

# SAMPLE

## HIGHWAY EASEMENT DEED

THIS DEED, made this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the UNITED STATES OF AMERICA, acting by and through the DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, 1200 New Jersey Avenue, SE, Washington, DC 20590, hereinafter referred to as the DEPARTMENT, and the STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, 2301 Peger Road, Fairbanks, Alaska 99709, hereinafter referred to as the STATE:

### WITNESSETH:

WHEREAS, the STATE has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317), for a right of way of a highway over certain Federal land under the jurisdiction of the U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT in the State of Alaska, and,

WHEREAS, the Federal Highway Administrator, pursuant to delegation of authority from the Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right of way for the Richardson Highway MP 228 One Mile Creek Bridge Replacement, Project Number BR-071-4(18)/61870 and,

WHEREAS, the DEPARTMENT OF THE INTERIOR, acting by and through the BUREAU OF LAND MANAGEMENT, in its consent to the appropriation of the Federal land, has agreed to the transfer by the DEPARTMENT of an easement over the land to the STATE;

NOW, THEREFORE, the DEPARTMENT, as authorized by law and in compliance with all requirements imposed by or pursuant to Title 49 CFR, DEPARTMENT OF TRANSPORTATION, Subtitle A, Office of Secretary, Part 21, nondiscrimination in Federally-assisted programs of the DEPARTMENT OF TRANSPORTATION (49 CFR 21.2 - 21.23) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d to 2000d-4), does hereby grant to the STATE an easement for a right of way for the construction and maintenance of a 2.2 mile distance of the Richardson Highway, a federal-aid primary highway, and use of the space above and below the existing ground surface for highway purposes on, over, across, in and upon the following described federal land within Section 8, Township 16 South, Range 10 East; Sections 5 and 8, Township 16 South, Range 10 East; Sections 5, 6, 7 and 8, Township 16 South, Range 10 East, Section 32, Township 15 South, Range 10 East, Fairbanks Meridian Alaska, Fairbanks Recording District, Fourth Judicial District, State of Alaska, as shown on the parcel plats with attached legal descriptions, dated July 22, 2010 and July 23, 2010, are marked as Exhibit A, and attached hereto and made a part hereof, subject, however, to the following terms and conditions:

- 1) Outstanding valid claims, if any, existing on the date of this grant, and the STATE shall obtain such permission as may be necessary on account of any such claims.
- 2) Use of the right of way is to be undertaken by the STATE in compliance with the Act entitled "An Act for the Preservation of American Antiquities" approved June 8, 1960, (34 Stat. 225, 26 U.S.C. 432-433), and State laws where applicable;
- 3) The easement herein granted shall terminate 10 years from the date of the execution of this deed by the UNITED STATES OF AMERICA in the event development of the right of way has not commenced during such period.

- 4) The easement herein granted is limited to use of the described right of way and the space above and below the existing ground surface for the purpose of development and maintenance of a right of way in accordance with the approved plans described in the following condition No. 5 and does not include the grant of any rights for non-highway purposes or facilities: Provided, that the right of the BUREAU OF LAND MANAGEMENT to use or authorize the use of any portion of the right of way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case the DEPARTMENT shall be consulted prior to the exercise of such rights: and provided, further that nothing herein shall preclude the BUREAU OF LAND MANAGEMENT from locating DEPARTMENT OF THE INTERIOR information signs on the portions of the right of way outside of development limits as long as concurrence to do so is first obtained from the STATE.
- 5) The use of this right of way will be in accord with the provisions of Title 23, U.S. Code-Highways, and amendments; the provisions of regulations issued pursuant thereto; the construction specifications of the STATE highway department as approved by the DEPARTMENT for use on Federal-aid projects; and the following terms and conditions specified by the BUREAU OF LAND MANAGEMENT attached as Exhibit B.
- 6) Consistent with highway safety standards, the STATE shall protect and preserve soil and vegetative cover and scenic and aesthetic values on the right of way outside of development limits.
- 7) The STATE shall maintain this right of way to acceptable standards of repair, orderliness, neatness, sanitation and safety.
- 8) The STATE shall maintain the right of way clearing by means of chemicals only after specific written approval has been given by the DEPARTMENT after consultation with the BUREAU OF LAND MANAGEMENT. Application for such approval must be in writing and specify the time, methods, chemicals and the exact portion of the right of way to be chemically treated.
- 9) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the STATE shall give notice of that fact to the DEPARTMENT and the rights herein granted shall terminate and the land shall immediately revert to the full control of the Secretary of the DEPARTMENT OF THE INTERIOR or his assigns.

