

Policy: 6865-9- Acquisition of Right of Way from Railroads

Section: Railroads

Office/Department: Office of Utilities

Reports To: Division of Permits & Ops

Contact: 404-631-1000

The following guidelines are to be used in establishing and acquiring right of way and construction easements for construction of highway projects along and across railroads.

Case 1: Highway Crossing a Railroad

Where highways cross railroads at grade, or by grade separation structure either over or under the tracks, the Department has the right to use Railroad right of way at no cost; therefore, no right of way acquisition is necessary. The Office of Utilities will obtain agreements with the Railroad establishing the terms and conditions under which this work will be accomplished and providing for reimbursement to the Railroad for any work required of them. This agreement will also provide an easement for the construction of the grade crossing or grade separation for the duration of the project and for maintenance. The easement will generally be temporary and encompass the entire area formed by the intersection of the highway and railroad rights of way. The plans must show the temporary easement area with hatching and be labeled "Easement by Railroad Agreement"; however, the temporary easement should not be set up as a right of way parcel on the highway plans (i.e., do not assign parcel numbers). (See [Example No. 1.](#)) The Railroad may prepare drawings to support the agreement or excerpts from project plans may be used.

Case 2: Highway Parallel to Railroad

Where highways are constructed or reconstructed along railroads in such manner as to encroach on the operating right of way of the railroad, easements and/or right of way must be acquired. The property interest to be acquired will vary but the following guidelines should be applied in preparing highway plans. (See [Example No. 2.](#)) Easements and right of way, with area calculations, should be shown on plans in accordance with the Office of Right of Way's Right of Way Plan Checklist as outlined in Chapter 3 Section 60 in the Plan Presentation Guide (PPG).

- A. When the encroachment consists only of grading and cross drain pipes, easements only will usually be required. These will consist of easements for construction of slopes (temporary easement) and/or easements for construction and maintenance slopes (permanent easement). In some cases these easements can be obtained from the Railroad at no cost under the agreement prepared by the Office of Utilities. The construction limits or easement should not be closer than 15 ft. from the centerline of the track. The plans must show the easement area and be labeled "Easement by Railroad Agreement"; however, the temporary easement should not be set up as a right of way parcel on the highway plans (i.e., do not assign parcel numbers). If the Railroad specifically requests payment for the easements during their plan review process, the Office of Utilities will notify the appropriate design office to request a plan change and also the Office of Right of Way for easement acquisition.
- B. Where permanent pavement, walls or curb and gutter fall within the railroad right of way, it will be necessary to acquire right of way or at the request of the railroad obtain permanent easement for the construction in much the same manner as from any other property owner. Typically the Railroad will notify the Office of Utilities; in turn the Office of Utilities will send the request to the appropriate Project Manager. In the event the Railroad does not grant right of way or permanent

easement a design variance for temporary easement shall be approved by the Chief Engineer. The required right of way, or at the request of the Railroad, permanent easement should be established at the shoulder point or at the back of any curb and gutter and in no case should be closer than 50 ft. from the centerline of a mainline railroad track. Thus no pavement, or paved or unpaved shoulder, or curb and gutter, or extensive side drain pipes, or walls or other major structures should be constructed within the 50 ft. distance. Minor walls or other structures may be constructed within the 50 ft. distance in some cases. In cases where the foregoing cannot be adhered to, the Department will have to provide ample justification in an attempt to get the Railroad to approve a project not in compliance with the Railroad's policies. The required right of way and easements should be shown on the right of way plans and parcel numbers assigned so that appraisal and acquisition can proceed. The Office of Right of Way will handle acquiring the required right of way and permanent easements the same as other parcels on the project. Procedures for coordination of construction work and any adjustments required for railroad facilities will be covered by agreement through the Office of Utilities. The Office of Utilities will also assist the Office of Right of Way as necessary in making contacts with the Railroad and coordinating any plan changes which may be requested.

Case 3: Non-Operating Right of Way

In some cases highway projects will cross property owned by Railroads which is outside their normal right of way used for train operations. Such property may also have buildings or other improvements attached. Such non-operating right of way may be property over which trains were previously operated but where service has been officially abandoned. In all cases, non-operating right of way or property of Railroads will be acquired by the Office of Right of Way under the same procedures as for other private property. The Office of Right of Way will notify the Office of Utilities of requirements for contractor insurance coverage or other items that may need to be covered in project special provisions when Railroad parcels will not be closed prior to contract award.

End of document: 6865-9

References:

History:

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