

DATE: October 24, 2011

SUBJECT: Right of Way Procedures for Highway Occupancy Permits (HOP)

TO: District Executives

FROM: R. Scott Christie, P.E./s/
Deputy Secretary for Highway Administration

Right of way acquisition procedures used in the Department's Highway Occupancy Permit (HOP) program for driveways and local roads are being implemented as part of a general review of this program. This Strike-off Letter (SOL) is time neutral. It is intended to provide guidance to the Department as well as HOP applicants who must obtain land for State highway right of way in connection with obtaining an HOP.

The policy is effective immediately and the attached right of way procedures will be incorporated into the HOP Manual (Pub. 170) and the HOP Guidelines (Pub. 282) with the next revisions to these manuals. A new appendix is being added to the publications that provides a recommended step-by-step process in acquiring right of way in outline format. In addition, revisions to the standard deed forms, M-950 D1 (Deed, Fee Simple) and M-950 D2 (Deed of Easement), are being attached. Deed form M-950 D3 (Deed of Easement (Drainage)) is being eliminated as part of this SOL.

The following policies and revised deed forms are attached:

- Pub. 170, Chapter 3.7, Right of Way Procedures (Attachment A-1).
- Pub. 170, Chapter 8.1, Deed, Fee Simple; Form M-950 D1 (Attachment A-2).
- Pub. 170, Chapter 8.1, Deed of Easement; Form M-950 D2 (Attachment A-3).
- Pub. 170, Appendix C, Outline Right of Way Acquisition Procedures for HOP (Attachment A-4).
- Pub. 282, Chapter 3.6, Right of Way Procedures (Attachment B-1).
- Pub. 282, Chapter 8.1, Deed, Fee Simple; Form M-950 D1 (Attachment B-2).
- Pub. 282, Chapter 8.1, Deed of Easement; Form M-950 D2 (Attachment B-3).
- Pub. 282, Appendix B3, Outline Right of Way Acquisition Procedures for HOP (Attachment B-4).
- Form M-950 D1 (Deed, Fee Simple) (Attachment C-1).
- Form M-950 D2 (Deed of Easement) (Attachment C-2).

(SOL Number)

Date

Page 2

The following policy sections and deed form are being eliminated as part of this SOL:

- Pub. 170, Chapter 8.1, Deed of Easement (Drainage); Form M-950 D3, Page 234.
- Pub. 282, Chapter 8.1, Deed of Easement (Drainage); Form M-950 D3, Page 170.
- Form M-950 D3 (Deed of Easement (Drainage)).

HOP applicants are often required to provide State highway right of way to the Department in connection with obtaining a permit. The engineering districts should address right of way and related issues and procedures early in the HOP process, utilizing the scoping meeting approach if appropriate. It is important to complete these transactions correctly to insure the Department's new property interest is properly documented for the future. Although this policy will be incorporated in the HOP Publications for guidance to the Permit Managers and HOP applicants, the District Right of Way Unit is required to play a major role in the implementation of this policy.

This policy provides guidance on the following important right of way-related issues in the permit process:

- Acquisition procedures for HOP projects involving private, local, state or federal funding;
- Determination of the type and amount of right of way required;
- Right of way plan requirements;
- Deed forms and approval;
- Title documentation;
- Plot plans and deed descriptions
- Other conveyance and recording procedures;
- Condemnation by a municipal entity
- Title searches and title insurance/certification;
- Utility relocation or elimination issues;
- Environmental issues;

Deed forms M-950 D1 (Deed, Fee Simple) and M-950 D2 (Deed of Easement) have been modified to include interactive features. The revised forms can be accessed from <P:\permits\shared\HOP\Forms>.

The M-950 D2 (Deed of Easement) form covers transfer of a highway easement or any other easement, which is why the drainage easement (Form M-950 D3) form is being eliminated.

Appendix C is being added to Publication 170 and 282 to provide the applicant a recommended step-by-step procedure for successfully completing the right of way conveyance process when additional land must be obtained for State highway right of way in connection with obtaining an HOP. The step-by-step outline is not intended to be a substitute for the policy itself, but a useful tool to assist the applicant throughout the right of way process.

A webex-based presentation outlining the new right of way acquisition procedures is in development. Once completed, it will be delivered to Department staff.

(SOL Number)

Date

Page 3

If you have any questions in regard to the attached policy, please contact Glenn C. Rowe, P.E., Chief, Traffic Operations Division, Bureau of Highway Safety and Traffic Engineering, at 717-783-6479.

Attachments

4700/MJD/hmq

CC: Natasha Fackler, Director, Policy Office
William Cressler, Assistant Chief Counsel, Office of Chief Counsel
Tom Haist, Assistant Counsel in Charge, Office of Chief Counsel
Brian Thompson, P.E., Director, BOPD
Charles C. Goodhart, Director, BOMO
Daryl R. St.Clair, P.E., Acting Director, BHSTE
Rebecca Burns, P.E., Acting Director, BOCM
Scott K. Fletcher, P.E., Assistant District Executive-Services
Assistant District Executives-Maintenance
Assistant District Executives-Design
Assistant District Executives-Construction
District Permit Managers
District Traffic Engineers
District Right of Way Administrators
Richard Stirling, Municipal Services Specialist, BMS
Elaine DiRienzo, Management Analyst Supervisor, BOS
Girish Modi, P.E., Chief, Highway Safety Management Division, BHSTE
Glenn Rowe, P.E., Chief, Traffic Operations Division, BHSTE
Douglas Tomlinson, P.E., Chief, Intelligent Transportation Systems Division, BHSTE
Robert Ranieri, Chief, Crash Information Systems and Analysis Division, BHSTE
Michael Dzurko, Central Permit Office Manager, BHSTE
Director's Correspondence Folder
HOP Read File

Right-of-way Procedures

1. Background

Highway Occupancy Permit (HOP) applicants are often required to provide State highway right-of-way to the Department in connection with obtaining a permit. The Engineering Districts should address right-of-way and related issues and procedures early in the HOP process, utilizing the Scoping Field View meeting approach, if appropriate. It is important to complete these transactions correctly to insure the Department's new property interest is properly documented for the future.

The Districts should utilize appropriate resources within the District to accomplish these transactions, including, but not limited to, the right-of-way, utilities, plans, and bridge units as appropriate. The Office of Chief Counsel will assist with legal issues but is not a right-of-way acquisition unit.

Obtaining the necessary right-of-way is the responsibility of the permit applicant. The Department will not acquire right-of-way for an applicant. There is a procedure, however, for local governments to acquire right-of-way for an applicant amicably or by condemnation as discussed below.

Following are some of the important right-of-way related issues in the permit process:

- a. Acquisition procedures for HOP projects involving private, local, state, or federal funding;
- b. Determination of the type and amount of right-of-way required;
- c. Right-of-way plan requirements;
- d. Deed forms and approval;
- e. Title documentation;
- f. Plot plans and deed descriptions;
- g. Other conveyance and recording procedures;
- h. Condemnation by a municipal entity;
- i. Title searches and title insurance/certification;
- j. Utility relocation or elimination issues;
- k. Environmental issues.

An outline of the procedures explained below is included as Appendix C.

2. Application of procedures and general requirements

These procedures apply to the acquisition of highway right-of-way by an applicant as part of a permit project. They apply only as appropriate where the project involves the use of Federal highway funds in any phase of the project; where the project involves the use of State highway funds in any phase of the project; or where a local government may condemn land for State highway right-of-way in connection with the permit project.

The following procedures apply in the various types of projects mentioned; the last one being the most common on permit projects:

- a. Project involving the use of Federal highway funds in any phase of the project.

All acquisitions by local government agencies or private persons must conform to the Uniform Real Property Acquisition and Relocation Assistance Policies Act of 1970, as amended, and the regulations promulgated thereunder. 42 USC §4601 et seq., and 49 CFR Part 24 (“the Uniform Act”).

If the agency or person undertaking the project has the power of eminent domain, all requirements of the Uniform Act apply. Among other general requirements, negotiations must be held based upon an approved appraisal. 49 CFR §24.102. The “[LPA Brochure: A Guide for Local Public Agency Acquisition of Right-of-Way](#)” (Publication 98) is a good publication explaining the necessary procedures.

If the agency or person undertaking the project does not have the power of eminent domain, the general requirements of the Uniform Act do not apply. However, a written offer to purchase must be made advising the landowner that the agency or person does not have or will not exercise the power of eminent domain if negotiations fail and what the agency or person believes to be the fair market value of the property. 49 CFR §24.101(a)(2).

- b. Projects involving the use of State highway funds in any phase of the project.

All acquisitions by local government agencies or private persons that have the power of eminent domain and intend to exercise it if necessary must conform to the Department’s Right-of-Way Manual (Publication 378). These procedures are generally consistent with the Uniform Act requirements. The “[LPA Brochure: A Guide for Local Public Agency Acquisition of Right-of-Way](#)” (Publication 98) is a good publication explaining the necessary procedures.

If the agency or person undertaking the project does not have the power of eminent domain or does not plan to exercise it for the project in question, the Right-of-Way Manual procedures need not be followed. However, a written offer to purchase must be made advising the landowner that the agency or person does not have or will not exercise the power of eminent domain if negotiations fail and what the agency or person believes to be the fair market value of the property.

- c. Projects not involving the use of Federal or State highway funds where a local government may condemn land for State highway right-of-way.

All acquisitions by local government agencies or private persons must conform to the Department’s Right-of-Way Manual (Publication 378). These procedures are generally consistent with the Federal Uniform Act requirements. The “[LPA](#)

[Brochure: A Guide for Local Public Agency Acquisition of Right-of-Way](#)” (Publication 98) is a good publication explaining the necessary procedures.

- d. Projects not involving the use of Federal or State highway funds or the possible condemnation of highway right-of-way by a local government.

Acquisitions need not conform to the Federal Uniform Act or the Department Right-of-Way Manual (Publication 378). However, the landowner must be informed in writing prior to the start of negotiations that although the land may eventually become part of a State highway, the Department is only involved because of its authority to issue highway occupancy permits for driveways onto State highways and will not exercise its power of eminent domain in the event negotiations fail.

- e. All projects.

The applicant must also follow the procedures set forth below.

3. When is right-of-way required and what type of interest should be required?

Whenever a proposed highway facility, highway drainage structure, or other highway related structure falls outside of the existing legal right-of-way, new right-of-way will be required. The nature and interest the Department should require the applicant to acquire is set out in the Design Manual, Part 3 (Publication 14M). [See specifically](#) DM3, Chapter 3, [Section 3.1.EE](#) (Highway Occupancy Permit Plans) and generally DM3, Chapter 3, [Section 3.1](#) (Interest to be Acquired).

The general policy is to have the permittee include all State highway features within required right-of-way and to have the right-of-way acquired in fee simple. If appropriate, right-of-way can be acquired as an easement for highway purposes. A highway easement may be appropriate where the local government will require the applicant to subdivide if fee simple title is acquired. The acquisition of traffic signal easements on behalf of the local government is also permitted on HOP projects, if the local government has agreed to accept the easement and to apply for a signal permit ([DM3, 3.1.Y](#)). Slope easements, drainage easements, and other lesser property interests may be acquired by a permittee in contravention of the general policy to acquire required right-of-way when approved by the District Executive based on special circumstances.

Special circumstances meriting acquisition of interests less than required right-of-way would include, but not be limited to, slope easements in commercial areas where a fee take would adversely impact parking and drainage easements for ditches other than parallel ditches. Other considerations would be impacts to the remainder, possible environmental issues, open space and setback requirements of a local government, and minor cuts and fills that will not jeopardize the integrity of the road. The District Executive should make these determinations with the advice of their supporting units based on the administrative risks.

If land has been previously dedicated to public use but not accepted, the Department may be able to accept that dedication as part of the HOP acquisition process. In other situations the dedication would need to be accepted by the local government and transferred to the Department. The appropriate approach depends on the nature of the previous dedication. The Department will only accept dedications of areas required to maintain the State highway system. A complete discussion of this topic is set forth in the Right-of-Way Manual, Appendix C, Article 10 (Dedications and Ordainments). As discussed below, the Department does not accept dedication deeds as part of the HOP acquisition process.

4. Right-of-way Plans

A right-of-way plan, in Department approved design format, is required for every HOP application where right-of-way will be conveyed to the Department. This serves several purposes, including documentation of the highway right-of-way for future use by the Department and others and a means to insure that appropriate right-of-way is acquired for the HOP project. The right-of-way plan will generally be drafted by the consulting engineer/surveyor after the HOP construction plan is approved. As such, it is one of the last plan approval steps in the HOP process.

In accordance with DM3, Chapter 3, [Section 3.0.H](#) (Highway Occupancy Permit Plans), there are three types of plans related to the highway occupancy permit process: drawings depicting right-of-way to be deeded to the Department; drawings authorizing acquisition by local governments; and drawings accepting dedications. These plans must conform to the requirements of this Chapter and be reviewed by the appropriate Central Office Field Liaison Engineer. The District permit and right-of-way units should also review the plans.

- a. *Drawings Depicting Right-of-Way to be Deeded to the Department.*** The most common HOP-related plan is that developed to document right-of-way deeded to the Department as part of the HOP process. These deed plans do not transfer title. The permittee must transfer title to the Department by deed. The deed plan only documents the State highway right-of-way for future reference.

