

Grant of Easement Template

BIA TAAMS No. _____
Tribal Tract No(s). _____
Project No. _____

UNITED STATES OF AMERICA DEPARTMENT OF THE INTERIOR BUREAU OF INDIAN AFFAIRS

GRANT OF RIGHT-OF-WAY

The United States of America, acting by and through the Bureau of Indian Affairs (BIA), Department of the Interior, Agency/Region, Address for, and on behalf, with the consent of: Tribe or Landowner(s) (the GRANTOR), under authority contained and under the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328); and Part 169, Title 25, *Code of Federal Regulations*, which by reference are made a part hereof, does hereby grant to: Applicant Name and Address (the GRANTEE) the following:

- PURPOSE.** GRANTOR does hereby grant to GRANTEE, a right-of-way for: Enter the specific purpose/use of the right-of-way, over and across the land embraced within a right-of-way situated on the following described lands: Enter legal description of right-of-way; attach or incorporate maps of definite location.

This right-of-way is limited to and more particularly described to be 0.00 acres, more or less, in area, as shown on Exhibit A, attached hereto, and made a part hereof.

- CONSIDERATION.** In consideration of: \$0,000.00, paid to Tribe, Landowner(s), or BIA by (date the right-of-way is granted or negotiated date.)

(If not a lump sum or multiple payment terms – describe consideration, payment due date(s), adjustments, late payment fees, if applicable.) A copy of the payment will be provided to the BIA, if requested.

- TERM.** This right-of-way is subject to any prior valid existing right or adverse claim and is for a term of (term of right-of-way, if needed, include renewal terms or beginning date) so long as the right-of-way is used for the purpose above specified; PROVIDED, that this right-of-way may be cancelled by the Landowner and Grantee under any negotiated remedies identified in Section 14 (25 CFR 169.403) and/or in whole or in part by the GRANTOR (25 CFR 169.404) or for any of the following causes upon 30-days written notice, and failure of the GRANTEE within said notice period to correct the basis for cancellation (25 CFR 169.405):

- Failure to comply with any term or condition of the Grant, or the applicable regulations.
- A non-use of the right-of-way for any consecutive two-year period (for any purpose for which it was granted).
- Any conditions or restrictions set out in Tribal Resolution No. _____, dated _____.

- MITIGATION MEASURES.** (25 CFR 169.123) The GRANTEE agrees to comply with any mitigation measures or conditions described to protect environmental, biological and cultural resources within the right-of-way area defined in the environmental compliance documentation.

- 5. RESERVATION OF JURISDICTION.** (25 CFR 169.10, 169.125) The tribe maintains its existing jurisdiction over the land, activities, and persons within the right-of-way and this grant does not diminish to any extent: (a) the tribe's power to tax the land, any improvements on the land, or any person or activity within the right-of-way; (b) the tribe's authority to enforce tribal law of general or particular application on the land subject to and within the right-of-way, as if there were no grant of right-of-way; (c) the tribe's inherent sovereign power to exercise civil jurisdiction over non-members on Indian land; or (d) the character of the land subject to the right-of-way as Indian country under 18 U.S.C. 1151.
- 6. LAWS.** (25 CFR 169.9) GRANTEE shall comply with all applicable Federal and tribal law.
- 7. REGULATORY PROVISIONS.** (25 CFR 169.125):
- A. On tribal land, the tribe reserves the right to reasonable access to the lands subject to the grant to determine GRANTEE'S compliance with consent conditions or to protect public health and safety;
 - B. The GRANTEE has no right to any of the products or resources of the land, including but not limited to, timber, forage, mineral, and animal resources, unless otherwise provided for in the grant;
 - C. BIA may treat any provision of a grant that violates Federal law as a violation of the grant; and
 - D. If historic properties, archaeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with this grant, all activity in the immediate vicinity of the properties, resources, remains, or items will cease and the GRANTEE will contact BIA and the tribe with jurisdiction over the land to determine how to proceed and appropriate disposition.
 - E. GRANTEE must:
 - i. Construct and maintain improvements with the right-of-way in a professional manner consistent with industry standards;
 - ii. Pay promptly all damages and compensation, in addition to bond or alternative form of security made pursuant to 25 CFR 169.103, determined by the BIA to be due the landowners and authorized users and occupants of land as a result of the granting, construction, and maintenance of the right-of-way;
 - iii. Restore the land as nearly as may be possible to its original condition, upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted, or reclaim the land as agreed to by the landowners;
 - iv. Clear and keep clear the land within the right-of-way, to the extent compatible with the purpose of the right-of-way, and dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project;
 - v. Comply with all applicable laws and obtain all required permits;
 - vi. Not commit waste;
 - vii. Operate, repair and maintain improvements consistent with the right-of-way grant;
 - viii. Build and maintain necessary and suitable crossings for all roads and trails that intersect the improvements constructed, maintained, or operated under the right-of-way;
 - ix. Restore the land to its original condition, as much as reasonably possible, upon cancellation or termination of the right-of-way, or reclaim the land if agreed to by the landowners;
 - x. At all times keep the BIA, and the tribe for tribal land, informed of the GRANTEE'S address;
 - xi. Refrain from interfering with the lessee/permittee or the landowner's use of the land, provided that

