

**RAILROAD RIGHT-OF-WAY
EASEMENT AGREEMENT GUIDELINES**
(Adopted August 31, 1999)
(Revised March 8, 2006 & August 21, 2013)

St. Mary's County owns portions of a 66' wide strip of land that extends between Brandywine and Lexington Park, Maryland known as the Railroad Right-of-Way. The abandoned rail line was acquired from the General Services of the United States in June, 1970 and has historically been utilized as an electric facilities right-of-way and utility corridor. A formal Agreement between SMECO, St. Mary's County and the State Highway Administration was executed on October 9, 1979 to deed portions of same to the State for the dualization of Maryland Route 235. From time to time, crossings of and easements along the right-of-way are required by adjacent property owners in order to gain access to portions of their property. Although the current Board of County Commissioners does not automatically grant crossings of the right-of-way, requests shall be reviewed on a case by case basis and neither SMECO nor the Board of County Commissioners for St. Mary's County can convey any interest in the Railroad Right-of-Way unless mutually agreed to as follows:

STEP 1 If the request is the result of a development application, the Applicant will file a site plan through the TEC process with the Department of Land Use and Growth Management;

If the request is not initiated as part of a development application, the Applicant will be informed of the easement agreement process by the Department staff being contacted, and be directed to contact the Office of the County Attorney, to coordinate the easement process.

STEP 2 The Applicant shall submit a written request to the Office of the County Attorney, as well as an 8 ½" X 11" Exhibit A. This exhibit shall include a metes and bounds plot of the easement premises, and shall identify all existing features, including SMECO facilities, within the right-of-way, as well as the required work within the right-of-way. In addition to the formal Exhibit A, the County requires a vicinity map, showing the overall property, be submitted for review and use during the subsequent presentation to the County Commissioners.

STEP 3 Staff from SMECO, Departments of Land Use and Growth Management, Recreation and Parks, Public Works and Transportation and any other concerned agencies will review the request and determine if the request is consistent with ordinances, policies and plans administered by those agencies. Staff will also determine if the Applicant will be requested to construct (or contribute an equivalent fee-in-lieu) improvements such as drainage, landscaping, or trail or transportation projects as a condition of the approval. The fee in lieu, if required, for the Three Notch Trail is to be paid at the time building permits are issued. Review comments will be submitted to the Real Property Manager who will make the applicant aware of any issues or concerns.

STEP 4 After payment of a \$500 Administrative fee made payable to the Board of County Commissioners of St. Mary's County is received, the Office of the County Attorney will draft an easement agreement, attach Exhibit A, and forward the agreement to SMECO. After signature by SMECO, the easement agreement will be scheduled by the Office of the County Attorney for presentation to the Board of County Commissioners for St. Mary's County during one of their regularly scheduled Tuesday meetings. Scheduling may vary depending on the availability of time on the Board's agenda.

STEP 5 During the presentation, County staff will briefly describe the nature of the applicant's request and will be available to answer technical questions. The current owner and/or purchaser affected by the easement is requested to be present to acknowledge their understanding of the easement provisions. The applicant shall be prepared to *demonstrate the need for the easement(s)* and present specific details of his efforts in securing alternate access points. Parallel easement connections (outside and along the existing Railroad Right-of-Way) to alternative ingress/egress points are strongly encouraged to help reduce possible access related concerns associated with displacements required by the future needs of the County and SMECO. The applicant is required to limit the number of proposed right-of-way crossings. The width of a proposed access easement across the Railroad Right-of-Way must meet the County's minimum right-of-way requirements for private/public roads.

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STEP 6 If approved by the Board, the signed Agreement will be returned to the Office of the County Attorney, who will be responsible for the formal recordation. The applicant is accountable for payment of the respective recording fees. The time required for recordation varies depending on the backlog of requests at the County Land Records. Under no circumstances will the document be released to the applicant for recording. Once the Right-of-Way Easement Agreement has been recorded, the Office of the County Attorney will forward a copy of same to the applicant and SMECO. The original document is retained at the Office of the County Attorney and the easement database is updated. A fully executed agreement is required prior to any plan approvals or issuance of permits.

STEP 7 The recordation information (i.e. Deed Book and Page Reference) of the Railroad Right-of-Way Easement Agreement must be shown on the respective subdivision plat, record plat and/or development plans prior to final approval. In addition, the following note must be placed on deed(s) and record plat(s). "The Grantee hereby acknowledges and accepts that the County and/or SMECO may require the use of the Railroad Right-of-Way in the future, and the Grantee will be responsible for any costs associated with the relocation of their facility or other arrangements for access".