Deed plans must be filed with the District plans unit and forwarded to the Bureau of Design, Plans and Reproduction, for appropriate filing. Deed plans must also be recorded at the appropriate county courthouse to document the highway right-of-way, but not until after the HOP is issued.

- b. *Plans Authorizing a Local Government to Acquire Land for a State Highway.*** This type of plan is also sometimes required in the HOP process. Local authorization plans also do not transfer title. They only authorize the local government to acquire interests in land for a State highway and document the State highway right-of-way for future reference.

Local authorization plans must be filed with the District plans unit and forwarded to the Bureau of Design, Plans and Reproduction, for appropriate filing. Local

authorization plans must also be recorded at the appropriate county courthouse to document the highway right-of-way. The plan may not be recorded until approved by the Department, but must be recorded prior to condemnation under the plan.

- c. *Plans Accepting the Dedication of Right-of-Way.* This type of plan is available in the HOP process, but is typically not appropriate. The best practice is to have the land deeded to the Department and documented with a plan depicting right-of-way to be deeded to the Department.

A deed and deed plan should always be used for land owned by the permittee. For land owned by a neighboring owner, but previously dedicated to public use for a State highway, the best practice is to have the local government accept the dedication and then deed it to the Department. Whether the land is being deeded by a private permittee or a local government, the normal permit deed (either fee simple or easement for highway purposes) should be used, not a deed of dedication.

The acceptance of dedication plan may only be used if the offer of dedication is general or to the Commonwealth. It may not be used if the dedication is to the local government or, even if general, the local government has already accepted the dedication. Use of this plan is not encouraged. The deed process should be used if at all possible.

If the acceptance of dedication plan is used, it must be filed with the District plans unit and forwarded to the Bureau of Design, Plans and Reproduction, for appropriate execution by the Secretary and then filing. The acceptance of dedication plan must also be recorded at the appropriate county courthouse because it is evidence of an actual title transfer. Designation of the dedication on the subdivision or land development plan is the offer of dedication and execution of the plan by the Department is acceptance of the dedication; there is no need for a separate deed of dedication.

- d. *General Guidance.* These special highway occupancy permit plans may not be used for other functions. For example, the Department may not designate areas to be vacated or abandoned on them or attempt to authorize acquisition by the Department through them. Separate procedures must be used for these purposes. By the same token, a regular title sheet authorizing the Department to acquire property may not be used for plans reflecting land to be deeded to the Department during the HOP process or authorizing another government entity to condemn for a State highway.

Where the majority of the HOP construction is within existing right-of-way, only a few properties are involved and the areas to be acquired are minor, the right-of-way plan can be a simple, one or two page plan that need not depict related proposed highway construction features. See DM3, Chapter 3, [Section 3.0.G](#) (Simplified Right-of-Way Plans).

HOP right-of-way plans must contain an approval block for the Secretary of Transportation to approve the plan for himself and the Governor, as well as a District Executive approval and recording block. District personnel deemed appropriate, such as the District Plans Engineer, District Chief of Surveys, District Permit Manager, District Right-of-Way Administrator, District Utility Administrator, as well as the assigned Central Office Field Liaison Engineer will review the plan prior to signature. See DM3, Chapter 3, Sections [3.2.I.6 and 7](#). See also DM3, Chapter 3, Sections [3.3.A.14](#) (legend on index sheet), [3.4.H.5.m](#) (special general note), and [3.5.X and Y](#) (additional special directions) on plans presentation for HOP right-of-way plans.

HOP right-of-way plans should be reviewed and approved before any deeds are reviewed and accepted by the Department. An exception may be made with the District Executive's approval. The plan should designate the property owners as they exist before the applicant purchases the necessary right-of-way. See Section 5 below on the conveyance process. Temporary construction easements are not to be shown on plans depicting right-of-way to be deeded to the Department because the permittee will not be conveying rights to the Department in such areas. See DM3, Chapter 3, Section [3.4.H.5.i](#).

Please note that HOP right-of-way plans submitted by consultants do not always correctly reflect the proper legal right-of-way lines. It is important to obtain and review the right-of-way plans on file in the District plans room, as well as straight line diagrams. The Right-of-Way Administrator may also be of help in this determination. See generally DM3, Chapter 3, [Section 3.8](#) (Determination of Legal Right-of-Way Widths).

Please also note that consultants often show dedicated and ultimate right-of-way areas as legal right-of-way. This is not correct because until properly accepted by some government entity, the property owner still owns these areas subject to the offer of dedication. See generally Right-of-Way Manual, Appendix C, Article 10 (Dedications and Ordainments) and subsection c above on plans accepting the dedication of right-of-way.

5. Conveyance of right-of-way to the Department

Amicable conveyance by applicant to the Department - Needed State highway right-of-way should be conveyed to the Department from the applicant, usually in a single deed. That is, the applicant must purchase any areas not owned by it and then deed it to the Department. The main reason for this requirement is to have the warranty of title be from the applicant rather than an unrelated third party. Exceptions to this requirement have been made when the land is under the control of other government entities. For example, jurisdiction of Commonwealth-owned land can be transferred to the Department directly from other Commonwealth agencies by memorandum of understanding.

The right-of-way plan should be used to insure the correct areas are included in the conveyance. The plan will contain a numbered list of property parcels, identified by a circle (indicating that land is required from that parcel) or a circle inside a triangle (indicating no

land is required). There will also be a Right-of-Way Information Block for each parcel for each property from which land is required, containing a tabulation of required areas.

It is recommended that the Permit Manager meet with the District Right-of-Way Administrator to review the proposed deed in conjunction with the right-of-way plan. This review would include insuring that all required deeds have been provided and that each deed is properly executed and suitable for recording at the County Recorder of Deeds Office. It may be appropriate to have the applicant's attorney present at this review to answer questions where the conveyance is significant.

Form of deed - Use Deed M-950 D1 (Deed, Fee Simple) if required right-of-way is being acquired in fee simple and Deed M-950 D2 (Deed of Easement) if required right-of-way is only being acquired as a highway easement or the acquisition of a drainage or other easement has been approved. The right-of-way plan will reflect the nature of the title to be acquired.

The deeds are interactive and may not otherwise be altered without review and approval of the District Right-of-Way Administrator. Permit personnel should consult with the District Right-of-Way Administrator when completing the deeds. They are much like deeds used when the Department is acquiring right-of-way for a highway project.

The District can consult with the Office of Chief Counsel as appropriate. The deeds do not need to be approved as to form and legality because they are not being executed by the Department. If the District would like a deed approved as to form and legality, the deed should be entered into the Legal Approval Tracking System (LATS) and forwarded to the Office of Chief Counsel, Real Property Division, Permit Section.

The Deed M-950 D1 (Deed, Fee Simple) provides for use of a metes and bounds description if it is used only to transfer fee title. However, see the subsection below entitled "Plot plans and written descriptions" for concerns in this regard.

Documentation of title – The applicant must provide an investigation of title to the property being conveyed based on courthouse records. That is, no deed may be accepted without documentation and review of the title through a record owner and lien certificate, an abstract of title or title report based on a title search. The purpose of these documents is to ascertain the history and present condition of the title with reference to liens, encumbrances, easements, etc., to determine if there is marketable title. This is a legal term meaning title that is free from reasonable doubt, can be sold or mortgaged, and will not expose the owner to potential litigation or conflicts regarding use or ownership of the land.

The title documentation may be from a title company or an attorney at law. A record owner and lien certificate is the best document but an abstract of title or title report is acceptable. The District Permit Manager should consult with the District Right-of-Way Administrator to review the documentation for any title defects that must be cleared before the deed can be accepted by the Department. Such defects could include utility easements,

liens of record, mortgages, etc. The Department must be identified as a beneficiary of the title work certificate.

The executed deed and title information must be reviewed and accepted by the District Right-of-Way Administrator prior to recording. A bring down/update of the title is to be provided within 15 days of the date the permit is to be issued or, if the District Executive makes an exception, within 15 days of signing the deed.

Title insurance to be paid for by the applicant can be required but is not recommended. Under such a policy the title insurance company protects the insured from losses caused by defects in the title of the property which have not been excluded from coverage. The Department must be named as an insured or beneficiary to be protected. Examples of items not usually excluded would be losses resulting from title being vested in someone else, unmarketability of the title, and lack of the right of access to the land conveyed. As a practicable matter most policies exclude the defects that are problematic for the Department such as utility easements and liens of record and the existence of the policy may not even be discovered if a problem arises later unless some tracking system is established. The District would also be required to approve the amount of coverage based on the estimated value of the property being conveyed. There is also added cost to the applicant to provide the insurance.

Please note that the title documentation need only apply to the property being conveyed to the Department. It does not need to cover the entire property. Documentation covering the entire property often causes undue problems by noting easements and other issues that do not apply to the property being conveyed. Limiting a record owner and lien certificate to only the property being conveyed is highly recommended.

Mortgages and other liens and judgments – Mortgages and other liens and judgments on the property must be released as to the area conveyed at the expense of the applicant except as set forth herein. This will insure that the Department is not included on foreclosures or other legal actions relating to the mortgage or other lien. With the approval of the District Executive, a deed may be accepted without release of a mortgage or other liens under the following circumstances: 1) the value of the land being conveyed is \$25,000 or less and the District Right-of-Way Administrator certifies that the land being conveyed is sufficiently minor that it does not materially affect the ability of the remainder of the property to provide security for liens and judgments. The applicant must prove to the District that the value of land is \$25,000 or less based on the purchase price, an appraisal, or other documentation deemed acceptable to the District.

Utility and other easements – Utility and other easements on the property should be extinguished as to the area conveyed at the expense of the applicant. This will insure that the utility or other easement owner does not retain private property rights within the highway right-of-way which the Department may be required to acquire in the future. As to utilities, they would retain the right to substitute right-of-way and reimbursement for future relocations from the right-of-way because they would have private status. Not extinguishing the easement would also allow the utility or other easement owner to argue it has rights

within the right-of-way not controlled by the Department's police powers, including the utility occupancy regulations.

In exceptional circumstances and with the approval of the District Executive, a deed may be accepted without elimination of an easement on the land being conveyed. An example of an exceptional circumstance would be when a utility already has private status for its facility within legal right-of-way or perhaps where there are no actual facilities within the easement. The risks and possible future costs to the Department by not eliminating the easement should be considered in making the determination.

If a utility is allowed to remain in place without private status, a new or amended utility HOP should be made a condition of issuing the driveway HOP. If a utility is allowed to remain in place with private status, a private status agreement should be executed to insure the utility is subject to the Department's regulation.

Proper execution of the deed – The information block and all blanks on the deed form should be filled in. The proper party must execute the deed on behalf of the applicant. See Signature Authority Guide, Appendix F to the Right-of-Way Manual.

Plot plans and written descriptions – Department right-of-way acquisition forms do not typically use metes and bounds descriptions, but rather use plot plans. This approach has been incorporated into the M-950 deed forms. A metes and bounds description is not required by Pennsylvania law and it is simpler to compare a plot plan to the approved right-of-way plan for accuracy than to have a metes and bounds description reviewed by the survey or other District unit for accuracy. Using only a plot plan avoids problems with discrepancies between a plot plan and a metes and bounds narrative. Under Pennsylvania law, if both are attached to a deed, the words take precedence over the plan.

The best approach is where the plot plan is part of the right-of-way plan and is reviewed as part of the plan review. However, if not part of the right-of-way plan, the plot plan must be reviewed for accuracy when reviewing the deed.

A metes and bounds description may be included in the deed if the District requests or approves of this approach. In that case, however, the description should be supported by a sealed survey for Department review. In any event, the description must be reviewed by someone in the District with sufficient knowledge to assure it accurately describes the property being transferred to the Department as depicted on the plan. Such a review may be impractical from a staffing standpoint. There is also the risk that the description may not close.

Timing – Deeds and related documentation should be provided for review as soon as practicable after the right-of-way plan is approved, but well before issuance of the HOP. The right-of-way plan should not be prepared until the HOP construction plans are prepared to insure proper right-of-way is acquired.

Executed deeds for all necessary State highway right-of-ways should be provided to the Department before a permit is issued. Conditioning an HOP on acquisition of required right-of-way and/or finalization of the right-of-way plan is not advisable because the District will then be required to insure work is not performed under the permit on lands of third parties and may never obtain title to where highway features have been constructed. If allowed in view of special circumstances approved by the District Executive, the condition must be clear that the permittee is not allowed to do work depicted on the HOP plan that is outside the applicant's land before that right-of-way is conveyed to the Department. The start of work must be conditioned on delivery of acceptable deeds and appropriate documentation. An example where it may be appropriate to issue an HOP conditioned on the completion of right-of-way acquisition would be if the applicant's financing entity will not release funds to purchase the property without issuance of an HOP and leases with tenants are put in jeopardy. Another example would be where a local government has agreed to use its power of condemnation if necessary. These issues must be approached on a case by case basis.

Recording - The right-of-way plan must be recorded in the County Recorder of Deeds Office in accordance with Section 4 where other such plans are recorded. It must also be filed in the District Plans Room, with copies forwarded to the Bureau of Design in accordance with standard procedures for plans showing Department right-of-way.

The deed conveying the right-of-way to the Department must be separately recorded in the County Recorder's Office where other deeds are recorded. Deeds must not be recorded prior to Department approval.

The applicant must pay all fees necessary for recording the documents.

Right-of-Way Units in some Districts assist in recording plans and deeds.