- the landowner's use of the land is not inconsistent with the right-of-way;
- xii. Comply with due diligence requirements under 25 CFR 169.105; and **or** Comply with the following due diligence requirements: **(fill in where applicable)**
 - xiii. Notify the BIA, and the tribe for tribal land, if Applicant files for bankruptcy or is placed in receivership.

F. Unless GRANTEE would be prohibited by law from doing so, GRANTEE must also:

- i. Hold the United States and the Indian landowners harmless from any loss, liability, or damages resulting from the Applicant's use or occupation of the premises; and
 - ii. Indemnify the United States and the Indian landowners against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or release or discharge of any hazardous material from the premises that occurs during the term of the grant, regardless of fault, with the exception that the Applicant is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct.
8. The GRANTEE may not unreasonably withhold its consent for a new right-of-way within its existing right-of-way that does not interfere with the use or purpose of its right-of-way.
9. **PERMANENT IMPROVEMENTS.** (25 CFR 169.130) **(Insert Grantee or Grantor)** shall be the owner of any permanent improvements constructed during the term of the grant and said permanent improvements, appurtenances, fixtures and equipment placed within the right-of-way shall be removed or an option for landowner to take possession of and title to the permanent improvements or as otherwise negotiated.
10. **AMENDMENT.** (25 CFR 169.204) This grant may not be amended except as provided in 25 CFR 169.204–.206.
11. **ASSIGNMENT.** (25 CFR 169.207) This grant **may or may not** be assigned **with or without** applicable consent and BIA approval and within 30 days, a copy of the assignment and supporting documents will be sent to BIA for recording in the Land Titles and Records Office (LTRO).
12. **MORTGAGE.** (25 CFR 169.210) This grant **may or may not** be mortgaged **with or without** applicable consent and BIA approval within 30 days.. **(Enter other terms and conditions, if applicable).**
13. **EFFECTIVE DATE.** (25 CFR 169.301) Grant will be effective on the date it is approved. **The GRANTEE'S obligations are triggered on date (if applicable).**
14. **REMEDIES.** (25 CFR 169.403) Any disputes regarding a violation, abandonment, or non-use may be addressed as set forth below, **(list remedies, where applicable),** and in accordance with 25 CFR 169.403.
15. **BINDING EFFECT.** The condition for this grant shall extend to and be binding upon and shall inure to the benefit of the successors of the GRANTEE.
16. **BOND, INSURANCE, OR OTHER SECURITY.** The bond, insurance, or other security may not be modified; or adjusted to reflect changing conditions without the prior written consent of the **insert Tribe Name** and the Secretary of the Interior. Notice must be provided at least 60 days before canceling a bond, insurance, or other security.
17. **ADDITIONAL CONDITIONS OR RESTRICTIONS.** This grant incorporates by reference the conditions

or restrictions set out in LANDOWNER'S consents, attached here.

IN WITNESS WHEREOF, GRANTOR, pursuant to the delegated authority found in 209 DM 8, 230 DM 1, and 3 IAM 4 and supplements thereto (or applicable delegation of authority), is granting and executing this grant of easement on this _____ day of _____, 20__.

UNITED STATES OF AMERICA

BY: _____

Approving Official Title

U.S. Department of the Interior

Bureau of Indian Affairs

GRANTEE'S ACKNOWLEDGEMENT

IN WITNESS WHEREOF, GRANTEE has acknowledged and accepted this grant of easement this _____ day of _____, 20__.

BY: _____

Name: _____

Title: _____