The STATE, in consideration of the conveyance of said land, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that:

- (a) no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such land hereby conveyed;



In compliance with the conditions set forth in the foregoing deed, the STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, certifies and, by the acceptance of this deed, accepts the right of way over certain lands herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES

By: \_\_\_\_\_  
John F. Bennett  
Chief Right-of-Way Agent, Northern Region  
For the Commissioner

STATE OF ALASKA )  
 )ss.  
\_\_\_\_\_ JUDICIAL DISTRICT )

I, \_\_\_\_\_, a Notary Public in and for the State of Alaska, hereby certify that John F. Bennett, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, he, in his capacity as Chief Right-of-Way Agent for the Northern Region, executed the same voluntarily on this day.

Witness my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission expires: \_\_\_\_\_

DEED APPROVED AS LEGALLY SUFFICIENT
Date: _____
Signature: _____
Name: _____
R Poke Haffner Assistant Attorney General Alaska Department of Law Alaska Bar Association No. 8106025

# SAMPLE

## MEMORANDUM

**State of Alaska**  
**Department of Transportation & Public Facilities**  
**Northern Region Right of Way**

**TO:** Leone Hatch  
Assistant Attorney General

**DATE:** July 30, 2010

**THRU:** Kevin Smith  
Negotiations Supervisor

**TELEPHONE NO:** 907-451-5448

**FAX NO:** 907-451-5411

**FROM:** Doreen Self  
Right of Way Agent

**SUBJECT:** Highway Easement Deed  
Richardson Highway MP 228  
One Mile Creek Bridge  
BR-071-4(18)/61870

DOT & PF is in the process of applying for a right of way on Federal public lands pursuant to the Act of August 27, 1958, (72 Stat. 916, 23 U.S.C. 317) and the regulations at 49 CFR Part 710, Subpart F §710.601.

Regulations at 23 CFR 710.601(f) require that deeds for conveyance of lands or interest in lands owned by the United State be prepared by DOT&PF and certified by a licensed attorney as being legally sufficient prior to submission to the FHWA.

DOT&PF is proposing to acquire 3 parcels of BLM managed land, totaling 148.462 (+/-) acres. All of the parcels are neighboring the existing right of way for the Richardson Highway. That right of way was established by Public Land Order 601 (effective 8/10/49).

Enclosed is a Highway Easement Deed for this project. With the exception of the language specific to the Richardson Highway MP 228 – One Mile Creek Bridge project, this is a standard deed. Parcel plats and legal description are also enclosed as Exhibit A to the HED. Please review and let me know if it is legally sufficient.

The charge code for this project is 24423525/57291/30378822/73812.

Enclosures: As Stated

# SAMPLE

DATE

Re: Richardson Highway MP 228  
One Mile Creek Bridge  
BR-071-4(18)/61870  
Highway Easement Deed  
Parcels E-1A, E-1B and E-2

Brenda Becker  
Realty Specialist Lead  
Glennallen Field Office  
Bureau of Land Management  
Post Office Box 147  
Glennallen, AK 99588

Dear Ms. Becker:

The Alaska Department of Transportation and Public Facilities (DOT&PF) is planning to relocate the highway bridge crossing of One Mile Creek, at milepost 228 of the Richardson Highway. The proposed bridge relocation will be approximately 450 feet upstream of the existing bridge. As part of this project approximately 2.2 miles of the Richardson Highway will require realignment. The realignment will also address the horizontal curve at the north end of the project that does not meet current AASHTO guidelines for the design speed. The curve will be replaced with a new curve of larger radius which will meet AASHTO requirements for the design speed and make for safer driving conditions; including wider shoulders. The abandoned portion of the Richardson Highway will be obliterated and the landscape graded to match the existing terrain, with the exception of the segment connecting the two Alyeska material source access roads.