Acquisition of required right-of-way by condemnation - The Department will not acquire right-of-way for HOP projects by amicable acquisition or by condemnation. However, in exceptional circumstances with the approval of the District Executive, the Department will authorize local governments to acquire State highway right-of-way for an applicant. Exceptional circumstances exist where the applicant is unable, after reasonable efforts, to acquire right-of-way from third parties which the Department deems essential to safe design requirements for the HOP project. Execution of a plan authorizing a local government to acquire land for a State highway (see Section 4b above) shall constitute the Department's consent for the local government to acquire right-of-way for the State highway.

Where the Department executes a plan authorizing condemnation of State highway right-of-way by a local government, all acquisitions by the local government and the applicant must conform to the Department's Right-of-Way Manual (Publication 378). The ["LPA Brochure: A Guide for Local Public Agency Acquisition of Right-of-Way"](#) (Publication 98) is a good publication explaining the necessary procedures. See Section 2c above. The Department should also follow the review procedures that apply to acquisitions by local governments under the LPA procedures.

Authorizing a local government to acquire right-of-way for a State highway does not obligate the Department to assume any liability for costs associated with condemnation or other acquisition of the land in question. The applicant or local government is solely liable for all such costs and expenses.

6. Environmental and historical concerns

Once it accepts a deed, the Department can become responsible for conditions on the property conveyed. Consequently, all environmental issues such as hazardous materials and wetlands, as well as historic preservation, should be thoroughly investigated and evaluated prior to acceptance of a deed. In all situations the District should conduct a thorough visual inspection of the property for evidence of environmental issues before accepting a deed.

An environmental report should be developed if there is any concern. For example, at least a Phase I environmental report would be appropriate if the property has been put to a prior commercial use that could cause issues (e.g. a factory, dry cleaner, automotive repair garage, gas station, tannery, chemical plant, etc.) or there is evidence of possible contamination due to fuel tanks above or below the surface, dumping, or storage of chemicals. Guidance from the District environmental unit should be obtained if there is any concern.

Permitted projects may also have an effect on properties included in or eligible for inclusion in the National Register of Historic Places. A memorandum of understanding between the Department and the Pennsylvania State Historic Preservation Office is being developed to address this topic. This document should be referenced when addressing historic preservation issues.

Note that additional environmental studies may be required if Federal or State funds are being provided for the project or if a point of access issue is involved.

Deed, Fee Simple; Form M-950 D1

Purpose

This interactive form provides standard, concise, and easy to use documentation when additional right-of-way will be required for the construction of a proposed access (e.g., to accommodate auxiliary lane(s) consistent with Regulation 441, including section 441.8(j)). This “Fee Simple” deed may be used in conjunction with, and as a condition to, issuance of a permit. See Chapter 3.7, Right-of-Way Procedures, for additional information on acquiring right-of-way for highway purposes.

Preparation

The deed must be from the HOP applicant to PennDOT. Where the applicant has negotiated to purchase the necessary right-of-way from another person, the property must first be conveyed to the applicant and then to PennDOT using this deed form. Conveyance may not be from the third party directly to PennDOT.

No deed will be accepted without documentation and review of the title through a record owner and lien certificate, an abstract of title or title report based on a title search. A bring down/update of the title shall be provided within 15 days of the date the permit is to be issued or, if the District Executive makes an exception, within 15 days of the deed signing.

Deeds and related documentation are to be provided for review as soon as practicable **after** the right-of-way plan is approved, and well before issuance of the HOP.

Complete the following information on the form:

1. Name and title of individual completing form
2. Name and title of PennDOT District representative to whom the deed should be returned
3. Tax parcel number or street address of acquired parcel
4. County
5. SR, Segment, Offset
6. Municipality
7. Application/Permit Number
8. Applicant/Permittee Name and Address
9. Date (indenture is made)
10. Grantors name and address (the address must include, at a minimum, the municipality and county)
11. Select the appropriate word from the drop down menu describing the nature of the Grantor
12. Check the appropriate box which describes Exhibit “A” (typically a plot plan)
13. Conveyance document (deed, will, etc.) by which the applicant acquired the property (if there was more than one Grantor to the applicant, steps 13 through 16 must be completed for each conveyance to the applicant)

14. Name of the Grantor from whom the applicant acquired the property
15. Date of the conveyance instrument
16. "Deed book ____, page number ____, or "instrument number ____"
17. Description and size of the area(s) being transferred to PennDOT
18. District Office Address

The proper party must execute the deed on behalf of the applicant. See Signature Authority Guide, Appendix F to the Right-of-Way Manual. The deed must also be properly notarized.

The executed deed and the title information must be reviewed and accepted by the District Right-of-Way Administrator prior to: (1) recording, and (2) issuance of the permit.

Recording

Once the complete application package is approved, the deed conveying the right-of-way to the Department must be separately recorded in the County Recorder's Office where other deeds are recorded. The applicant and PennDOT staff will need to complete their portions of the recording page(s) by following the recording instructions on each Form to be recorded. Then, deliver the document(s) to be recorded to the County Courthouse.

Documentation

Each District is responsible for ensuring acquisition of the new right-of-way is properly documented by the Department for future reference and use by the District.

Prepared By: (1)

Return To: (2)

Site Location: (3)

M-950 D1 (6-11)



COUNTY	(4)
SR - SEGMENT-OFFSET	(5)
MUNICIPALITY	(6)
APPLICATION/PERMIT NO.	(7)
APPLICANT/PERMITTEE	(8)

DEED FEE SIMPLE
(No Monetary Consideration)

(9)

THIS INDENTURE, made this _____ day of _____, 20__, by (10) owner(s) of property affected by the proposed construction or improvement of the above mentioned State Route under the referenced highway occupancy application/permit, (11) heirs, executors, administrators, successors, and/or assigns, hereinafter, whether singular or plural, called the GRANTOR, and the Commonwealth of Pennsylvania, Department of Transportation, hereinafter called the COMMONWEALTH,

WITNESSETH:

WHEREAS the COMMONWEALTH has received an application from the GRANTOR for issuance of a highway occupancy permit for access to the above referenced highway; and

WHEREAS the parties hereto have agreed that, as a condition to issuance of the referenced permit, the GRANTOR will convey in fee simple and such other estate(s) as designated, if any, to the COMMONWEALTH the property or portion thereof required by the COMMONWEALTH,

NOW, THEREFORE, in consideration of the benefits to the property of the GRANTOR, the GRANTOR does hereby grant and convey to the COMMONWEALTH

- (12) In fee simple the premises described by metes and bounds in exhibit "A".
- In fee simple that portion of the aforesaid premises designated as required right-of-way or as acquired in fee simple for other purposes on the plot plan attached hereto and made a part hereof; and those areas, if any, designated as required for easement purposes as identified by the plot plan and set forth below.

BEING all or a portion of the same property conveyed or devised to the GRANTOR by (13) of (14), dated (15) and recorded in (16), together with the improvements, hereditaments and appurtenances thereto. This conveyance contains (17). And the GRANTOR warrants GENERALLY the property hereby conveyed.

Reserving, however, to the GRANTOR the right to deep mine minerals and remove gas and oil within the areas hereunder acquired from a minimum depth to be determined by the COMMONWEALTH, from mine shafts or by means of wells located off the right-of-way.

The GRANTOR does further indemnify the COMMONWEALTH, its employees or representatives against any claim, demand or judgment of any type made by any lessee or easement holder of the aforesaid property who is not an Applicant/Permitee under the referenced application/permit and who may be adversely affected by the construction of the improvements to the demised premises or in the State highway right of way pursuant to the referenced application/permit.

Certificate of Residence

I hereby certify the Grantee's precise residence to be:

(18)

Witness my hand this _____ day of _____, _____

Agent for the Commonwealth of Pennsylvania
Department of Transportation

[remainder of page intentionally left blank]

The GRANTOR has executed or caused to be executed these presents, intending to be legally bound thereby.

INDIVIDUALS

ENTITIES*

GRANTOR:

(Name of Entity) _____

BY: _____

BY: _____

* Use this block for a corporation, partnership, LLC, government entity, school district, church, trust, club, association, POA, attorney-in-fact, executor, administrator or any other entity. See R/W Manual Section 3.06.

INDIVIDUAL

ENTITY

<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____</p> <p>_____, known to me (or satisfactorily proven) to be the person(s) whose name(s) _____ subscribed to the within instrument, and acknowledged that _____ executed the instrument for the purposes contained in it.</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>	<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____ _____, who acknowledged _____ self to be the _____ [title] of _____ [name of entity], and that as such _____ _____ [title], being authorized to do so, executed the foregoing instrument for the purposes contained in it by signing on behalf of the entity as _____ [title].</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>
---	---

Deed of Easement; Form M-950 D2

Purpose

This interactive form provides standard, concise, and easy to use documentation when additional right-of-way will be required for the construction of a proposed access (e.g., to accommodate auxiliary lane(s) consistent with Regulation 441, including section 441.8(j)). This “Deed of Easement” may be used in conjunction with, and as a condition to, issuance of a permit when approved by the District Executive based on special circumstances. See Chapter 3.7, Right-of-Way Procedures, for additional information on acquiring right-of-way for highway purposes.

Preparation

The deed must be from the applicant to PennDOT. Where the applicant has negotiated to purchase the necessary right-of-way from another person, the property must first be conveyed to the applicant and then to PennDOT using this deed form. Conveyance may not be from the third party directly to PennDOT.

No deed will be accepted without documentation and review of the title through a record owner and lien certificate, an abstract of title or title report based on a title search. A bring down/update of the title shall be provided within 15 days of the date the permit is to be issued or, if the District Executive makes an exception, within 15 days of the deed signing.

Deeds and related documentation are to be provided for review as soon as practicable **after** the right-of-way plan is approved, and well before issuance of the HOP.

Complete the following information on the form:

1. Name and title of individual completing form
2. Name and title of PennDOT District representative to whom the deed should be returned
3. Tax parcel number or street address of acquired parcel
4. County
5. SR, Segment, Offset
6. Municipality
7. Application/Permit Number
8. Applicant/Permittee Name and Address
9. Date (indenture is made)
10. Grantors name and address (the address must include, at a minimum, the municipality and county)
11. Select the appropriate word from the drop down menu describing the nature of the Grantor
12. Select the appropriate easement description from the drop down menu; this should be the largest interest being acquired

13. Conveyance document (deed, will, etc.) by which the applicant acquired the property (if there was more than one Grantor to the applicant, steps 13 through 16 must be completed for each conveyance to the applicant)
14. Name of the Grantor from whom the applicant acquired the property
15. Date of the conveyance instrument
16. "Deed book ____, page number ____, or "instrument number ____"
17. Description and size of the area(s) acquired being transferred to PennDOT
18. District Office Address

The proper party must execute the deed on behalf of the applicant. See Signature Authority Guide, Appendix F to the Right-of-Way Manual. The deed must also be properly notarized.

The executed deed and the title information must be reviewed and accepted by the District Right-of-Way Administrator prior to: (1) recording, and (2) issuance of the permit.

Recording

Once the complete application package is approved, the deed conveying the right-of-way to the Department must be separately recorded in the County Recorder's Office where other deeds are recorded. The applicant and PennDOT staff will need to complete their portions of the recording page(s) by following the recording instructions on each form to be recorded. Then, deliver the document(s) to be recorded to the County Courthouse.

Documentation

Each District is responsible for ensuring acquisition of the new right-of-way is properly documented by the Department for future reference and use by the District.

Prepared By: (1)

Return To: (2)

Site Location: (3)

M-950 D2 (6-11)



COUNTY	(4)
SR - SEGMENT-OFFSET	(5)
MUNICIPALITY	(6)
APPLICATION/PERMIT NO.	(7)
APPLICANT/PERMITTEE	(8)

DEED OF EASEMENT
(No Monetary Consideration)

THIS INDENTURE, made this (9) day of _____, 20__ by (10) owner(s) of property affected by the proposed construction or improvement of the above mentioned State Route under the referenced highway occupancy application/permit, (11) heirs, executors, administrators, successors, and/or assigns, hereinafter, whether singular or plural, called the GRANTOR, and the Commonwealth of Pennsylvania, Department of Transportation, hereinafter called the COMMONWEALTH,

WITNESSETH:

WHEREAS the COMMONWEALTH has received an application from the GRANTOR for issuance of a highway occupancy permit for access to the above referenced highway; and

WHEREAS the parties hereto have agreed that, as a condition to issuance of the referenced permit, the GRANTOR will convey to the COMMONWEALTH a (12) and other estate(s) as designated, if any, from the property or portion thereof required by the COMMONWEALTH,

NOW, THEREFORE, in consideration of the benefits to the property of the GRANTOR, the GRANTOR does hereby grant and convey to the COMMONWEALTH a (13) and such other estate(s), if any, as designated on the plot plan attached hereto and made a part hereof and set forth below.

BEING all or a portion of the same property conveyed or devised to the GRANTOR by (14) of (15), dated (16) and recorded in (17), together with the improvements, hereditaments and appurtenances thereto. This conveyance contains (18). And the GRANTOR warrants GENERALLY the property hereby conveyed.

Reserving, however, to the GRANTOR the right to deep mine minerals and remove gas and oil within the areas hereunder acquired from a minimum depth to be determined by the COMMONWEALTH, from mine shafts or by means of wells located off the right-of-way.

