows:

Tract C and Tract E, Port Valdez Subdivision, Plat 77-1, recorded in the Valdez Recording District on January 24, 1977, excepting therefrom parcels 3A, 3B, and 3C, as described in a warranty deed, document No. 2009-000947-0, recorded in the Valdez Recording District on November 30, 2009, within the Valdez ~~Census~~ Census Area, Alaska.

Third Judicial District, State of Alaska.

Containing 183.54 acres, more or less.

The above-described Conservation Easement is being acquired by the United States for administration by the U.S. Department of the Interior, Bureau of Land Management as Grantee. Acceptance of and recording of this Conservation Easement by Grantee shall evidence Grantee’s acceptance of and agreement to all of its terms and its understanding that the property rights of the Grantor and its successors and assigns in and to the Protected Property are conveyed, conditioned, and restricted by this Conservation Easement as provided for herein.

The United States shall be entitled to the rights described herein to enforce on a non-exclusive basis the terms of the restrictive covenants, set forth below, against the Grantor, its successors or assigns.



I. PURPOSE

The purpose of this Conservation Easement is to ensure that the Conservation Values of the Protected Property will be protected and maintained in perpetuity and to prevent any use or alteration of the Protected Property that will impair, degrade, or interfere with its natural and undisturbed habitat values or of the Trustee Council's restoration goals and objectives. These purposes include management by the Grantor and its assigns for the restoration and preservation of the Protected Property's natural forested and non-forested areas, wetlands, marine coastal shoreline, and other ecological values, as well as the conservation and protection of migratory bird, fish, and wildlife resources supported by habitats on the Protected Property. This Conservation Easement will confine uses of the Protected Property to activities that are consistent with the protection and preservation of the Conservation Values of the Protected Property in perpetuity.

The Parties agree and acknowledge that the City intends to provide for certain enhancements (described further in Section III(a)(vii) below) for compatible public uses of the Protected Property for passive recreation and tourism in accordance with this Conservation Easement, applicable municipal laws and a future site plan to be prepared for the Protected Property, but only to the extent consistent with this Conservation Easement, and in a manner and subject to any closures, limitations, or restrictions as are warranted for the protection of public safety or in order to assure the protection and preservation of the Conservation Values of the natural resources and habitats of the Protected Property in perpetuity. Nothing in this Conservation Easement shall interfere with:

- a. The City's right to operate and maintain the water tank, access road, and accessory piping and transmission lines located on the Property in substantially the same location and to substantially the same scale as they currently exist.
- b. The right to operate and maintain a pipeline under the Lease of Pipeline Easement within the twenty-foot pipeline easement shown on Plat 77-1.
- c. The rights of the City to renew the Lease of Pipeline Easement in substantially the same form as it presently exists.
- d. The rights of property owners of Lots 1-4, Plat 99-17, to use the sixty-foot road easement shown on Plat 77-1 for continued access to their property and delivery of utility services.

II. RIGHTS CONVEYED TO GRANTEE

To accomplish the purposes of this Conservation Easement, the Grantee is granted the right to enforce all the terms, including the prohibitions and restrictions set forth in this Conservation Easement; provided, however, that nothing in this Conservation Easement shall be construed to create an affirmative obligation of the Grantee to restore or enhance any particular natural resources, habitats, or services on the Protected Property or to take any particular enforcement action:



a. To enter upon the Protected Property in order to enforce the terms of this Conservation Easement.

b. To prevent any activity on or use of the Protected Property that is inconsistent with the purposes of this Conservation Easement and, in the event the Protected Property is damaged or degraded by any inconsistent activity or use, to require the restoration of such areas or features of the Protected Property at the sole cost and expense of those responsible for the damage.

c. In its discretion, the Grantee may take appropriate enforcement or other legal action at any time as necessary to enforce this Conservation Easement in individual cases. However, nothing herein shall be construed to preclude the City, as landowner, from taking any affirmative or legal action of its own to enforce any rule, requirement, policy, or agreement with respect to the Protected Property.

d. The Grantee shall be entitled to enforce, on a non-exclusive basis against the Grantor, its successors and assigns, and any other person or entity, this Conservation Easement in its entirety and in particular the terms set forth in Section III (Prohibited and Restricted Uses) below.

