

Appendix I2: Deed Restriction - template

COVENANT OF DEDICATION

(PERMITTEE) now stipulates to the following statements of fact, and further agrees to restrict the use and title of the realty described in Attachment 1 to this document (hereinafter referred to as the "Land") in accordance with the terms and conditions set forth herein.

STIPULATIONS OF FACT

1. That (PERMITTEE) is the applicant for Department of the Army permit number (NUMBER) to place fill material in the wetlands located in (LEGAL DESCRIPTION); and that the U.S. Army Corps of Engineers has regulatory jurisdiction over the discharge of dredged or fill material into said wetlands pursuant to Section 404 of the Clean Water (33 USC 1344).

2. That (PERMITTEE) is the owner in fee of the real estate described in Attach 1.

3. That (PERMITTEE) and the Omaha District of the U.S. Army Corps of Engineers have reached an agreement whereby (PERMITTEE) will be permitted to discharge fill material in wetlands in accordance with the terms and conditions of Department of the Army permit number (NUMBER); and that in consideration for said discharge of fill material in the wetland, (PERMITTEE) will provide mitigation for the adverse environmental effects resulting from the placement of fill material in the wetland by dedicating the realty described in Attachment 1 for perpetual use as a conservancy area in accordance with the terms and conditions of this document and the above-mentioned permit.

4. That the above-mentioned dedication shall consist of the execution of this document by all parties necessary to restrict the use and title of the land; and that this document shall be recorded in the Office of the Register of Deeds for (COUNTY), (STATE).

5. That upon receipt of a certified copy of this document, as recorded in the Office of the County Register of Deeds for (COUNTY), (STATE), the District Engineer of the Omaha District of the U.S. Army Corps of Engineers will issue a validated permit, number (NUMBER) to (PERMITTEE); and that said permit shall be issued in consideration for the execution of this Covenant.

6. That the terms and conditions of this Covenant of Dedication shall, as of the date of execution of this document, bind (PERMITTEE) to the extent of his legal and/or equitable interest in the land; and that this Covenant shall run with the land and be binding on (PERMITTEE) and its successors and assigns forever.

7. That the terms and conditions of this Covenant shall be both implicitly and explicitly included in any transfer, conveyance, or encumbrance of the Land or any part thereof, and that any instrument of transfer, conveyance, or encumbrance affecting all or any part of the Land shall set forth the terms and conditions of this document either by reference to this document or set forth in full text.

DEED AND USE RESTRICTIONS

(PERMITTEE) hereby warrants that he is the owner in fee of the realty described in Attachment 1; and that the Land is hereby dedicated in perpetuity for use as a conservancy area.

(PERMITTEE) hereby agrees to restrict the use and title of the Land as follows:

1. There shall be no construction or placement of structures or mobile homes, fences, signs, billboards or other advertising material, or other structures, whether temporary or permanent, on the land.

2. There shall be no filling, draining, excavating, dredging, mining, drilling or removal of topsoil, loam, peat, sand, gravel, rock, minerals or other materials.

3. There shall be no building of roads or paths for vehicular or pedestrian travel or any change in the topography of the land.

4. There shall be no removal, destruction, or cutting of trees or plants; spraying with biocides, insecticides, or pesticides; grazing of animals, farming, tilling of soil, or any other agricultural activity. Management activities are acceptable upon approval from the Corps.

5. There shall be no operation of all-terrain vehicles or any other type of motorized vehicle on the land.

6. This Covenant of Dedication may be changed, modified or revoked only upon written approval of the District Engineer of the Omaha District of the U.S. Army Corps of Engineers. To be effective, such approval must be witnessed, authenticated, and recorded pursuant to the law of the State of (STATE).

This Covenant needs to be reviewed by the Corps of Engineers prior to signature to assure compliance with permit conditions.

COE representative's initial _____

7. This Covenant is made in perpetuity such that the present owner and its heirs and assigns forever shall be bound by the terms and conditions set forth herein.

By:
(PERMITTEE)

Executed before me this ____ day of _____, 20, by (PERMITTEE) who is personally known to me.

Notary Public

My commission expires _____