The GRANTOR does further indemnify the COMMONWEALTH, its employees or representatives against any claim, demand or judgment of any type made by any lessee or easement holder of the aforesaid property who is not an Applicant/Permitee under the referenced application/permit and who may be adversely affected by the construction of the improvements to the demised premises or in the State highway right of way pursuant to the referenced application/permit.

Certificate of Residence

I hereby certify the Grantee's precise residence to be:

(19)

Witness my hand this _____ day of _____, _____

Agent for the Commonwealth of Pennsylvania
Department of Transportation

[remainder of page intentionally left blank]

The GRANTOR has executed or caused to be executed these presents, intending to be legally bound thereby.

INDIVIDUALS

ENTITIES*

GRANTOR:

(Name of Entity)

BY: _____

BY: _____

* Use this block for a corporation, partnership, LLC, government entity, school district, church, trust, club, association, POA, attorney-in-fact, executor, administrator or any other entity. See R/W Manual Section 3.06.

INDIVIDUAL

ENTITY

<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____</p> <p>_____, known to me (or satisfactorily proven) to be the person(s) whose name(s) _____ subscribed to the within instrument, and acknowledged that _____ executed the instrument for the purposes contained in it.</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>	<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____</p> <p>_____, who acknowledged _____ self to be the _____ [title] of _____ [name of entity], and that as such _____ _____ [title], being authorized to do so, executed the foregoing instrument for the purposes contained in it by signing on behalf of the entity as _____ [title].</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>
--	--

OUTLINE OF RIGHT-OF-WAY ACQUISITION PROCEDURES FOR HIGHWAY OCCUPANCY PERMITS

The following are suggested chronological steps for successfully completing the conveyance process when an applicant must obtain land for State highway right-of-way in connection with obtaining a Highway Occupancy Permit (HOP). Because each conveyance may have unique circumstances and requirements, the process may and should be adjusted based on direction from the specific Engineering District in which the permit is being issued.

This outline is not intended to be a substitute for the policy set forth in Chapter 3 on right-of-way acquisition procedures in permit projects. There are requirements and guidance in the chapter that apply but are not contained in this outline.

1. Complete traffic study identifying impacts. (Approved by Department)
2. Propose capacity or safety mitigation improvements. (Approved by Department)
3. Obtain appropriate existing Department right-of-way (RW) plans.
4. Develop sketch plan of improvements.
5. Conduct RW and property research:
 - a. Obtain copies of tax maps from the local tax assessor's office.
 - b. Identify all properties and tabulate property tax numbers.
 - c. Obtain names of property owners, mailing addresses, deed references.
 - d. Obtain copies of all deeds.
 - e. Obtain ordinances, dedications.
 - f. Obtain utility easements.
 - g. Identify railroad RW.
6. Perform preliminary determination of utility involvement.
7. Perform preliminary determination of environmental involvement.
 - a. The Department should conduct a thorough visual inspection of the property for evidence of hazards or regulated resources before accepting a deed.
 - b. The Department may require an applicant to deliver an environmental report for review, before accepting a deed.
8. Prepare more detailed preliminary plan showing property(ies) with existing and proposed improvements and required RW.
9. Arrange for a pre-meeting with PennDOT, with the following recommended attendees:
 - a. PennDOT single point of contact (Permit Unit representative).
 - b. District RW Administrator (or representative).
 - c. Chief of Survey, Environmental Manager, Utility Administrator as appropriate.
 - d. Applicant.
 - e. Applicant's consultant.
 - f. Applicant's counsel as appropriate.
 - g. PennDOT counsel as appropriate
10. Suggested pre-meeting agenda:
 - a. Identify and define single point of contact (usually within Permit Unit).
 - b. Submissions to be whole submissions, not partial submissions. Preliminary submission can be made. Final submission to include draft M950 D Deed and title documentation.
 - c. Select standard or simplified RW plans presentation (DM3, Chapter 3).

- d. Review plan presentation details unique to HOP plans (DM3, Chapter 3).
 - e. Review acceptable form of deed (i.e. fee simple or easement).
 - f. Review title documentation requirements:
 - 1. Record owner and lien certificate/abstract of title/title report.
 - 2. Exceptions to title must be addressed and removed where appropriate in the determination of PennDOT.
 - g. Review issues customized to a particular site.
 - 1. Elimination of utility easements, general utility clearance requirements.
 - 2. Environmental requirements for RW area to be transferred.
 - 3. Determine if drainage easements needed and deeded to municipality if the municipality maintains drainage.
 - 4. Obtain general concurrence by PennDOT as to how much RW needed beyond roadway to maintain facilities (e.g.: 5' min for signs, sometimes 8' beyond toe of slope in a fill section, total width multiples of 5', etc).
 - 5. Confirm that necessary temporary construction easements (TCEs), rights of entries or permissions have been acquired; do not show TCE's on RW plans.
 - 6. Consider effect of land development requirements including building set-backs
 - 7. Discuss survey requirements.
 - h. Explain recording procedures.
 - 1. Who, when, and where.
 - 2. Discuss particular county recorder needs; every county a little different; RW Administrator may give guidance.
11. Suggested appropriate method to approach property owners where State or Federal funds are not being used and PennDOT has not authorized the local government to condemn if necessary.
- a. Use standard form for initial letter/contact with property owners:
 - 1. Explain general overview of the project.
 - 2. Assess general interest or cooperation.
 - 3. Clarify that this is not a PennDOT project but rather a private inquiry.
 - 4. Include a statement of no condemnation authority.
 - 5. Assurance that only amicable arrangements possible.
 - 6. Offer to have appraisal performed at no cost to property owner.
 - 7. Offer to provide fair market value.
 - 8. Offer to do all paperwork.
 - 9. Offer to meet and discuss.
 - 10. Offer contact person at PennDOT for information or to request PennDOT participation in meetings.
 - 11. Offer contact person at municipality for information, or to request municipal participation in meetings.
 - 12. Offer to consider counter offers.
 - 13. Allow reasonable response times.
 - 14. Make sure documents are notarized if necessary.
 - b. Follow up with formal offer including conditions, schedule information, and opportunity to accept or decline.
12. If not successful in acquiring RW and thus unable to meet design standards, then the applicant will need to redesign the project or pursue having the local government condemn

- the property if authorized by PennDOT; if the project cannot be reasonably redesigned or the local government or PennDOT will not authorize condemnation, then the applicant will need to request a design waiver. [see 67 Pa. Code §441.5(e) and Chapter 3 of this manual on Waiver of Design Requirements.]
13. PennDOT may give a municipality the power to condemn property for State highway purposes in exceptional circumstances with the approval of the District Executive.
 14. If applicant is successful in obtaining RW, then the following information must be prepared by the applicant:
 - a. Drawings depicting right-of-way to be conveyed for the State highway prepared in accordance with Department Publication 14, Design Manual Part 3, Chapter 3.
 - b. Deed, Fee Simple (Form M-950 D1); or, if approved by the District, Deed of Easement (Form M-950 D2). These form deeds are available from any Engineering District Office.
 - c. Title documentation.
 15. Perform survey if necessary.
 - a. PennDOT conveyances are generally based on a plot plan showing the area being conveyed and all or part of the tract of land from which it will be conveyed.
 - b. A metes and bounds description may be acceptable if it is supported by a sealed survey for Department review. Confirm with the Department prior to performing a field survey. Review by the Department's Survey Unit typically requires verification of the point of beginning and subsequent deed calls, which can be impractical.
 - c. Obtain permission to enter property before surveying.
 - d. Survey wells and septic systems, all buildings, commercial signs, and private and public utilities which are adjacent to the highway corridor.
 - e. Locate miscellaneous property corners readily available along the highway corridor.
 - f. Survey references should conform to Department Publication 122M, Survey and Mapping Manual.
 16. Prepare final RW plans.
 - a. These drawings document the extent of the new RW in the Department's record keeping system. In order to do so, the applicant is required to generate a plan depicting the RW that will be deeded to the Department. This plan shall follow the procedures set forth in Design Manual Part 3, Chapter 3 for generating drawings authorizing the acquisition of RW for Department projects as modified for permit projects under Chapter 3. Use only 22" X 34" sheet size.
 - b. Where the majority of the HOP construction is within existing right-of-way, only a few properties are involved and the areas to be acquired are minor, the right-of-way plan can be a simple, one or two page plan that need not depict related proposed highway construction features. See DM3, Chapter 3, Section 3.0.G (Simplified Right-of-Way Plans). Otherwise, typical drawings can be organized as follows:
 1. Sheet 1 – Title Sheet to include special title and signature blocks for District Executive and Secretary of Transportation. Appropriate personnel, such as the District Plans Engineer, District Chief of Surveys, District Permit Manager, and/or District RW Administrator, should review the plan prior to signature. The title sheet will need to contain a recording block because the plan will be recorded. [DM3 Sections 3.0.H, page 3-5, and 3.2.I.6, page 3-18, and references therein.]

2. Sheet 2 – Index Sheet which may be combined with Sheet 3 if a one-sheet presentation is being used. [DM3, Section 3.3, pages 3-20, et seq.]
 3. Sheet 3 – Typical Section Sheet [DM3 Section 3.4, pages 3-25, et eq.]
 4. Sheet 4 – Plan Sheet showing the proposed work area with legal and required RW designated. Instead of the normal designation of “required RW,” the areas that will be deeded to the Department should be designated as ‘required RW’ to be deeded to the Commonwealth. If an area is intended for other than highway RW the area should be marked in a similar manner indicating the nature of the interest that will be transferred to the Department (e.g. “required limit of slope to be deeded to the Commonwealth” or “required drainage easement to be deeded to Mellon Township”). Show all dimensions, plus(s)/offsets, and geometric data. If the centerline of the road is relocated, it must be clearly referenced and dimensioned from the existing centerline [DM3, Section 3.5, pages 3-40, et seq.].
 5. Sheet 5 – Property Plot Plan (formally known as Property Plat) of parcel from which the RW is being acquired. Check with District Permit Manager if this sheet is required as determined in consultation with the District RW Administrator or representative (discuss during pre-meeting). Identify deed information on plot. Fit plots to topographic features. Mark proposed RW monument points. Include all other slope easements, drainage easements, utility easements, etc. [DM3, Section 3.6, pages 3-50, et seq.]
 - c. Calculate preliminary areas and complete the information block Title Block [DM3 Section 15.1, page 15-4 for sample]. Remove the word “Claim” for HOP RW drawings.
 - d. Drawings will be reviewed by the District Permit Manager and other District personnel deemed appropriate such as the District RW Administrator, District Surveyor, District Plans Engineer and District Utility Administrator, and the assigned Central Office Field Liaison Engineer.
 - e. Stamp reproducible drawings with those of the Professional Land Surveyor and Professional Engineer responsible for the plans.
 - f. Sign the RW plan Title Sheet.
 - g. PennDOT process for execution by Secretary of Transportation.
 - h. District to insure acquisition of the new RW is properly filed and documented for future reference and use by the District and others.
17. Resolve utility/environmental issues.
18. Deed delivered and approved by District.
- a. Form M-950 D1 (Deed, Fee Simple) shall be used to convey the needed RW from the applicant to PennDOT unless PennDOT approves use of Form M-950 D2 (Deed of Easement).
 - b. Land not owned by the applicant must first be conveyed to the applicant and then by the applicant to PennDOT in one deed using the appropriate deed form.
 - c. The deeds utilize a plot plan referenced as an exhibit. A metes and bounds description can be used with the M-950 D1 if only fee simple title is being transferred.
 - d. The applicant is required to provide title documentation (preferably a record owner and lien certificate) updated within 15 days of the date the land will be conveyed to PennDOT. All exceptions to title must be addressed and removed as determined

necessary by PennDOT. Liens must generally be removed from the property to be conveyed.

- e. Once the executed deed is obtained, the District must review and approve the deed and the plot plan or description before it is recorded (by the applicant if requested by PennDOT).

19. Issue HOP.

- a. All negotiations must be settled and the approved deed (with approved plot plan and title documentation) must be executed prior to issuance of the HOP except in exceptional circumstances with the approval of the District Executive.
- b. The RW plan must likewise be completed and approved prior to issuance of the HOP except in exceptional circumstances with the approval of the District Executive.

20. Record RW plan and deed.

- a. The District Permit Manager, along with the District RW Administrator or representative will, preferably during a pre-meeting, provide and explain the recordation process based on PennDOT recording needs and the applicable county recording requirements.
- b. Costs associated with the county's recordation process are the responsibility of the applicant.

Right-of-way Procedures

1. Background

Highway Occupancy Permit (HOP) applicants are often required to provide State highway right-of-way to the Department in connection with obtaining a permit. The Engineering Districts should address right-of-way and related issues and procedures early in the HOP process, utilizing the Scoping Field View meeting approach, if appropriate. It is important to complete these transactions correctly to insure the Department's new property interest is properly documented for the future.

The Districts should utilize appropriate resources within the District to accomplish these transactions, including, but not limited to, the right-of-way, utilities, plans, and bridge units as appropriate. The Office of Chief Counsel will assist with legal issues but is not a right-of-way acquisition unit.

Obtaining the necessary right-of-way is the responsibility of the permit applicant. The Department will not acquire right-of-way for an applicant. There is a procedure, however, for local governments to acquire right-of-way for an applicant amicably or by condemnation as discussed below.