III. PROHIBITED AND RESTRICTED USES

a. RESTRICTED USES. The following listed uses and activities are prohibited on the Protected Property, except as necessary: (1) to further the accomplishment of the habitat protection and restoration objectives for which the Conservation Easement to the Protected Property was acquired with Trustee Council funds; (2) to provide reasonable enhancements to facilitate and benefit passive public recreational use of the Protected Property while still ensuring the protection of the Conservation Values set forth herein, and as described in more detail in Section III(a)(vii) below; or (3) to convey information to the public to protect public safety or natural resources. Notwithstanding the foregoing, an excepted use or activity under this paragraph (a) is allowed only if it does not have any significant negative impact on the EVOSTC habitat protection and restoration objectives or the Conservation Values of the Protected Property. The prohibited uses and activities subject to this paragraph (a) include, but are not limited to:

- (i) removing, destroying, cutting or clearing trees, brush or other plants on the Protected Property;
- (ii) filling, excavating or otherwise disturbing or altering the natural surface or topography of the Protected Property;
- (iii) using biocides or other chemicals, except as reasonably necessary to control or remove non-native fish, wildlife, or plants;
- (iv) manipulating or altering natural water courses, shorelines, marshes, wetlands or other water bodies or conducting or allowing any activities or uses that are detrimental to water quality or purity on the Protected Property;



- (v) discharge of firearms or other explosives and trapping;
- (vi) motorized equipment or vehicles, except by the City or its employees, contractors or agents, as reasonably necessary to protect public safety and for the limited purposes of construction, maintenance, replacement or repair of the enhancements described in Section III (a)(vii). below;
- (vii) constructing or placing buildings, other structures, lodges, other accommodations or mobile homes, roads, parking lots, utility towers, fences, billboards, commercial signs, or any other structures or improvements on the Protected Property, except for reasonable enhancements to facilitate public recreational use for passive activities, which do not materially diminish the Conservation Values of the Protected Property. Such enhancements may include the construction or improvement of pedestrian trails or boardwalks, overlooks and roofed shelters from the weather, picnic tables, outhouses, gates, limited fencing to control access, a parking area at the entrance to the Protected Property, or non-commercial informational signs, plaques, or interpretative panels. No commercial signs or establishments shall be permitted on the Protected Property; and
- (viii) subdividing or creating or constructing any subdivisions or subdivision infrastructure on the Protected Property.

b. PROHIBITED ACTIVITIES. The following listed uses and activities by any person are prohibited on the Protected Property:

- (i) the introduction of fish, wildlife, or plants which are not native to Prince William Sound, Alaska (including, but not limited to, non-indigenous wild game such as reindeer or bison), or the use of the Protected Property for agricultural purposes or wild fish or game farming, including, but not limited to, farm crops, aquaculture, hatcheries, or the grazing of domestic or other farm animals;
- (ii) the placing, storing, dumping or burning of garbage, trash, other unsightly or offensive items or material and/or hazardous materials or substances, except that City-maintained trash collection containers may be placed and serviced as necessary.

IV. GENERAL

a. It is the intent of this Conservation Easement to protect the Conservation Values of the Protected Property in perpetuity by prohibiting and restricting uses of the Protected Property as set forth herein, notwithstanding future changes in circumstances, conditions, or economics. If any provision of this Conservation Easement is found to be ambiguous, an interpretation consistent



with protection of the Conservation Values and Conservation Purposes is favored, regardless of any general rule of construction.

b. Nothing herein shall be deemed to create in any third-party beneficiary any rights or privileges under this Conservation Easement or the right to enforce any of its terms or covenants.

c. Grantor agrees that this Conservation Easement and all its restrictive covenants shall run with the land and shall be binding upon Grantor, its successors, and assigns, including, without limitation, upon the Grantee, except where such action by the Grantee is specifically authorized by this Conservation Easement. In the event title to all or a portion of the Protected Property is ever acquired by Grantee or a successor entity, the Parties intend that no merger of title shall take place. Notwithstanding a future vesting of all title in the United States or a successor entity, the prohibitions and restrictions in this Conservation Easement shall continue to run with the land and remain as permanent restrictions on the use of the Protected Property forever.

