

Tennessee Department of Transportation - TDOT

Local Public Agency (LPA) Deed Requirements

*****Prior to executing the deeds on an LPA project, representative draft copies MUST be submitted through the regional LPA coordinator for review.*****

- 1) Deeds should follow the TDOT format as much as possible.
- 2) **All property interests purchased on a tract should be included on the same deed.** For example, if both fee simple and easements are being acquired, they should be included within the same document rather than a separate document for each interest acquired.
- 3) Each deed must contain identifying information including State and Federal project numbers and tract numbers on the first page. For example:

<u>PROJECT</u>	<u>COUNTY</u>	<u>TRACT</u>	<u>MAP/PARCEL</u>
NH-11(81) 19028-2245-14	DAVIDSON	115	173 / 63.00

- 4) Legal descriptions and areas acquired should be provided where applicable, a metes and bound description should be included, rather than references to plats, surveys, etc. **A description that only references the amount of square feet being acquired is not sufficient.**
- 5) If the property being acquired was appraised, **time limits on all construction easements stated in the deed should match the time period for the construction easement used in the appraisal.** If the property was donated, the time limit for the construction easement should be three years from the beginning of construction. (See Page 4)
- 6) The **consideration amount** should be stated in the deed using the following **consideration/elimination of damages** clause. **This language must be in every deed.** If the property was donated, see Item 7 below.

“This conveyance is made in consideration of _____, cash in hand paid, the receipt of which is hereby acknowledged, and said consideration includes payment for the property conveyed herein, and any other additions/features specifically noted herein or appearing in the plans of the captioned project and tract. The above consideration also includes payment for or the elimination of all actual or incidental damages to the remainder otherwise compensable under the Tennessee laws of eminent domain.”

Note: Unless the transfer is a donation, the TDOT Right-of-Way Manual sets the MINIMUM acceptable offer/consideration for ANY ACQUISITION at \$300.

- 7) **Donations** should contain the State approved wording:

The undersigned grantors do hereby acknowledge that the lands herein described are donated to the grantee with full knowledge of the right to receive just compensation for same, such right being voluntarily waived and relinquished by the grantors.

The consideration of (Donation) for the property referenced in this document includes payment for property taken in fee simple, any and all easements (including construction, slope, etc.) whether permanent or temporary, any slopes and any other additions/features specifically noted herein or appearing in the Department of Transportation plans of the captioned project/tract. The above consideration also includes payment for or the elimination of all actual or incidental damages to the remainder otherwise compensable under the Tennessee laws of eminent domain.

- 8) The name of the attorney and/or agency and/or law firm which prepared the deed should be included on the deed.
- 9) For projects beginning the right of way acquisition process after **February 2, 2018**, all **slope easements** should contain the following language as approved by FHWA:

The above described property is hereby conveyed as permanent easement for construction and maintenance of slopes outside the proposed right-of-way line. The land described above, on which the slopes are to be constructed, is to remain the property of the Grantor(s) and may be used for any purpose desired, provided such use does not interfere with the use or maintenance of said slopes.

- 10) For LPA projects situated on a state route, acquisition must be made in the name of the State of Tennessee and the Tennessee Department of Transportation deed format must be followed. If a portion of an LPA project includes tracts situated on a state route, those tracts should be purchased in the name of the State. **However, if a project is located on a state route, and it has been determined that the LPA project does not directly affect the roadway (such as a project for sidewalk or retaining wall installation), acquisition shall be made in the name of the local agency.**

When a tract containing proposed LPA project right-of-way is located on a state route and was previously acquired by a city or county, it is preferred that the city or county convey title to the State of Tennessee using a warranty deed. However, there may be times when a city or county is unable to provide such a warranty deed, such as when no acquisition deed can be located or when the city or county has an acquisition deed but is legally prevented from "warranting" the title. If this is the case, a quit claim deed will be acceptable **with advance written approval from TDOT**, provided that:

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1. Tract and Project Numbers are shown on the first page of the quit claim deed.
 2. That all interests being conveyed (fee acquisition, permanent slope easements, permanent drainage easements, or construction easements) are adequately described according to Item 12 in the current ROW LPA Deed Format Requirements.
 3. That the quit claim deed include a current derivation clause (TCA 66-24-110)
- 11) For LPA projects situated on a **state route**, condemnation shall be conducted by the State Attorney General's office. However, if a project is located on a state route, and it has been determined that the LPA project **does not directly affect the roadway**, condemnation shall be conducted by the local agency.
- 12) The language required varies depending on what sort of property interest is being acquired. The required language should be inserted into the deed after the description of the property interest as shown on this and the following two page:

FEE SIMPLE ACQUISITION

[INSERT METES AND BOUNDS DESCRIPTION OF PROPERTY]

The above described property is hereby conveyed in fee simple.

Or

FEE SIMPLE ACQUISITION WITH ACCESS CONTROL

[INSERT METES AND BOUNDS DESCRIPTION OF PROPERTY]

The above described property is hereby conveyed in fee simple, and all right of ingress and egress to, from and across the same and to and from abutting lands is hereby conveyed.

PERMANENT DRAINAGE EASEMENT

[INSERT METES AND BOUNDS DESCRIPTION OF EASEMENT]

By this instrument the Grantor(s) hereby convey a permanent easement for construction and maintenance of a permanent drainage facility. The land on which the permanent drainage facility is to be constructed is to remain the property of the

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undersigned and may be used for any purpose desired, provided such use does not interfere with the use or maintenance of said permanent drainage facility.

PERMANENT SLOPE EASEMENT

[Permanent slope easements and construction easements will be described as completely as is practical. The area acquired must also be stated, and along with the engineering description, agree with the approved right of way plan.]

The above described property is hereby conveyed as a permanent easement for construction and maintenance of slopes outside the proposed right-of-way line. The land described above, on which the slopes are to be constructed, is to remain the property of the Grantor(s) and may be used for any purpose desired, provided such use does not interfere with the use or maintenance of said slopes.

CONSTRUCTION EASEMENT

[INSERT DESCRIPTION OF EASEMENT]

The above described property is hereby conveyed as an easement for the construction of a working area and erosion control outside of the proposed right of way line. The title to the above described land remains vested in the Grantor, and is to be used by the **INSERT GRANTEE NAME (State/City, etc.)**, its contractors or assigns for a period of three (3) years, from and after the commencement of construction.

If you have any questions regarding the deed requirements, formats and/or other issues, please contact your Regional LPA Coordinator from the list below:

Region 1

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