Following are some of the important right-of-way related issues in the permit process:

- a. Acquisition procedures for HOP projects involving private, local, state, or federal funding;
- b. Determination of the type and amount of right-of-way required;
- c. Right-of-way plan requirements;
- d. Deed forms and approval;
- e. Title documentation;
- f. Plot plans and deed descriptions;
- g. Other conveyance and recording procedures;
- h. Condemnation by a municipal entity;
- i. Title searches and title insurance/certification;
- j. Utility relocation or elimination issues;
- k. Environmental issues.

An outline of the procedures explained below is included as Appendix B3.

2. Application of procedures and general requirements

These procedures apply to the acquisition of highway right-of-way by an applicant as part of a permit project. They apply only as appropriate where the project involves the use of Federal highway funds in any phase of the project; where the project involves the use of State highway funds in any phase of the project; or where a local government may condemn land for State highway right-of-way in connection with the permit project.

The following procedures apply in the various types of projects mentioned; the last one being the most common on permit projects:

a. Project involving the use of Federal highway funds in any phase of the project.

All acquisitions by local government agencies or private persons must conform to the Uniform Real Property Acquisition and Relocation Assistance Policies Act of 1970, as amended, and the regulations promulgated thereunder. 42 USC §4601 et seq., and 49 CFR Part 24 (“the Uniform Act”).

If the agency or person undertaking the project has the power of eminent domain, all requirements of the Uniform Act apply. Among other general requirements, negotiations must be held based upon an approved appraisal. 49 CFR §24.102. The “[LPA Brochure: A Guide for Local Public Agency Acquisition of Right-of-Way](#)” (Publication 98) is a good publication explaining the necessary procedures.

If the agency or person undertaking the project does not have the power of eminent domain, the general requirements of the Uniform Act do not apply. However, a written offer to purchase must be made advising the landowner that the agency or person does not have or will not exercise the power of eminent domain if negotiations fail and what the agency or person believes to be the fair market value of the property. 49 CFR §24.101(a)(2).

b. Projects involving the use of State highway funds in any phase of the project.

All acquisitions by local government agencies or private persons that have the power of eminent domain and intend to exercise it if necessary must conform to the Department’s Right-of-Way Manual (Publication 378). These procedures are generally consistent with the Uniform Act requirements. The “[LPA Brochure: A Guide for Local Public Agency Acquisition of Right-of-Way](#)” (Publication 98) is a good publication explaining the necessary procedures.

If the agency or person undertaking the project does not have the power of eminent domain or does not plan to exercise it for the project in question, the Right-of-Way Manual procedures need not be followed. However, a written offer to purchase must be made advising the landowner that the agency or person does not have or will not exercise the power of eminent domain if negotiations fail and what the agency or person believes to be the fair market value of the property.

c. Projects not involving the use of Federal or State highway funds where a local government may condemn land for State highway right-of-way.

All acquisitions by local government agencies or private persons must conform to the Department’s Right-of-Way Manual (Publication 378). These procedures are generally consistent with the Federal Uniform Act requirements. The “[LPA](#)

[Brochure: A Guide for Local Public Agency Acquisition of Right-of-Way](#)” (Publication 98) is a good publication explaining the necessary procedures.

- d. Projects not involving the use of Federal or State highway funds or the possible condemnation of highway right-of-way by a local government.

Acquisitions need not conform to the Federal Uniform Act or the Department Right-of-Way Manual (Publication 378). However, the landowner must be informed in writing prior to the start of negotiations that although the land may eventually become part of a State highway, the Department is only involved because of its authority to issue highway occupancy permits for driveways onto State highways and will not exercise its power of eminent domain in the event negotiations fail.

- e. All projects.

The applicant must also follow the procedures set forth below.

3. When is right-of-way required and what type of interest should be required?

Whenever a proposed highway facility, highway drainage structure, or other highway related structure falls outside of the existing legal right-of-way, new right-of-way will be required. The nature and interest the Department should require the applicant to acquire is set out in the Design Manual, Part 3 (Publication 14M). [See specifically](#) DM3, Chapter 3, [Section 3.1.EE](#) (Highway Occupancy Permit Plans) and generally DM3, Chapter 3, [Section 3.1](#) (Interest to be Acquired).

The general policy is to have the permittee include all State highway features within required right-of-way and to have the right-of-way acquired in fee simple. If appropriate, right-of-way can be acquired as an easement for highway purposes. A highway easement may be appropriate where the local government will require the applicant to subdivide if fee simple title is acquired. The acquisition of traffic signal easements on behalf of the local government is also permitted on HOP projects, if the local government has agreed to accept the easement and to apply for a signal permit ([DM3, 3.1.Y](#)). Slope easements, drainage easements, and other lesser property interests may be acquired by a permittee in contravention of the general policy to acquire required right-of-way when approved by the District Executive based on special circumstances.

Special circumstances meriting acquisition of interests less than required right-of-way would include, but not be limited to, slope easements in commercial areas where a fee take would adversely impact parking and drainage easements for ditches other than parallel ditches. Other considerations would be impacts to the remainder, possible environmental issues, open space and setback requirements of a local government, and minor cuts and fills that will not jeopardize the integrity of the road. The District Executive should make these determinations with the advice of their supporting units based on the administrative risks.

If land has been previously dedicated to public use but not accepted, the Department may be able to accept that dedication as part of the HOP acquisition process. In other situations the dedication would need to be accepted by the local government and transferred to the Department. The appropriate approach depends on the nature of the previous dedication. The Department will only accept dedications of areas required to maintain the State highway system. A complete discussion of this topic is set forth in the Right-of-Way Manual, Appendix C, Article 10 (Dedications and Ordainments). As discussed below, the Department does not accept dedication deeds as part of the HOP acquisition process.

4. Right-of-way Plans

A right-of-way plan, in Department approved design format, is required for every HOP application where right-of-way will be conveyed to the Department. This serves several purposes, including documentation of the highway right-of-way for future use by the Department and others and a means to insure that appropriate right-of-way is acquired for the HOP project. The right-of-way plan will generally be drafted by the consulting engineer/surveyor after the HOP construction plan is approved. As such, it is one of the last plan approval steps in the HOP process.

In accordance with DM3, Chapter 3, [Section 3.0.H](#) (Highway Occupancy Permit Plans), there are three types of plans related to the highway occupancy permit process: drawings depicting right-of-way to be deeded to the Department; drawings authorizing acquisition by local governments; and drawings accepting dedications. These plans must conform to the requirements of this Chapter and be reviewed by the appropriate Central Office Field Liaison Engineer. The District permit and right-of-way units should also review the plans.

- a.** *Drawings Depicting Right-of-Way to be Deeded to the Department.* The most common HOP-related plan is that developed to document right-of-way deeded to the Department as part of the HOP process. These deed plans do not transfer title. The permittee must transfer title to the Department by deed. The deed plan only documents the State highway right-of-way for future reference.

Deed plans must be filed with the District plans unit and forwarded to the Bureau of Design, Plans and Reproduction, for appropriate filing. Deed plans must also be recorded at the appropriate county courthouse to document the highway right-of-way, but not until after the HOP is issued.

- b.** *Plans Authorizing a Local Government to Acquire Land for a State Highway.* This type of plan is also sometimes required in the HOP process. Local authorization plans also do not transfer title. They only authorize the local government to acquire interests in land for a State highway and document the State highway right-of-way for future reference.

Local authorization plans must be filed with the District plans unit and forwarded to the Bureau of Design, Plans and Reproduction, for appropriate filing. Local

authorization plans must also be recorded at the appropriate county courthouse to document the highway right-of-way. The plan may not be recorded until approved by the Department, but must be recorded prior to condemnation under the plan.

- c. *Plans Accepting the Dedication of Right-of-Way.* This type of plan is available in the HOP process, but is typically not appropriate. The best practice is to have the land deeded to the Department and documented with a plan depicting right-of-way to be deeded to the Department.

A deed and deed plan should always be used for land owned by the permittee. For land owned by a neighboring owner, but previously dedicated to public use for a State highway, the best practice is to have the local government accept the dedication and then deed it to the Department. Whether the land is being deeded by a private permittee or a local government, the normal permit deed (either fee simple or easement for highway purposes) should be used, not a deed of dedication.

The acceptance of dedication plan may only be used if the offer of dedication is general or to the Commonwealth. It may not be used if the dedication is to the local government or, even if general, the local government has already accepted the dedication. Use of this plan is not encouraged. The deed process should be used if at all possible.

If the acceptance of dedication plan is used, it must be filed with the District plans unit and forwarded to the Bureau of Design, Plans and Reproduction, for appropriate execution by the Secretary and then filing. The acceptance of dedication plan must also be recorded at the appropriate county courthouse because it is evidence of an actual title transfer. Designation of the dedication on the subdivision or land development plan is the offer of dedication and execution of the plan by the Department is acceptance of the dedication; there is no need for a separate deed of dedication.

- d. *General Guidance.* These special highway occupancy permit plans may not be used for other functions. For example, the Department may not designate areas to be vacated or abandoned on them or attempt to authorize acquisition by the Department through them. Separate procedures must be used for these purposes. By the same token, a regular title sheet authorizing the Department to acquire property may not be used for plans reflecting land to be deeded to the Department during the HOP process or authorizing another government entity to condemn for a State highway.

Where the majority of the HOP construction is within existing right-of-way, only a few properties are involved and the areas to be acquired are minor, the right-of-way plan can be a simple, one or two page plan that need not depict related proposed highway construction features. See DM3, Chapter 3, [Section 3.0.G](#) (Simplified Right-of-Way Plans).

HOP right-of-way plans must contain an approval block for the Secretary of Transportation to approve the plan for himself and the Governor, as well as a District Executive approval and recording block. District personnel deemed appropriate, such as the District Plans Engineer, District Chief of Surveys, District Permit Manager, District Right-of-Way Administrator, District Utility Administrator, as well as the assigned Central Office Field Liaison Engineer will review the plan prior to signature. See DM3, Chapter 3, Sections [3.2.I.6 and 7](#). See also DM3, Chapter 3, Sections [3.3.A.14](#) (legend on index sheet), [3.4.H.5.m](#) (special general note), and [3.5.X and Y](#) (additional special directions) on plans presentation for HOP right-of-way plans.

HOP right-of-way plans should be reviewed and approved before any deeds are reviewed and accepted by the Department. An exception may be made with the District Executive's approval. The plan should designate the property owners as they exist before the applicant purchases the necessary right-of-way. See Section 5 below on the conveyance process. Temporary construction easements are not to be shown on plans depicting right-of-way to be deeded to the Department because the permittee will not be conveying rights to the Department in such areas. See DM3, Chapter 3, Section [3.4.H.5.i](#).

Please note that HOP right-of-way plans submitted by consultants do not always correctly reflect the proper legal right-of-way lines. It is important to obtain and review the right-of-way plans on file in the District plans room, as well as straight line diagrams. The Right-of-Way Administrator may also be of help in this determination. See generally DM3, Chapter 3, [Section 3.8](#) (Determination of Legal Right-of-Way Widths).

Please also note that consultants often show dedicated and ultimate right-of-way areas as legal right-of-way. This is not correct because until properly accepted by some government entity, the property owner still owns these areas subject to the offer of dedication. See generally Right-of-Way Manual, Appendix C, Article 10 (Dedications and Ordainments) and subsection c above on plans accepting the dedication of right-of-way.

5. Conveyance of right-of-way to the Department

Amicable conveyance by applicant to the Department - Needed State highway right-of-way should be conveyed to the Department from the applicant, usually in a single deed. That is, the applicant must purchase any areas not owned by it and then deed it to the Department. The main reason for this requirement is to have the warranty of title be from the applicant rather than an unrelated third party. Exceptions to this requirement have been made when the land is under the control of other government entities. For example, jurisdiction of Commonwealth-owned land can be transferred to the Department directly from other Commonwealth agencies by memorandum of understanding.

The right-of-way plan should be used to insure the correct areas are included in the conveyance. The plan will contain a numbered list of property parcels, identified by a circle (indicating that land is required from that parcel) or a circle inside a triangle (indicating no

land is required). There will also be a Right-of-Way Information Block for each parcel for each property from which land is required, containing a tabulation of required areas.

It is recommended that the Permit Manager meet with the District Right-of-Way Administrator to review the proposed deed in conjunction with the right-of-way plan. This review would include insuring that all required deeds have been provided and that each deed is properly executed and suitable for recording at the County Recorder of Deeds Office. It may be appropriate to have the applicant's attorney present at this review to answer questions where the conveyance is significant.

Form of deed - Use Deed M-950 D1 (Deed, Fee Simple) if required right-of-way is being acquired in fee simple and Deed M-950 D2 (Deed of Easement) if required right-of-way is only being acquired as a highway easement or the acquisition of a drainage or other easement has been approved. The right-of-way plan will reflect the nature of the title to be acquired.

The deeds are interactive and may not otherwise be altered without review and approval of the District Right-of-Way Administrator. Permit personnel should consult with the District Right-of-Way Administrator when completing the deeds. They are much like deeds used when the Department is acquiring right-of-way for a highway project.

The District can consult with the Office of Chief Counsel as appropriate. The deeds do not need to be approved as to form and legality because they are not being executed by the Department. If the District would like a deed approved as to form and legality, the deed should be entered into the Legal Approval Tracking System (LATS) and forwarded to the Office of Chief Counsel, Real Property Division, Permit Section.

