

## **APPENDIX G: I-95 RIGHT-OF WAY ACCESS REQUIREMENTS**

### MDTA Requirements for Access to the I-95 Right-of-Way

#### **A. Introduction**

Within Management Area E (MA-E) of the 68<sup>th</sup> Street Landfill Site (the Site), the Maryland Transportation Authority (MDTA) owns and operates Interstate 95 (I-95) as part of the Fort McHenry Tunnel facility which includes the Moravia Road off ramp. A portion of the active, operational highway right-of-way (ROW) lies squarely within the boundaries of MA-E. The I-95 ROW is shown on Figure G-1. An objective of the Consent Decree is the remediation and natural resource damage restoration of the Site to address impacts to the public health, welfare and the environment, including Work, as defined below, within MA-E.

The Consent Decree includes general provisions that reference a Site Access Plan, which will be developed in the future. This Appendix G provides the requirements for access onto MDTA's ROW and use of the Moravia Road off ramp that may be required for the Remedial Design, Remedial Action, and/or Natural Resource Damage Restoration (Work) on MA-E as well as possible access to other portions of the Site through MA-E. These requirements recognize that I-95 is an active, operational interstate and are established to protect the safety of the traveling public and site workers as well to protect the highway, consistent with MDTA's statutory authority. MDTA is charged with supervising, financing, constructing, operating, and maintaining certain transportation facilities projects under Md. Transportation Code Ann. § 4-204, which includes the operation, maintenance, and repair of I-95.

MDTA reserves for itself, its personnel, contractors, subcontractors, agents, consultants, licensees, permittees, successors and assigns, the right to enter the MDTA ROW for the purposes of, including but not limited to, operating, inspecting, maintaining, repairing, retrofitting, testing, constructing, reconstructing or replacing the highway, its structures, and all supporting and related improvements within the MDTA ROW. Any person or entity that enters the Site shall abide by the approved environmental Health and Safety Plan ("HASP") that is required under the Consent Decree.

Specifically, it is imperative that the MDTA ROW be maintained in such a manner that shall not adversely interfere with the traffic and surface related activities of MDTA or any highway or bridge structure, or impede or endanger the safe and orderly flow of traffic in and along I-95. Therefore, it is absolutely critical that any party accessing the MDTA ROW does not injure, overload, deface, damage or otherwise causes physical damage to any highway or bridge structure or any part or component thereof.

#### **B. Parties Accessing the MDTA ROW**

Pursuant to the Consent Decree, there are several entities that will access the MDTA ROW at varying frequencies to conduct Work within MA-E or to access other areas of the larger Site. Access may occur via properties contiguous to the MDTA ROW or from the MDTA ROW at the I-95 roadway. Those entities include, inter alia, the following parties:

Government Agency Representatives – includes any governmental agencies and their employees, staff, contractors, subcontractors, and consultants, subject to the Consent Decree.

Potentially Responsible Parties (PRPs) – includes persons or entities specifically defined by the Consent Decree that may be responsible for the Work, along with their personnel, contractors, subcontractors, and consultants. The Work may involve the navigation, investigation, excavation, debris removal, erosion control, backfilling, product removal, and/or restoration of land cover, drainage, water and sub-surface, or other activities required under the Consent Decree, within the MDTA ROW.

MDTA – includes employees, staff, consultants, agents, and contractors having specific authorization from MDTA to enter upon the MDTA ROW.

Third Parties – includes any other entities that are granted access by MDTA or the United States Environmental Protection Agency (EPA) to the Site to the ROW, , which may include public and private utilities.

C. Notification

1. MDTA requires thirty calendar (30) days *advance written notice* of request for access prior to any entity accessing the MDTA ROW to conduct Work or to cross the MDTA ROW in order to access other portions of the Site. All persons and parties accessing or working within the MDTA ROW must have prior written permission from MDTA. MDTA will respond in writing within (30) calendar days of receipt of said *advance written notice of a request for access*, stating whether said access is approved or denied, and setting forth any reasons for denial or approval with conditions. MDTA reserves the right to review and approve detailed investigative, excavation, building, and site construction and restoration plans for Work within the ROW to ensure there will be no impact to the existing highway structures prior to approving access. No temporary or permanent buildings, structures, or installations of any kind, including fencing or landscaping, shall be erected, constructed or installed on the MDTA ROW without the prior written consent of MDTA.
2. Requests for access to the MDTA ROW shall be submitted to the Director of the MDTA Office of Environment, Safety and Risk Management (OESRM). The Director of OESRM will serve as a single point of contact and will coordinate all access requests on behalf of MDTA including obtaining all necessary internal approvals from MDTA Operations, Real Estate, Engineering, Construction, or other divisions impacted by the access request. The Director, Mr. Paul Truntich, may be reached at: (410) 537-7665 or at [ptruntich@mdta.state.md.us](mailto:ptruntich@mdta.state.md.us). If the name of the Director changes, EPA and the PRPs shall be noticed in writing within (14) calendar days pursuant to Section XXVII (Notices and Submissions) of this Consent Decree. MDTA shall provide a response to any requests for access within thirty (30) calendar days of receipt
3. Where any portion of the Work is to be conducted within the ROW, or will make use of the ROW for access, and that Work would have required an agency permit or approval, but for CERCLA Section 121e(1), PRPs or Third Parties shall submit to MDTA timely and complete substantive information and take all other actions equivalent to what would have been necessary to obtain and to comply with the substantive requirements of all such permits or approvals.
4. Items required to be submitted to MDTA for approval for access to or from the ROW include:
  - Name of party seeking access; contact information; duration of access; specific reason for access, specific areas of the MDTA ROW to which access is requested, and the vehicles and other equipment that will be brought on the MDTA ROW.
  - All non-governmental parties shall supply Insurance Certificates of Liability in the same coverages and limits as required under the Consent Decree for personal injury and property damage liability against claims for personal injury, death, or property damage, occurring in or about the MDTA ROW in effect for the time period that access is requested. All insurance shall name MDTA as an additional insured on the Certificate of Liability. To the extent available, required insurance policies shall provide notice to MDTA of any material change, cancellation, or non-renewal at least 30 days prior.
  - Work Plans authorized by the EPA or the Maryland Department of the Environment (MDE) relating to Work in the ROW.