d. The Grantor and the Grantee shall be entitled to enforce on a non-exclusive basis against each other, and any other person or entity, their successors or assigns, this Conservation Easement and in particular the terms setting forth the Prohibited and Restricted Uses in Section III above.

e. No transfer, assignment, amendment, or waiver of this Conservation Easement is effective which adversely impacts the habitat protection and restoration objectives of the Trustee Council or removes or diminishes any of the restrictive covenants or prohibitions in this Conservation Easement from the Protected Property. No other transfer, assignment, amendment, or waiver of any provision of this Conservation Easement, or the Conservation Easement as a whole, is valid or effective unless it is in writing and signed by all Parties to this Conservation Easement, and is in accordance with the EVOS Final Restoration Plan adopted by the Trustee Council (November 2, 1994), and is otherwise authorized by law and legally recorded.

f. In the event of a violation of this Conservation Easement, a Party has the right at any time independently to exercise any legal or equitable right or remedy to enforce this Conservation Easement against any person or entity in violation that may be available to the Party under applicable law, including as specifically authorized by this Conservation Easement. Such remedies may include, but are not limited to: declaratory or injunctive relief, compensatory damages, restitution, and/or attorney fees, which may be sought through a court of competent jurisdiction. A violation of one or more provisions of this Conservation Easement shall not render this Conservation Easement or any portion of it unenforceable or invalid; nor may a Party unilaterally or by agreement with another Party terminate this Conservation Easement, which is intended to apply in perpetuity.

g. The Grantor hereby represents and warrants, and covenants to and with the Grantee, and each of their successors and assigns, that: (1) the Grantor is lawfully seized of good and marketable fee title in the Protected Property that is subject to this Conservation Easement; (2) the Grantor has a good and lawful right and power to sell and convey the title, rights, and interests to the same; (3) the same is free and clear of encumbrances, except for valid existing rights, including



reservations and exceptions in the U.S. Interim Conveyance, Patent or other state or federal conveyance, and in acts authorizing the issue thereof; and easements, rights-of-way, covenants, conditions, reservations, restrictions, plat notes, liens, encumbrances, pre-existing leases, and other matters, if any, of record, or as otherwise noted herein; and (4) the Grantor will forever warrant and defend the Conservation Easement conveyed herein, and the quiet possession thereof, against the claims and demands of all persons claiming through the Grantor.

h. Grantor represents and warrants that it has not received notice of and has no knowledge of any material violation of any federal, state, or local borough or municipal governmental, or other quasi-governmental, regulatory requirement, statute, ordinance, code, rule, law or administrative or judicial order with respect to the Protected Property. Grantor further represents and warrants that there is no action, suit, or proceeding that is pending or threatened involving the Protected Property or any portion thereof relating to or arising out of the ownership or use of the Protected Property, or any portion thereof, in any court or before or by any federal, state or local borough or municipal government, commission, board, agency, or other governmental instrumentality.

i. If any provision of this Conservation Easement is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Conservation Easement remain valid, binding, and enforceable. To the extent permitted by applicable law, the Parties waive any provision of applicable law that renders any provision of this Conservation Easement invalid, illegal, or unenforceable in any respect.

j. This Conservation Easement may be signed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one Conservation Easement. Facsimile or electronically transmitted copies of the validly signed signature page shall be effective as the execution by a Party.

k. The Parties intend that: (1) the Grantee will not incur, suffer, or otherwise become burdened by any of the obligations or liabilities of an "owner" or "operator" as those words are defined, used, or interpreted under any environmental law, regulation, code, ordinance, order, other requirement, or successor provision thereto, of any federal, state, or local governmental authority relating to any hazardous, toxic, or otherwise harmful material, substance, or pollutant (collectively "Environmental Obligations"), by virtue of accepting this Conservation Easement, and (2) this Conservation Easement shall be construed so as not to cause Grantee to incur, suffer, or otherwise become burdened by any Environmental Obligations by virtue of accepting this Conservation Easement.

l. Nothing herein (1) releases any Party or other person from such Environmental Obligations as it may have had prior to accepting this Conservation Easement, (2) releases any Party or other person from any Environmental Obligations as may arise hereafter by virtue of actions undertaken by or for it hereafter on or with respect to the Protected Property, or (3) except as specifically provided in this Conservation Easement or the Agreement, constitutes a promise by any Party to indemnify any other Party or other person for any Environmental Obligations (whenever arising).