The Deed M-950 D1 (Deed, Fee Simple) provides for use of a metes and bounds description if it is used only to transfer fee title. However, see the subsection below entitled "Plot plans and written descriptions" for concerns in this regard.

Documentation of title – The applicant must provide an investigation of title to the property being conveyed based on courthouse records. That is, no deed may be accepted without documentation and review of the title through a record owner and lien certificate, an abstract of title or title report based on a title search. The purpose of these documents is to ascertain the history and present condition of the title with reference to liens, encumbrances, easements, etc., to determine if there is marketable title. This is a legal term meaning title that is free from reasonable doubt, can be sold or mortgaged, and will not expose the owner to potential litigation or conflicts regarding use or ownership of the land.

The title documentation may be from a title company or an attorney at law. A record owner and lien certificate is the best document but an abstract of title or title report is acceptable. The District Permit Manager should consult with the District Right-of-Way Administrator to review the documentation for any title defects that must be cleared before the deed can be accepted by the Department. Such defects could include utility easements,

liens of record, mortgages, etc. The Department must be identified as a beneficiary of the title work certificate.

The executed deed and title information must be reviewed and accepted by the District Right-of-Way Administrator prior to recording. A bring down/update of the title is to be provided within 15 days of the date the permit is to be issued or, if the District Executive makes an exception, within 15 days of signing the deed.

Title insurance to be paid for by the applicant can be required but is not recommended. Under such a policy the title insurance company protects the insured from losses caused by defects in the title of the property which have not been excluded from coverage. The Department must be named as an insured or beneficiary to be protected. Examples of items not usually excluded would be losses resulting from title being vested in someone else, unmarketability of the title, and lack of the right of access to the land conveyed. As a practicable matter most policies exclude the defects that are problematic for the Department such as utility easements and liens of record and the existence of the policy may not even be discovered if a problem arises later unless some tracking system is established. The District would also be required to approve the amount of coverage based on the estimated value of the property being conveyed. There is also added cost to the applicant to provide the insurance.

Please note that the title documentation need only apply to the property being conveyed to the Department. It does not need to cover the entire property. Documentation covering the entire property often causes undue problems by noting easements and other issues that do not apply to the property being conveyed. Limiting a record owner and lien certificate to only the property being conveyed is highly recommended.

Mortgages and other liens and judgments – Mortgages and other liens and judgments on the property must be released as to the area conveyed at the expense of the applicant except as set forth herein. This will insure that the Department is not included on foreclosures or other legal actions relating to the mortgage or other lien. With the approval of the District Executive, a deed may be accepted without release of a mortgage or other liens under the following circumstances: 1) the value of the land being conveyed is \$25,000 or less and the District Right-of-Way Administrator certifies that the land being conveyed is sufficiently minor that it does not materially affect the ability of the remainder of the property to provide security for liens and judgments. The applicant must prove to the District that the value of land is \$25,000 or less based on the purchase price, an appraisal, or other documentation deemed acceptable to the District.

Utility and other easements – Utility and other easements on the property should be extinguished as to the area conveyed at the expense of the applicant. This will insure that the utility or other easement owner does not retain private property rights within the highway right-of-way which the Department may be required to acquire in the future. As to utilities, they would retain the right to substitute right-of-way and reimbursement for future relocations from the right-of-way because they would have private status. Not extinguishing the easement would also allow the utility or other easement owner to argue it has rights

within the right-of-way not controlled by the Department's police powers, including the utility occupancy regulations.

In exceptional circumstances and with the approval of the District Executive, a deed may be accepted without elimination of an easement on the land being conveyed. An example of an exceptional circumstance would be when a utility already has private status for its facility within legal right-of-way or perhaps where there are no actual facilities within the easement. The risks and possible future costs to the Department by not eliminating the easement should be considered in making the determination.

If a utility is allowed to remain in place without private status, a new or amended utility HOP should be made a condition of issuing the driveway HOP. If a utility is allowed to remain in place with private status, a private status agreement should be executed to insure the utility is subject to the Department's regulation.

Proper execution of the deed – The information block and all blanks on the deed form should be filled in. The proper party must execute the deed on behalf of the applicant. See Signature Authority Guide, Appendix F to the Right-of-Way Manual.

Plot plans and written descriptions – Department right-of-way acquisition forms do not typically use metes and bounds descriptions, but rather use plot plans. This approach has been incorporated into the M-950 deed forms. A metes and bounds description is not required by Pennsylvania law and it is simpler to compare a plot plan to the approved right-of-way plan for accuracy than to have a metes and bounds description reviewed by the survey or other District unit for accuracy. Using only a plot plan avoids problems with discrepancies between a plot plan and a metes and bounds narrative. Under Pennsylvania law, if both are attached to a deed, the words take precedence over the plan.

The best approach is where the plot plan is part of the right-of-way plan and is reviewed as part of the plan review. However, if not part of the right-of-way plan, the plot plan must be reviewed for accuracy when reviewing the deed.

A metes and bounds description may be included in the deed if the District requests or approves of this approach. In that case, however, the description should be supported by a sealed survey for Department review. In any event, the description must be reviewed by someone in the District with sufficient knowledge to assure it accurately describes the property being transferred to the Department as depicted on the plan. Such a review may be impractical from a staffing standpoint. There is also the risk that the description may not close.

Timing – Deeds and related documentation should be provided for review as soon as practicable after the right-of-way plan is approved, but well before issuance of the HOP. The right-of-way plan should not be prepared until the HOP construction plans are prepared to insure proper right-of-way is acquired.

Executed deeds for all necessary State highway right-of-ways should be provided to the Department before a permit is issued. Conditioning an HOP on acquisition of required right-of-way and/or finalization of the right-of-way plan is not advisable because the District will then be required to insure work is not performed under the permit on lands of third parties and may never obtain title to where highway features have been constructed. If allowed in view of special circumstances approved by the District Executive, the condition must be clear that the permittee is not allowed to do work depicted on the HOP plan that is outside the applicant's land before that right-of-way is conveyed to the Department. The start of work must be conditioned on delivery of acceptable deeds and appropriate documentation. An example where it may be appropriate to issue an HOP conditioned on the completion of right-of-way acquisition would be if the applicant's financing entity will not release funds to purchase the property without issuance of an HOP and leases with tenants are put in jeopardy. Another example would be where a local government has agreed to use its power of condemnation if necessary. These issues must be approached on a case by case basis.

Recording - The right-of-way plan must be recorded in the County Recorder of Deeds Office in accordance with Section 4 where other such plans are recorded. It must also be filed in the District Plans Room, with copies forwarded to the Bureau of Design in accordance with standard procedures for plans showing Department right-of-way.

The deed conveying the right-of-way to the Department must be separately recorded in the County Recorder's Office where other deeds are recorded. Deeds must not be recorded prior to Department approval.

The applicant must pay all fees necessary for recording the documents.

Right-of-Way Units in some Districts assist in recording plans and deeds.

Acquisition of required right-of-way by condemnation - The Department will not acquire right-of-way for HOP projects by amicable acquisition or by condemnation. However, in exceptional circumstances with the approval of the District Executive, the Department will authorize local governments to acquire State highway right-of-way for an applicant. Exceptional circumstances exist where the applicant is unable, after reasonable efforts, to acquire right-of-way from third parties which the Department deems essential to safe design requirements for the HOP project. Execution of a plan authorizing a local government to acquire land for a State highway (see Section 4b above) shall constitute the Department's consent for the local government to acquire right-of-way for the State highway.

Where the Department executes a plan authorizing condemnation of State highway right-of-way by a local government, all acquisitions by the local government and the applicant must conform to the Department's Right-of-Way Manual (Publication 378). The "[LPA Brochure: A Guide for Local Public Agency Acquisition of Right-of-Way](#)" (Publication 98) is a good publication explaining the necessary procedures. See Section 2c above. The Department should also follow the review procedures that apply to acquisitions by local governments under the LPA procedures.

Authorizing a local government to acquire right-of-way for a State highway does not obligate the Department to assume any liability for costs associated with condemnation or other acquisition of the land in question. The applicant or local government is solely liable for all such costs and expenses.

6. Environmental and historical concerns

Once it accepts a deed, the Department can become responsible for conditions on the property conveyed. Consequently, all environmental issues such as hazardous materials and wetlands, as well as historic preservation, should be thoroughly investigated and evaluated prior to acceptance of a deed. In all situations the District should conduct a thorough visual inspection of the property for evidence of environmental issues before accepting a deed.

An environmental report should be developed if there is any concern. For example, at least a Phase I environmental report would be appropriate if the property has been put to a prior commercial use that could cause issues (e.g. a factory, dry cleaner, automotive repair garage, gas station, tannery, chemical plant, etc.) or there is evidence of possible contamination due to fuel tanks above or below the surface, dumping, or storage of chemicals. Guidance from the District environmental unit should be obtained if there is any concern.

Permitted projects may also have an effect on properties included in or eligible for inclusion in the National Register of Historic Places. A memorandum of understanding between the Department and the Pennsylvania State Historic Preservation Office is being developed to address this topic. This document should be referenced when addressing historic preservation issues.

Note that additional environmental studies may be required if Federal or State funds are being provided for the project or if a point of access issue is involved.

Deed, Fee Simple; Form M-950 D1

Purpose

This interactive form provides standard, concise, and easy to use documentation when additional right-of-way will be required for the construction of a proposed access (e.g., to accommodate auxiliary lane(s) consistent with Regulation 441, including section 441.8(j)). This “Fee Simple” deed may be used in conjunction with, and as a condition to, issuance of a permit. See Chapter 3.7, Right-of-Way Procedures, for additional information on acquiring right-of-way for highway purposes.

Preparation

The deed must be from the HOP applicant to PennDOT. Where the applicant has negotiated to purchase the necessary right-of-way from another person, the property must first be conveyed to the applicant and then to PennDOT using this deed form. Conveyance may not be from the third party directly to PennDOT.

No deed will be accepted without documentation and review of the title through a record owner and lien certificate, an abstract of title or title report based on a title search. A bring down/update of the title shall be provided within 15 days of the date the permit is to be issued or, if the District Executive makes an exception, within 15 days of the deed signing.

Deeds and related documentation are to be provided for review as soon as practicable **after** the right-of-way plan is approved, and well before issuance of the HOP.

Complete the following information on the form:

1. Name and title of individual completing form
2. Name and title of PennDOT District representative to whom the deed should be returned
3. Tax parcel number or street address of acquired parcel
4. County
5. SR, Segment, Offset
6. Municipality
7. Application/Permit Number
8. Applicant/Permittee Name and Address
9. Date (indenture is made)
10. Grantors name and address (the address must include, at a minimum, the municipality and county)
11. Select the appropriate word from the drop down menu describing the nature of the Grantor
12. Check the appropriate box which describes Exhibit “A” (typically a plot plan)
13. Conveyance document (deed, will, etc.) by which the applicant acquired the property (if there was more than one Grantor to the applicant, steps 13 through 16 must be completed for each conveyance to the applicant)

14. Name of the Grantor from whom the applicant acquired the property
15. Date of the conveyance instrument
16. "Deed book ____, page number ____, or "instrument number ____"
17. Description and size of the area(s) being transferred to PennDOT
18. District Office Address

The proper party must execute the deed on behalf of the applicant. See Signature Authority Guide, Appendix F to the Right-of-Way Manual. The deed must also be properly notarized.

The executed deed and the title information must be reviewed and accepted by the District Right-of-Way Administrator prior to: (1) recording, and (2) issuance of the permit.

Recording

Once the complete application package is approved, the deed conveying the right-of-way to the Department must be separately recorded in the County Recorder's Office where other deeds are recorded. The applicant and PennDOT staff will need to complete their portions of the recording page(s) by following the recording instructions on each Form to be recorded. Then, deliver the document(s) to be recorded to the County Courthouse.

Documentation

Each District is responsible for ensuring acquisition of the new right-of-way is properly documented by the Department for future reference and use by the District.

Prepared By: (1)

Return To: (2)

Site Location: (3)

M-950 D1 (6-11)



COUNTY	(4)
SR - SEGMENT-OFFSET	(5)
MUNICIPALITY	(6)
APPLICATION/PERMIT NO.	(7)
APPLICANT/PERMITTEE	(8)

DEED FEE SIMPLE
(No Monetary Consideration)

(9)

THIS INDENTURE, made this _____ day of _____, 20__ by (10) owner(s) of property affected by the proposed construction or improvement of the above mentioned State Route under the referenced highway occupancy application/permit, (11) heirs, executors, administrators, successors, and/or assigns, hereinafter, whether singular or plural, called the GRANTOR, and the Commonwealth of Pennsylvania, Department of Transportation, hereinafter called the COMMONWEALTH,

WITNESSETH:

WHEREAS the COMMONWEALTH has received an application from the GRANTOR for issuance of a highway occupancy permit for access to the above referenced highway; and

WHEREAS the parties hereto have agreed that, as a condition to issuance of the referenced permit, the GRANTOR will convey in fee simple and such other estate(s) as designated, if any, to the COMMONWEALTH the property or portion thereof required by the COMMONWEALTH,

NOW, THEREFORE, in consideration of the benefits to the property of the GRANTOR, the GRANTOR does hereby grant and convey to the COMMONWEALTH

- (12) In fee simple the premises described by metes and bounds in exhibit "A".
- In fee simple that portion of the aforesaid premises designated as required right-of-way or as acquired in fee simple for other purposes on the plot plan attached hereto and made a part hereof; and those areas, if any, designated as required for easement purposes as identified by the plot plan and set forth below.