STEP 8 The Grantee must begin substantial use of the easement for its intended purpose within three (3) years of the date of Grant or the easement will lapse. Grantee is responsible to demonstrate its use to satisfaction of Grantor and execute/obtain a Confirmatory Grant of Easement within the required period. This request shall be presented for processing to Office of the County Attorney on forms required by the Real Property Manager at least ninety (90) days prior to the three (3) year deadline.

RAILROAD RIGHT-OF-WAY EASEMENT AGREEMENT PROVISIONS

- 1.** The Grantees hereby acknowledge and accept that the County and/or SMECO may require the use of the railroad right-of-way in the future and the Grantees will be responsible for any costs associated with the relocation of their facility or other arrangements for access.
- 2.** By the granting of this easement, the Grantees and their personal representatives, heirs and assigns, do hereby agree to notify and obtain written approval of the Engineering Department of SMECO and the St. Mary's County Department of Public Works prior to any construction in the railroad right-of-way or the SMECO right-of-way to coordinate all such construction with said Engineering Department and Department of Public Works.
- 3.** Care shall be used to avoid damaging any of SMECO's facilities overhead or underground within the right-of-way. In addition to obtaining written approval, at least 48 hours in advance of commencing work on the right-of-way, "Miss Utility" shall be notified (1-800-257-7777).
- 4.** No other uses of the right-of-way or the railroad right-of-way will be permitted unless prior written permission is obtained from SMECO and the County.
- 5.** Delay of the Grantees in their use or exercise of any right or easement granted herein, shall not result in the loss, limitation or abandonment of any right, title, interest, easement or estate herein granted.
- 6.** The right of access herein granted across the right-of-way shall be exercised and used in such a manner so as to not cause any damage or destruction of any nature whatsoever to, or interruption to the use of the railroad right-of-way by SEMCO or the County.
- 7.** Extreme care shall be used in the location and operation of all equipment to ensure that equipment will at no time come within twenty (20) feet of electric circuits attached to wood structures or within ten (10) feet of any other electric circuits.
- 8.** Any debris left in the right-of-way as a result of Grantees' use shall be immediately removed by the Grantees, their personal representatives, heirs, and assigns.
- 9.** Should the use of the right-of-way create any erosion or drainage, the Grantees, their personal representatives, heirs and assigns, shall promptly take the necessary corrective action.
- 10.** Upon completion of construction, any disturbed areas in the railroad right-of-way shall be properly graded, sodded or fertilized and seeded as per the St. Mary's County Soil Erosion and Sediment Control Ordinance. The existing topography shall not be changed except as shown on the referenced site plan.
- 11.** No trees or shrubbery are to be planted within the right-of-way area.
- 12.** There is to be no grading within a twenty-five (25) feet radius of SMECO's transmission poles or any Public Works facilities of the County.
- 13.** The County and SMECO reserve the right to construct and maintain in, over, under, along, through and across said right-of-way such overhead and/or underground electric transmission and/or distribution cables, pipes, conduits, wires and appurtenant facilities; as well as all forms of utilities and public works, that now exist or that may be constructed in the future as needs of either the County and/or SMECO may arise, without any County or SMECO liability for damages to the Grantees' facilities in the right-of-way.
- 14.** In the event of the installation, construction, reconstruction operation, maintenance, repair and/or inspection of the Grantees' facilities on the right-of-way necessitates the relocation and/or adjustment of any County and/or SMECO facilities or equipment, the Grantees, their personal representatives, heirs, and assigns, shall promptly reimburse the County and/or SMECO, whichever or both as may be appropriate, for the cost of such relocation and/or other adjustments.
- 15.** The County and/or SMECO shall at all times have the right to trim, cut and keep all trees, limbs, undergrowth, roots and other obstructions inside and outside the boundaries of the right-of-way that may endanger the safe and proper operation of its or their facilities. All trees and limbs cut by the County or SMECO at any time shall remain the property of the County or SMECO.
- 16.** The County and/or SMECO shall have the right to grant other non-exclusive easements over, along, or upon the right-of-way; provided, however, that any such other easements shall be subject to the easement hereby granted.
- 17.** The Grantees, for themselves and their personal representatives, heirs and assigns, do hereby agree to hold the County and SMECO and their officers, directors, employees and agents harmless from any and all liability resulting from the rights granted herein. By the granting of this easement, the Grantees and their personal representatives, heirs and assigns, further agree that maintenance of the proposed easement shall be the responsibility of the Grantees and their personal representatives, heirs and assigns, and any disturbance of said easement by the Grantees shall be the responsibility of the Grantees, their personal representatives, heirs and assigns.