TO HAVE AND TO HOLD unto Grantee, its successors and assigns, forever.

(Signatures on following pages)



IN WITNESS WHEREOF, on behalf of THE PORT VALDEZ COMPANY, INC., Grantor, John H. Clark IV, President of The Port Valdez Company, Inc. has hereunto set his hand and seal this 18 day of October 2019.

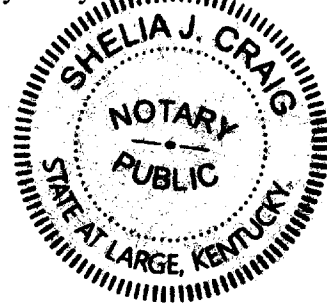
THE PORT VALDEZ COMPANY, INC.

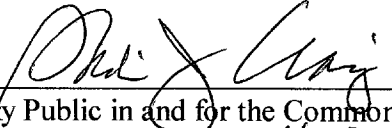
By: _____
John H. Clark IV
President
The Port Valdez Company, Inc.

COMMONWEALTH OF KENTUCKY)
) ss.
JEFFERSON COUNTY)

THIS IS TO CERTIFY that on the 18th day of October, 2019, before me, the undersigned, a Notary Public in and for the Commonwealth of Kentucky duly commissioned and sworn, personally appeared John H. Clark IV, President of THE PORT VALDEZ COMPANY, INC., to me known and known to be the person he represented himself to be, who executed the above and foregoing Federal Conservation Easement Port Valdez Lands (Meals Hill Parcels, PWS 4009) as the authorized representative of and on behalf of The Port Valdez Company, Inc., freely and voluntarily, for the uses and purposes therein described, and under such legal authority and with knowledge of its contents, and who acknowledged said document before me on behalf of The Port Valdez Company, Inc.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.



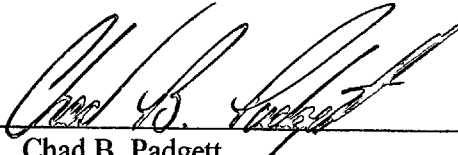


Notary Public in and for the Commonwealth of Kentucky
My commission expires: 4-13-2023



UNITED STATES OF AMERICA ACCEPTANCE

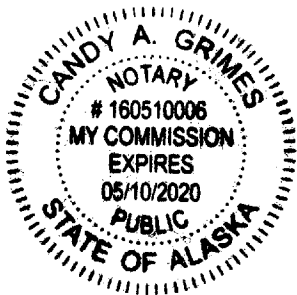
IN WITNESS WHEREOF, Chad B. Padgett, Alaska State Director, Bureau of Land Management, United States Department of Interior, has hereunto set his hand and seal this ___ day of Oct 22, 2019.

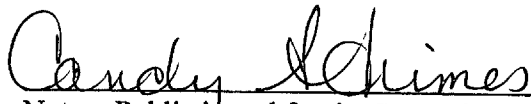
By: 
Chad B. Padgett
Alaska State Director
Bureau of Land Management
U.S. Department of the Interior

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 22nd day of October, 2019, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Chad B. Padgett, the Alaska State Director, Bureau of Land Management, United States Department of the Interior, to me known and known to be the person he represented himself to be, who executed the above and foregoing Federal Conservation Easement Port Valdez Lands (Meals Hill Parcels; PWS 4009) on behalf of the United States of America, freely and voluntarily, for the uses and purposes therein described, and under delegated legal authority and with knowledge of its contents, and who acknowledged said document before me on behalf of the United States Department of the Interior, Bureau of Land Management.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.




Notary Public in and for the State of Alaska
My commission expires: May 10, 2020



After Recording Return Document to:

Bureau of Land Management
Alaska State Office
Division of Lands and Cadastral
222 West 7th Avenue #13
Anchorage, Alaska 99513

With Conformed Copies to:

City of Valdez, Alaska
Attn: City Manager
212 Chenega Avenue
Valdez, Alaska 99686

State of Alaska
Department of Natural Resources
Division of Mining, Land and Water
Realty Services Section
550 West 7th Avenue, Suite 1050A
Anchorage, Alaska 99501

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