BEING all or a portion of the same property conveyed or devised to the GRANTOR by (13) of (14), dated (15) and recorded in (16), together with the improvements, hereditaments and appurtenances thereto. This conveyance contains (17). And the GRANTOR warrants GENERALLY the property hereby conveyed.

Reserving, however, to the GRANTOR the right to deep mine minerals and remove gas and oil within the areas hereunder acquired from a minimum depth to be determined by the COMMONWEALTH, from mine shafts or by means of wells located off the right-of-way.

The GRANTOR does further indemnify the COMMONWEALTH, its employees or representatives against any claim, demand or judgment of any type made by any lessee or easement holder of the aforesaid property who is not an Applicant/Permitee under the referenced application/permit and who may be adversely affected by the construction of the improvements to the demised premises or in the State highway right of way pursuant to the referenced application/permit.

Certificate of Residence

I hereby certify the Grantee's precise residence to be:

(18)

Witness my hand this _____ day of _____, _____

Agent for the Commonwealth of Pennsylvania
Department of Transportation

[remainder of page intentionally left blank]

The GRANTOR has executed or caused to be executed these presents, intending to be legally bound thereby.

INDIVIDUALS

ENTITIES*

GRANTOR:

(Name of Entity)

BY: _____

BY: _____

* Use this block for a corporation, partnership, LLC, government entity, school district, church, trust, club, association, POA, attorney-in-fact, executor, administrator or any other entity. See R/W Manual Section 3.06.

INDIVIDUAL

ENTITY

STATE OF PENNSYLVANIA
 COUNTY OF _____

On this _____ day of _____, 20____,
 before me, _____,
 the undersigned officer, personally appeared _____
 _____, known to me
 (or satisfactorily proven) to be the person(s) whose
 name(s) _____ subscribed to the within instrument,
 and acknowledged that _____ executed the
 instrument for the purposes contained in it.

In witness whereof, I hereto set my hand and official
 seal.

_____ [Signature]
 _____ [Title]

[Seal]

STATE OF PENNSYLVANIA
 COUNTY OF _____

On this _____ day of _____, 20____,
 before me, _____, the undersigned
 officer, personally appeared _____
 _____, who acknowledged _____ self
 to be the _____ [title] of
 _____ [name of entity],
 and that as such _____
 _____ [title], being authorized to do so,
 executed the foregoing instrument for the purposes
 contained in it by signing on behalf of the entity as
 _____ [title].

In witness whereof, I hereto set my hand and official seal.

_____ [Signature]
 _____ [Title]

[Seal]

Deed of Easement; Form M-950 D2

Purpose

This interactive form provides standard, concise, and easy to use documentation when additional right-of-way will be required for the construction of a proposed access (e.g., to accommodate auxiliary lane(s) consistent with Regulation 441, including section 441.8(j)). This “Deed of Easement” may be used in conjunction with, and as a condition to, issuance of a permit when approved by the District Executive based on special circumstances. See Chapter 3.7, Right-of-Way Procedures, for additional information on acquiring right-of-way for highway purposes.

Preparation

The deed must be from the applicant to PennDOT. Where the applicant has negotiated to purchase the necessary right-of-way from another person, the property must first be conveyed to the applicant and then to PennDOT using this deed form. Conveyance may not be from the third party directly to PennDOT.

No deed will be accepted without documentation and review of the title through a record owner and lien certificate, an abstract of title or title report based on a title search. A bring down/update of the title shall be provided within 15 days of the date the permit is to be issued or, if the District Executive makes an exception, within 15 days of the deed signing.

Deeds and related documentation are to be provided for review as soon as practicable **after** the right-of-way plan is approved, and well before issuance of the HOP.

Complete the following information on the form:

1. Name and title of individual completing form
2. Name and title of PennDOT District representative to whom the deed should be returned
3. Tax parcel number or street address of acquired parcel
4. County
5. SR, Segment, Offset
6. Municipality
7. Application/Permit Number
8. Applicant/Permittee Name and Address
9. Date (indenture is made)
10. Grantors name and address (the address must include, at a minimum, the municipality and county)
11. Select the appropriate word from the drop down menu describing the nature of the Grantor
12. Select the appropriate easement description from the drop down menu; this should be the largest interest being acquired

13. Conveyance document (deed, will, etc.) by which the applicant acquired the property (if there was more than one Grantor to the applicant, steps 13 through 16 must be completed for each conveyance to the applicant)
14. Name of the Grantor from whom the applicant acquired the property
15. Date of the conveyance instrument
16. "Deed book ____, page number ____, or "instrument number ____"
17. Description and size of the area(s) acquired being transferred to PennDOT
18. District Office Address

The proper party must execute the deed on behalf of the applicant. See Signature Authority Guide, Appendix F to the Right-of-Way Manual. The deed must also be properly notarized.

The executed deed and the title information must be reviewed and accepted by the District Right-of-Way Administrator prior to: (1) recording, and (2) issuance of the permit.

Recording

Once the complete application package is approved, the deed conveying the right-of-way to the Department must be separately recorded in the County Recorder's Office where other deeds are recorded. The applicant and PennDOT staff will need to complete their portions of the recording page(s) by following the recording instructions on each form to be recorded. Then, deliver the document(s) to be recorded to the County Courthouse.

Documentation

Each District is responsible for ensuring acquisition of the new right-of-way is properly documented by the Department for future reference and use by the District.

Prepared By: (1)

Return To: (2)

Site Location: (3)

M-950 D2 (6-11)



COUNTY	(4)
SR - SEGMENT-OFFSET	(5)
MUNICIPALITY	(6)
APPLICATION/PERMIT NO.	(7)
APPLICANT/PERMITTEE	(8)

DEED OF EASEMENT
(No Monetary Consideration)

THIS INDENTURE, made this _____ day of _____, 20__ by (10) owner(s) of property affected by the proposed construction or improvement of the above mentioned State Route under the referenced highway occupancy application/permit, (11) heirs, executors, administrators, successors, and/or assigns, hereinafter, whether singular or plural, called the GRANTOR, and the Commonwealth of Pennsylvania, Department of Transportation, hereinafter called the COMMONWEALTH,

WITNESSETH:

WHEREAS the COMMONWEALTH has received an application from the GRANTOR for issuance of a highway occupancy permit for access to the above referenced highway; and

WHEREAS the parties hereto have agreed that, as a condition to issuance of the referenced permit, the GRANTOR will convey to the COMMONWEALTH a (12) and other estate(s) as designated, if any, from the property or portion thereof required by the COMMONWEALTH,

NOW, THEREFORE, in consideration of the benefits to the property of the GRANTOR, the GRANTOR does hereby grant and convey to the COMMONWEALTH a (13) and such other estate(s), if any, as designated on the plot plan attached hereto and made a part hereof and set forth below.

BEING all or a portion of the same property conveyed or devised to the GRANTOR by (14) of (15), dated (16) and recorded in (17), together with the improvements, hereditaments and appurtenances thereto. This conveyance contains (18). And the GRANTOR warrants GENERALLY the property hereby conveyed.

Reserving, however, to the GRANTOR the right to deep mine minerals and remove gas and oil within the areas hereunder acquired from a minimum depth to be determined by the COMMONWEALTH, from mine shafts or by means of wells located off the right-of-way.

The GRANTOR does further indemnify the COMMONWEALTH, its employees or representatives against any claim, demand or judgment of any type made by any lessee or easement holder of the aforesaid property who is not an Applicant/Permitee under the referenced application/permit and who may be adversely affected by the construction of the improvements to the demised premises or in the State highway right of way pursuant to the referenced application/permit.

Certificate of Residence

I hereby certify the Grantee's precise residence to be:

(19)

Witness my hand this _____ day of _____, _____

Agent for the Commonwealth of Pennsylvania
Department of Transportation

[remainder of page intentionally left blank]

The GRANTOR has executed or caused to be executed these presents, intending to be legally bound thereby.

INDIVIDUALS

ENTITIES*

GRANTOR:

(Name of Entity)

BY: _____

BY: _____

* Use this block for a corporation, partnership, LLC, government entity, school district, church, trust, club, association, POA, attorney-in-fact, executor, administrator or any other entity. See R/W Manual Section 3.06.

INDIVIDUAL

ENTITY

<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____</p> <p>_____, known to me (or satisfactorily proven) to be the person(s) whose name(s) _____ subscribed to the within instrument, and acknowledged that _____ executed the instrument for the purposes contained in it.</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>	<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____</p> <p>_____, who acknowledged _____ self to be the _____ [title] of _____ [name of entity], and that as such _____ _____ [title], being authorized to do so, executed the foregoing instrument for the purposes contained in it by signing on behalf of the entity as _____ [title].</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>
--	--

OUTLINE OF RIGHT-OF-WAY ACQUISITION PROCEDURES FOR HIGHWAY OCCUPANCY PERMITS

The following are suggested chronological steps for successfully completing the conveyance process when an applicant must obtain land for State highway right-of-way in connection with obtaining a Highway Occupancy Permit (HOP). Because each conveyance may have unique circumstances and requirements, the process may and should be adjusted based on direction from the specific Engineering District in which the permit is being issued.

This outline is not intended to be a substitute for the policy set forth in Chapter 3 on right-of-way acquisition procedures in permit projects. There are requirements and guidance in the chapter that apply but are not contained in this outline.

1. Complete traffic study identifying impacts. (Approved by Department)
2. Propose capacity or safety mitigation improvements. (Approved by Department)
3. Obtain appropriate existing Department right-of-way (RW) plans.
4. Develop sketch plan of improvements.
5. Conduct RW and property research:
 - a. Obtain copies of tax maps from the local tax assessor's office.
 - b. Identify all properties and tabulate property tax numbers.
 - c. Obtain names of property owners, mailing addresses, deed references.
 - d. Obtain copies of all deeds.
 - e. Obtain ordinances, dedications.
 - f. Obtain utility easements.
 - g. Identify railroad RW.
6. Perform preliminary determination of utility involvement.
7. Perform preliminary determination of environmental involvement.
 - a. The Department should conduct a thorough visual inspection of the property for evidence of hazards or regulated resources before accepting a deed.
 - b. The Department may require an applicant to deliver an environmental report for review, before accepting a deed.
8. Prepare more detailed preliminary plan showing property(ies) with existing and proposed improvements and required RW.
9. Arrange for a pre-meeting with PennDOT, with the following recommended attendees:
 - a. PennDOT single point of contact (Permit Unit representative).
 - b. District RW Administrator (or representative).
 - c. Chief of Survey, Environmental Manager, Utility Administrator as appropriate.
 - d. Applicant.
 - e. Applicant's consultant.
 - f. Applicant's counsel as appropriate.
 - g. PennDOT counsel as appropriate
10. Suggested pre-meeting agenda:
 - a. Identify and define single point of contact (usually within Permit Unit).
 - b. Submissions to be whole submissions, not partial submissions. Preliminary submission can be made. Final submission to include draft M950 D Deed and title documentation.
 - c. Select standard or simplified RW plans presentation (DM3, Chapter 3).

- d. Review plan presentation details unique to HOP plans (DM3, Chapter 3).
 - e. Review acceptable form of deed (i.e. fee simple or easement).
 - f. Review title documentation requirements:
 - 1. Record owner and lien certificate/abstract of title/title report.
 - 2. Exceptions to title must be addressed and removed where appropriate in the determination of PennDOT.
 - g. Review issues customized to a particular site.
 - 1. Elimination of utility easements, general utility clearance requirements.
 - 2. Environmental requirements for RW area to be transferred.
 - 3. Determine if drainage easements needed and deeded to municipality if the municipality maintains drainage.
 - 4. Obtain general concurrence by PennDOT as to how much RW needed beyond roadway to maintain facilities (e.g.: 5' min for signs, sometimes 8' beyond toe of slope in a fill section, total width multiples of 5', etc).
 - 5. Confirm that necessary temporary construction easements (TCEs), rights of entries or permissions have been acquired; do not show TCE's on RW plans.
 - 6. Consider effect of land development requirements including building set-backs
 - 7. Discuss survey requirements.
 - h. Explain recording procedures.
 - 1. Who, when, and where.
 - 2. Discuss particular county recorder needs; every county a little different; RW Administrator may give guidance.
11. Suggested appropriate method to approach property owners where State or Federal funds are not being used and PennDOT has not authorized the local government to condemn if necessary.
- a. Use standard form for initial letter/contact with property owners:
 - 1. Explain general overview of the project.
 - 2. Assess general interest or cooperation.
 - 3. Clarify that this is not a PennDOT project but rather a private inquiry.
 - 4. Include a statement of no condemnation authority.
 - 5. Assurance that only amicable arrangements possible.
 - 6. Offer to have appraisal performed at no cost to property owner.
 - 7. Offer to provide fair market value.
 - 8. Offer to do all paperwork.
 - 9. Offer to meet and discuss.
 - 10. Offer contact person at PennDOT for information or to request PennDOT participation in meetings.
 - 11. Offer contact person at municipality for information, or to request municipal participation in meetings.
 - 12. Offer to consider counter offers.
 - 13. Allow reasonable response times.
 - 14. Make sure documents are notarized if necessary.
 - b. Follow up with formal offer including conditions, schedule information, and opportunity to accept or decline.
12. If not successful in acquiring RW and thus unable to meet design standards, then the applicant will need to redesign the project or pursue having the local government condemn