The right of way for the Richardson Highway originally was established by Public Land Order 601. In order to relocate the highway bridge crossing, additional property is required. DOT&PF has identified three parcels of BLM managed federal public land, totaling 148.462 (+/-) acres.

Pursuant to the Act of August 27, 1958, (72 Stat. 916, 23 U.S.C. 317) and the regulations at 49 CFR Part 710, Subpart F §710.601, DOT&PF hereby applies for a Highway Easement on Federal public lands.

The parcels needed for the right of way are shown on the enclosed preliminary right of way plan and parcels plats with legal descriptions (Exhibit A of HED). The parcels are identified as E-1A, E-1B, and E-2. A certified right of way plan will be provided as soon as it is available.

A Categorical Exclusion concerning this project was approved by the Federal Highway Administration (FHWA) on December 30, 2008; copy enclosed. In accordance with Section 106 of the National historic Preservation Act, the State Historic Preservation Office (SHPO) concurred with the proposed project on December 2, 2008.

DOT&PF agrees that, if this application is granted, it will comply with all the provisions of Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 78 Stat. 241), and all requirements of the regulations of the Department of the Interior issued pursuant to that title (43 CFR 17), and that it will not engage in any of the discriminatory actions specifically prohibited by Section 17.3 of the regulations issued to implement that title (43 CFT Part 17) for the duration of the grant, to the end that no person in the United States shall, on the grounds of race, color or sex, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the program for which the applicant is applying for Federal-aid financial assistance.

DOT&PF further agrees that it will not be permitted to transfer the property or its interest in the property unless and until the transferee makes a similar assurance in writing to the authorized officer of the BLM. The applicant further agrees that the United States shall at all times have the right to seek judicial enforcement of this assurance.

Please notify the DOT&PF and FHWA if a serial number is assigned to this application.

Your concurrence with this grant is requested as soon as possible. Please send your concurrence to the Federal highway Administration, Alaska Division, Post Office Box 1648, Juneau, Alaska 99802-1648, Attention Division Realty Officer. Please copy the Fairbanks DOT&PF Right of Way Section.

If you have questions or need additional information, please contact Doreen S. Self at 451-5448 or [Doreen.Self@Alaska.Gov](mailto:Doreen.Self@Alaska.Gov).

Sincerely,

John F. Bennett  
Chief, Right of Way

JFB/ds

Enclosures: As stated

Cc: David Miller, FHWA, Alaska

# SAMPLE

DATE

Re: Richardson Highway MP 228  
One Mile Creek Bridge  
BR-071-4(18)/61870  
Highway Easement Deed  
Parcels E-1A, E-1B and E-2

David Miller  
Division Administrator  
Federal Highway Administration  
Alaska Region  
Post Office Box 21648  
Juneau, AK 99802-1648

Dear Mr. Miller:

Enclosed for your review and execution, please find a Highway Easement Deed (HED) including parcel plats with legal descriptions (Exhibit A). The HED is being reviewed by the Alaska Department of Law to be approved as legally sufficient. This is a standard deed with the exception of the language specific to the Richardson Highway One Mile Creek Bridge project.

I have forwarded the same to the Bureau of Land Management for their concurrence with the FHWA to execute the HED.

After signing the HED, please return to this office. It will be recorded and certified copies sent to the FHWA and BLM.

Please contact Doreen S. Self at (907) 451-5448 or [Doreen.Self@Alaska.Gov](mailto:Doreen.Self@Alaska.Gov) if there are any questions or if additional information is needed.

Sincerely,

John F. Bennett  
Chief, Right of Way

JFB/ds

Enclosures: as stated