

SAMPLE

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

**UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Agency Name and Address**

GRANT OF RIGHT-OF-WAY

The United States of America, acting by and through the Bureau of Indian Affairs, Department of the Interior, _____ (agency) _____, _____ (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) _____, of _____ (address) _____ (the GRANTEE).

1. GRANT. In consideration of: \$ _____, paid to the _____ (Tribe, Indian landowners, or BIA), by _____ (date the right-of-way is granted or negotiated date) _____.

(If not a lump-sum or multiple payment term): (describe consideration, payment due date(s), adjustments, late payment fees, if applicable),

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 land: _____ (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 (acres) in area, as shown on Exhibit A, attached hereto, and made a part hereof.

2. TERM. This right-of-way 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 Tribe and Grantee under any negotiated remedies identified in section 13 (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):

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

3. 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 as defined in the environmental compliance documentation.

SAMPLE

4. 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.

5. LAWS. (25 CFR 169.9) GRANTEE shall comply with all applicable federal and tribal law.

6. REGULATORY PROVISIONS. (25 CFR 169.125):

1. On tribal land, the tribe has 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;
2. 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;
3. BIA may treat any provision of a grant that violates Federal law as a violation of the grant;
4. If historic properties, archeological 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.
5. GRANTEE must:
 - (i) Construct and maintain improvements within 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 §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 if 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;

SAMPLE

(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 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 the following due diligence requirements: [fill in where applicable]

(xiii) Notify the BIA, and the tribe for tribal land, if it files for bankruptcy or is placed in receivership.

6. 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.

7. ENCROACHMENT (25 CFR 169.128). 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.

8. PERMANENT IMPROVEMENTS (25 CFR 169.130). _____ 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.

9. AMENDMENT. This grant may not be amended except as provided in 25 CFR 169.204 - 169.206.

10. ASSIGNMENT (25 CFR 169.207). This grant (may/may not) be assigned (with/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 LTRO.

11. MORTGAGE (25 CFR 169.210). This grant (may/may not) be mortgaged (with/without) applicable consent and BIA approval and within 30 days, a copy of the mortgage and supporting documents will be sent to BIA for recording in the LTRO. (Enter other terms and conditions, if applicable).

12. 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).

13. REMEDIES (25 CFR 169.403). Any disputes regarding violations, abandonment, or non-use may be addressed as set forth below, (list remedies, where applicable), and in accordance with 25 CFR 169.403

14. 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.

15. ADDITIONAL CONDITIONS OR RESTRICTIONS. This grant incorporates by reference the conditions or restrictions set out in GRANTOR'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 _____ (month), 20__.

SAMPLE

UNITED STATES OF AMERICA

BY _____

U.S. Department of the Interior
Bureau of Indian Affairs
Regional Director/Superintendent

A C K N O W L E D G E M E N T

STATE OF :

: ss.

COUNTY OF :

Subscribed and sworn to before me this _____ day of _____, 20_____.

Signature of Notary Public

My commission expires _____, 20_____.