



1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

Policies and Procedures

No. 50

SUBJECT:

Board Approval: 2/21/13

ENGINEERING AND CONSTRUCTION EXPENSE COST RECOVERY FOR PLAN REVIEW, REAL ESTATE ACTIONS, AND RIGHT OF ENTRY PERMITS

PURPOSE:

It is the intention of MTS to recover engineering and construction expenses incurred in support of actions from public agencies and private parties that impact MTS facilities and property.

BACKGROUND:

Public agencies and private parties request access to MTS right-of-way for various reasons. Some requests are for temporary access with minimal impact on MTS facilities. Other requests can have a significant impact on MTS facilities and may include placement of permanent facilities within the right-of-way. The various requests tax MTS staff time, including consultant effort, for plan reviews, coordination, real estate entitlement processing, right of entry (ROE) permit reviews, approvals, construction inspection, documentation, and closeout. This policy will formalize procedures for MTS staff to process requests for entry and various real estate actions and to recover costs incurred by the agency in this effort.

POLICY:

MTS will recover expenses incurred for plan review, real estate actions, and ROE permit reviews and inspections according to the following criteria:

- 50.1 Minimum to No-Impact Requests – These requests for access to MTS facilities have minimal to no impacts and are typically for day-use ROE permits. The staff effort is light, and a fixed fee will be charged to the applicant. The standard fee is \$750 to cover staff preparation time, approvals, and processing. This fee will be evaluated on an annual basis and will be adjusted if warranted upon approval from the Chief Executive Officer. The applicant will be required to complete the ROE Permit/Plan Review Application (Attachment A) and to submit the application according to the MTS/San Diego and Arizona Eastern (SD&AE) Railway Company ROE Permit Instructions (Attachment B).



- 50.2 Minor Impact Requests – These requests for access to MTS facilities have minor impacts but require up to \$5,000 of staff time to process the encroachment. These impacts typically require engineering review and construction coordination for the ROE permit. Some real estate entitlement may be required, such as granting an easement. The staff time to analyze the request, coordinate reviews, conduct field inspections, and closeout the permit exceeds the minimum permit fee. Staff will estimate engineering and construction inspection expenses, including consultant fees. For fees estimated below \$5,000, staff will submit the estimate to the Right-of-Way Manager for approval. This approval will constitute the permit fee. Additional funds may be necessary if a scope change or additional work is identified. The applicant will follow the application process as described in No. 1 above. Plan review submittals with an expense below \$5,000 will follow the same process.
- 50.3 Major Impact Requests – For those access requests with a staff expense over \$5,000, a deposit of funds will be required to cover costs. MTS will account for the draw down of the funds and require additional funds as necessary. Any excess deposited funds will be reimbursed to the applicant after MTS is satisfied that all requirements are met.
- 50.4 Real Estate Actions – Any real estate transaction generated by a public agency or a private party will follow the above criteria.
- 50.5 Waiver of Fees – Fees may be waived at the discretion of the Chief Executive Officer. Examples of waivers would be for nonprofit agencies or for local agencies that have a reciprocal fee waiver agreement with MTS.

Attachments: A. Right of Entry Permit/Plan Review Application
B. MTS/SD&AE Right of Entry Permit Instructions

Original Policy approved on 10/16/03.

Policy revised on 5/13/04.

Policy revised on 2/21/13.