- the property if authorized by PennDOT; if the project cannot be reasonably redesigned or the local government or PennDOT will not authorize condemnation, then the applicant will need to request a design waiver. [see 67 Pa. Code §441.5(e) and Chapter 3 of this manual on Waiver of Design Requirements.]
13. PennDOT may give a municipality the power to condemn property for State highway purposes in exceptional circumstances with the approval of the District Executive.
 14. If applicant is successful in obtaining RW, then the following information must be prepared by the applicant:
 - a. Drawings depicting right-of-way to be conveyed for the State highway prepared in accordance with Department Publication 14, Design Manual Part 3, Chapter 3.
 - b. Deed, Fee Simple (Form M-950 D1); or, if approved by the District, Deed of Easement (Form M-950 D2). These form deeds are available from any Engineering District Office.
 - c. Title documentation.
 15. Perform survey if necessary.
 - a. PennDOT conveyances are generally based on a plot plan showing the area being conveyed and all or part of the tract of land from which it will be conveyed.
 - b. A metes and bounds description may be acceptable if it is supported by a sealed survey for Department review. Confirm with the Department prior to performing a field survey. Review by the Department's Survey Unit typically requires verification of the point of beginning and subsequent deed calls, which can be impractical.
 - c. Obtain permission to enter property before surveying.
 - d. Survey wells and septic systems, all buildings, commercial signs, and private and public utilities which are adjacent to the highway corridor.
 - e. Locate miscellaneous property corners readily available along the highway corridor.
 - f. Survey references should conform to Department Publication 122M, Survey and Mapping Manual.
 16. Prepare final RW plans.
 - a. These drawings document the extent of the new RW in the Department's record keeping system. In order to do so, the applicant is required to generate a plan depicting the RW that will be deeded to the Department. This plan shall follow the procedures set forth in Design Manual Part 3, Chapter 3 for generating drawings authorizing the acquisition of RW for Department projects as modified for permit projects under Chapter 3. Use only 22" X 34" sheet size.
 - b. Where the majority of the HOP construction is within existing right-of-way, only a few properties are involved and the areas to be acquired are minor, the right-of-way plan can be a simple, one or two page plan that need not depict related proposed highway construction features. See DM3, Chapter 3, Section 3.0.G (Simplified Right-of-Way Plans). Otherwise, typical drawings can be organized as follows:
 1. Sheet 1 – Title Sheet to include special title and signature blocks for District Executive and Secretary of Transportation. Appropriate personnel, such as the District Plans Engineer, District Chief of Surveys, District Permit Manager, and/or District RW Administrator, should review the plan prior to signature. The title sheet will need to contain a recording block because the plan will be recorded. [DM3 Sections 3.0.H, page 3-5, and 3.2.I.6, page 3-18, and references therein.]

2. Sheet 2 – Index Sheet which may be combined with Sheet 3 if a one-sheet presentation is being used. [DM3, Section 3.3, pages 3-20, et seq.]
 3. Sheet 3 – Typical Section Sheet [DM3 Section 3.4, pages 3-25, et eq.]
 4. Sheet 4 – Plan Sheet showing the proposed work area with legal and required RW designated. Instead of the normal designation of “required RW,” the areas that will be deeded to the Department should be designated as ‘required RW’ to be deeded to the Commonwealth. If an area is intended for other than highway RW the area should be marked in a similar manner indicating the nature of the interest that will be transferred to the Department (e.g. “required limit of slope to be deeded to the Commonwealth” or “required drainage easement to be deeded to Mellon Township”). Show all dimensions, plus(s)/offsets, and geometric data. If the centerline of the road is relocated, it must be clearly referenced and dimensioned from the existing centerline [DM3, Section 3.5, pages 3-40, et seq.].
 5. Sheet 5 – Property Plot Plan (formally known as Property Plat) of parcel from which the RW is being acquired. Check with District Permit Manager if this sheet is required as determined in consultation with the District RW Administrator or representative (discuss during pre-meeting). Identify deed information on plot. Fit plots to topographic features. Mark proposed RW monument points. Include all other slope easements, drainage easements, utility easements, etc. [DM3, Section 3.6, pages 3-50, et seq.]
 - c. Calculate preliminary areas and complete the information block Title Block [DM3 Section 15.1, page 15-4 for sample]. Remove the word “Claim” for HOP RW drawings.
 - d. Drawings will be reviewed by the District Permit Manager and other District personnel deemed appropriate such as the District RW Administrator, District Surveyor, District Plans Engineer and District Utility Administrator, and the assigned Central Office Field Liaison Engineer.
 - e. Stamp reproducible drawings with those of the Professional Land Surveyor and Professional Engineer responsible for the plans.
 - f. Sign the RW plan Title Sheet.
 - g. PennDOT process for execution by Secretary of Transportation.
 - h. District to insure acquisition of the new RW is properly filed and documented for future reference and use by the District and others.
17. Resolve utility/environmental issues.
18. Deed delivered and approved by District.
- a. Form M-950 D1 (Deed, Fee Simple) shall be used to convey the needed RW from the applicant to PennDOT unless PennDOT approves use of Form M-950 D2 (Deed of Easement).
 - b. Land not owned by the applicant must first be conveyed to the applicant and then by the applicant to PennDOT in one deed using the appropriate deed form.
 - c. The deeds utilize a plot plan referenced as an exhibit. A metes and bounds description can be used with the M-950 D1 if only fee simple title is being transferred.
 - d. The applicant is required to provide title documentation (preferably a record owner and lien certificate) updated within 15 days of the date the land will be conveyed to PennDOT. All exceptions to title must be addressed and removed as determined

necessary by PennDOT. Liens must generally be removed from the property to be conveyed.

- e. Once the executed deed is obtained, the District must review and approve the deed and the plot plan or description before it is recorded (by the applicant if requested by PennDOT).
19. Issue HOP.
- a. All negotiations must be settled and the approved deed (with approved plot plan and title documentation) must be executed prior to issuance of the HOP except in exceptional circumstances with the approval of the District Executive.
 - b. The RW plan must likewise be completed and approved prior to issuance of the HOP except in exceptional circumstances with the approval of the District Executive.
20. Record RW plan and deed.
- a. The District Permit Manager, along with the District RW Administrator or representative will, preferably during a pre-meeting, provide and explain the recordation process based on PennDOT recording needs and the applicable county recording requirements.
 - b. Costs associated with the county's recordation process are the responsibility of the applicant.

Prepared By:

Return To:

Site Location:

M-950 D1 (6-11)



COUNTY	
SR – SEGMENT-OFFSET	
MUNICIPALITY	
APPLICATION/PERMIT NO.	
APPLICANT/PERMITTEE	

DEED FEE SIMPLE
(No Monetary Consideration)

THIS INDENTURE, made this ____ day of _____, 20__, by _____ owner(s) of property affected by the proposed construction or improvement of the above mentioned State Route under the referenced highway occupancy application/permit, _____ heirs, executors, administrators, successors, and/or assigns, hereinafter, whether singular or plural, called the GRANTOR, and the Commonwealth of Pennsylvania, Department of Transportation, hereinafter called the COMMONWEALTH,

WITNESSETH:

WHEREAS the COMMONWEALTH has received an application from the GRANTOR for issuance of a highway occupancy permit for access to the above referenced highway; and

WHEREAS the parties hereto have agreed that, as a condition to issuance of the referenced permit, the GRANTOR will convey in fee simple and such other estate(s) as designated, if any, to the COMMONWEALTH the property or portion thereof required by the COMMONWEALTH,

NOW, THEREFORE, in consideration of the benefits to the property of the GRANTOR, the GRANTOR does hereby grant and convey to the COMMONWEALTH

- In fee simple the premises described by metes and bounds in exhibit "A".
- In fee simple that portion of the aforesaid premises designated as required right-of-way or as acquired in fee simple for other purposes on the plot plan attached hereto and made a part hereof; and those areas, if any, designated as required for easement purposes as identified by the plot plan and set forth below.

BEING all or a portion of the same property conveyed or devised to the GRANTOR by _____ of _____, dated _____ and recorded in _____, together with the improvements, hereditaments and appurtenances thereto. This conveyance contains _____. And the GRANTOR warrants GENERALLY the property hereby conveyed.

Reserving, however, to the GRANTOR the right to deep mine minerals and remove gas and oil within the areas hereunder acquired from a minimum depth to be determined by the COMMONWEALTH, from mine shafts or by means of wells located off the right-of-way.

The GRANTOR does further indemnify the COMMONWEALTH, its employees or representatives against any claim, demand or judgment of any type made by any lessee or easement holder of the aforesaid property who is not an Applicant/Permitee under the referenced application/permit and who may be adversely affected by the construction of the improvements to the demised premises or in the State highway right of way pursuant to the referenced application/permit.

Certificate of Residence

I hereby certify the Grantee's precise residence to be:

Witness my hand this _____ day of _____, _____

Agent for the Commonwealth of Pennsylvania
Department of Transportation

[remainder of page intentionally left blank]

The GRANTOR has executed or caused to be executed these presents, intending to be legally bound thereby.

INDIVIDUALS

ENTITIES*

GRANTOR:

(Name of Entity)

BY: _____

BY: _____

* Use this block for a corporation, partnership, LLC, government entity, school district, church, trust, club, association, POA, attorney-in-fact, executor, administrator or any other entity. See R/W Manual Section 3.06.

INDIVIDUAL

ENTITY

<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person(s) whose name(s) _____ subscribed to the within instrument, and acknowledged that _____ executed the instrument for the purposes contained in it.</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>	<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____, who acknowledged _____ self to be the _____ [title] of _____ [name of entity], and that as such _____ [title], being authorized to do so, executed the foregoing instrument for the purposes contained in it by signing on behalf of the entity as _____ [title].</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>
---	---

Prepared By:

Return To:

Site Location:

M-950 D2 (6-11)



COUNTY	
SR - SEGMENT-OFFSET	
MUNICIPALITY	
APPLICATION/PERMIT NO.	
APPLICANT/PERMITTEE	

DEED OF EASEMENT
(No Monetary Consideration)

THIS INDENTURE, made this ____ day of _____, 20__, by _____ owner(s) of property affected by the proposed construction or improvement of the above mentioned State Route under the referenced highway occupancy application/permit, _____ heirs, executors, administrators, successors, and/or assigns, hereinafter, whether singular or plural, called the GRANTOR, and the Commonwealth of Pennsylvania, Department of Transportation, hereinafter called the COMMONWEALTH,

WITNESSETH:

WHEREAS the COMMONWEALTH has received an application from the GRANTOR for issuance of a highway occupancy permit for access to the above referenced highway; and

WHEREAS the parties hereto have agreed that, as a condition to issuance of the referenced permit, the GRANTOR will convey to the COMMONWEALTH a _____ and other estate(s) as designated, if any, from the property or portion thereof required by the COMMONWEALTH,

NOW, THEREFORE, in consideration of the benefits to the property of the GRANTOR, the GRANTOR does hereby grant and convey to the COMMONWEALTH a _____ and such other estate(s), if any, as designated on the plot plan attached hereto and made a part hereof and set forth below.

BEING all or a portion of the same property conveyed or devised to the GRANTOR by _____ of _____, dated _____ and recorded in _____, together with the improvements, hereditaments and appurtenances thereto. This conveyance contains _____. And the GRANTOR warrants GENERALLY the property hereby conveyed.

Reserving, however, to the GRANTOR the right to deep mine minerals and remove gas and oil within the areas hereunder acquired from a minimum depth to be determined by the COMMONWEALTH, from mine shafts or by means of wells located off the right-of-way.

The GRANTOR does further indemnify the COMMONWEALTH, its employees or representatives against any claim, demand or judgment of any type made by any lessee or easement holder of the aforesaid property who is not an Applicant/Permitee under the referenced application/permit and who may be adversely affected by the construction of the improvements to the demised premises or in the State highway right of way pursuant to the referenced application/permit.

Certificate of Residence

I hereby certify the Grantee's precise residence to be:

Witness my hand this _____ day of _____, _____

Agent for the Commonwealth of Pennsylvania
Department of Transportation

[remainder of page intentionally left blank]

The GRANTOR has executed or caused to be executed these presents, intending to be legally bound thereby.

INDIVIDUALS

ENTITIES*

GRANTOR:

(Name of Entity)

BY: _____

BY: _____

* Use this block for a corporation, partnership, LLC, government entity, school district, church, trust, club, association, POA, attorney-in-fact, executor, administrator or any other entity. See R/W Manual Section 3.06.

INDIVIDUAL

ENTITY

<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____</p> <p>_____, known to me (or satisfactorily proven) to be the person(s) whose name(s) _____ subscribed to the within instrument, and acknowledged that _____ executed the instrument for the purposes contained in it.</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>	<p>STATE OF PENNSYLVANIA COUNTY OF _____</p> <p>On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____</p> <p>_____, who acknowledged _____ self to be the _____ [title] of _____ [name of entity], and that as such _____ _____ [title], being authorized to do so, executed the foregoing instrument for the purposes contained in it by signing on behalf of the entity as _____ [title].</p> <p>In witness whereof, I hereto set my hand and official seal.</p> <p>_____ [Signature] _____ [Title]</p> <p>[Seal]</p>
---	---