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MTS / SD&AE RIGHT OF ENTRY PERMIT INSTRUCTIONS

- A Right of Entry Permit (Permit) is necessary when entering MTS / SD&AE right-of-way, including airspace, for any purpose. A permit is also required when working in public right-of-way occupied by MTS / SD&AE facilities. Prior to issuance of Permit, project plans/specifications must be approved by MTS.
- To initiate project review, complete a "Plan Review / Right of Entry Permit Application" form located on the MTS website (<http://www.sdmts.com/Business/Permits.asp>). Return form to MTS along with the required number of plan sets, a \$750 application fee, and an 8.5"x11" size vicinity map or Thomas Guide page showing the location of project.
- A letter of findings will be issued, generally within two weeks, indicating provisional approval or if additional engineering review is required. Permit fees including plan review, Permit processing, and general Permit oversight costs are assessed at this time and an invoice is processed. If a comprehensive, engineering review is necessary, a deposit will be required for the probable reimbursable cost to cover reviews and other expenses.
- Permission to proceed with the Permit process will be granted only after the project has engineering review approval. If the encroachment requires an easement or a license to allow permanent facilities within the right-of-way, the license or easement will be processed concurrent with the Permit. A plat and legal description, signed by a land surveyor licensed in the State of California, and an appraisal to determine fair market value are required. Additional fees for processing the easement or license will be assessed. Board approval is required for Railroad rights.
- Permit processing and approval should be granted within two weeks once the plans have been approved, the proper insurance certificates have been received, and permit fees have been paid. Urgent permits will need authorization from the Chief Executive Officer or his designee.
- MTS Insurance Requirements can be downloaded from the MTS website. As a general note, most general liability insurance do not cover railroads. Any exclusions relating to performance of operations within the vicinity of any railroad, bridge, trestle, track, roadbed, tunnel, underpass, or crossing must be deleted from the policy. If the exclusions can't be removed, a separate Railroad Protective Liability Policy will be required.
- A construction schedule that includes the number of days anticipated to encroach on the right-of-way must be submitted to process the permit. Include times and lengths of shifts, along with anticipated construction methods. Also submit approved Traffic control Plans where applicable.



Contact San Diego Trolley Inc. (SDTI) for information on Trolley schedules. Contact Rail America for information on freight train schedules.

- Flagging will be required anytime work is within 15 feet of track including airspace or as deemed necessary by Trolley personnel. Permittee will complete and fax SDTI Flagperson / Right-of-Way Work Request form and to MTS and SDTI a minimum of two business days prior to anticipated work day. Normally, the cost for flagging is \$25.00 an hour for one man or \$50.00 for a two-man team. Billing will be directly from SDTI to the Permittee and is separate from the Permit fee.
- A pre-construction meeting will be required with MTS and SDTI prior to work commencing within the right-of-way. A written notice of planned start of work must be submitted to MTS a minimum of five business days prior to work starting in the right-of-way. All work will be stopped and Permittee will not be allowed in the right-of-way without proper notification.
- Permittee must adhere to construction and safety standards required by MTS of their contractors when working within the right-of-way.
- A written notice shall be submitted to MTS that work has been completed per the permit. Any additional work required to replace or repair the railroad facilities in good working order will be the responsibility of the Permittee prior to work acceptance. A notice to the Permittee will be issued upon acceptance of the work by MTS.
- Any excess deposited funds will be reimbursed to the Permittee after all requirements of the permit are met. This does not include Permit fees which are non-refundable.
- Permittee will provide MTS with a set of as-builts, hard copy and electronic file upon request, within thirty days of relief from maintenance. No excess deposited funds will be released until as-builts are submitted signed by a licensed engineer in the State of California.

PLAN REVIEW / RIGHT OF ENTRY APPLICATION

1255 Imperial Avenue, Suite 1000
 San Diego, CA 92101-7490
 Telephone: 619.557.4501
 Fax: 619.230.6878

Submittal Date:

FOR MTS USE ONLY

MTS Doc. No.	<input style="width: 95%; height: 20px;" type="text"/>
Application No.	<input style="width: 95%; height: 20px;" type="text"/>
Date MTS recd	<input style="width: 95%; height: 20px;" type="text"/>
Milepost Limits	<input style="width: 95%; height: 20px;" type="text"/>

APPLICANT INSTRUCTIONS

Complete all applicable boxes below (click in boxes to type & then print) and return with submittal requirements (as noted below).

Submittal Requirements:

- 1) 8½ X 11 vicinity map
- 2) 3 full- & 3 half-size sets of plans, drawings, exhibits
- 3) 3 sets of reports, specs, & calculations if applicable
- 4) Nonrefundable application fee of \$750

- * Make checks payable to *Metropolitan Transit System*
- * Additional permit fees, copies, and information may be required upon request to the Metropolitan Transit System

Applicant Name & Company
 (Owner/Project Manager)

Permittee Name & Company
 (Contractor/Engineer/Firm)

Applicant Mailing Address

Permittee Mailing Address

Contact person:

Contact person:

Telephone:

Telephone:

Fax:

Fax:

E-mail:

E-mail:

Project Location (street address and nearest cross street)

Project Description

Anticipated Dates - Begin work:

End work:

Authorizing Agencies / Jurisdictions (i.e., MTS, NCTD, local cities & counties, government agencies, etc.)