- Permits from local, State and federal regulatory agencies, if any, relating to Work in the ROW.
  - Health and Safety Plans (HASPs)/ Site Management Plan / Erosion and Sediment Control Plans/ Remedy Modifications/Scope of Work Changes/ Operation and Maintenance Requirements, if any, relating to Work in the ROW.
  - Emergency Contingency Procedures relating to Work in the ROW.
5. The access permission to the ROW granted by MDTA does not give the right to use any other MDTA property for any purpose and is limited to the activity and location specified. Should there be a need to use the property for any other purpose(s) other than that specifically approved by this written permission, an additional written request specifying the nature and location of the additional purpose(s) must be presented to MDTA for approval.
  6. MDTA reserves the right to monitor and inspect any Work or activities occurring on the MDTA ROW and to stop any Work that may cause a condition that constitutes a hindrance or danger to the safe and orderly flow of traffic on I-95, the structural integrity of the I-95 structure or supports, to the public safety, or is in contradiction to the approved permission for access. MDTA shall notify and coordinate with EPA and PRPs regarding any need to stop Work on the MDTA ROW.
  7. MDTA reserves the right to modify or temporarily deny access on MDTA ROW at any time if it determines that the safety of the travelling public or the structural integrity of I-95 is at risk due to any activities being performed on the MDTA ROW. MDTA shall notify and coordinate with EPA and PRPs regarding any need to modify or temporarily deny access on the MDTA ROW.
  8. From time to time, any entity to which MDTA has granted permission for access to the MDTA ROW shall provide to MDTA in writing a report on the status of the activities conducted and to be conducted on the MDTA ROW.
  9. EPA and PRPs shall provide to MDTA contact information for their designated representatives.
  10. MDTA shall provide EPA and PRPs with thirty (30) days advance written notice of any physical site activities or construction activities conducted with MDTA authorization on the MDTA ROW and shall coordinate such activities with EPA and the PRPs. In the event of an emergency, MDTA shall provide EPA with as much notice as practicable and shall follow the established protocols as established in the Site specific HASPs.
  11. EPA and PRPs shall coordinate with and provide MDTA a reasonable opportunity to review and approve all aspects of the Work to be conducted within the ROW as part of MDTA review of any access request to the ROW, subject to the same time limits set forth in Part C of this document.

D. Restrictions within the MDTA ROW

1. No flammable, hazardous, explosive, nor toxic chemicals, liquids, solvents, or materials may be stored, handled, generated, manufactured, emitted, released, treated, kept, disposed or temporarily placed on the ROW. Exceptions for reasonable quantities of gasoline and similar fuels used for equipment, vehicles, and machinery for the conduct of the Work, or contaminated soils, sediments or water being remediated from the MDTA ROW will be allowed with prior approval of MDTA.

2. No party may tunnel, dig, mine, quarry, drill, bore, trench, grade, excavate, install utilities, or blast over, on, under or around the MDTA ROW without specific prior written consent from MDTA.
3. Any equipment or vehicles used on the MDTA ROW must maintain a minimum vertical clearance from the top of the vehicle to the underside of any highway or bridge structure of at least 3 feet. For additional truck and vehicle clearance requirements, refer to American Association of State Highway and Transportation Officials (“AASHTO”) standards and the Code of Maryland Regulations Title 11.

Materials and equipment may not be stored on or stockpiled on the MDTA ROW unless prior specific written permission is obtained from MDTA for each type of material or equipment to be stored. Submittals to MDTA shall include the type of material or equipment, the proposed storage location; the area at the base of the material or pallet and its total height; height of stockpiles, number of axles, load per axle, and axle spacing; vehicle gross weight, and any other information necessary to calculate the stresses applied to the highway structures. Engineering calculations showing that no overstress will occur due to material or equipment storage shall be submitted for review to MDTA prior to any written permission being granted. Storage or stockpiles may not occur or be placed within 25 feet measured horizontally from the edge of any structure support, such as piers, parapets, abutments, sign structures, high mast light poles, or any other highway structure. No storage or stockpiled material may occur within 10 feet measured vertically from the lowest adjacent edge of the underside of any highway structure.

4. Any materials or equipment that would have a detrimental effect on the highway structures such as aluminum products placed against concrete surfaces shall be adequately protected to prohibit them from coming in contact with each other. Any discoloration or damage to the structure as a result of material or equipment being stored on or against the structure shall be removed or repaired.
5. No structure or equipment may be erected, placed, maintained or permitted on the ROW that shall be visible to the traveling public on I-95 unless expressly approved by MDTA and protected by a screen, fence or any other shield deemed appropriate by MDTA to diminish visibility from I-95.
6. No lighting shall be erected on the ROW without the prior written approval of MDTA.






# Figure G-1 (I-95 Right-of-Way)

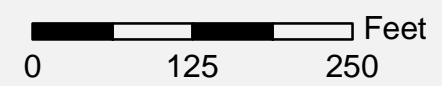
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FOR INFORMATION ONLY



 Right of Way \* (12/07/2016)

Map Prepared: 12/8/2016  
 Data Sources:  
 Base Map (Facility Map) - MDi Map 6 inch Imagery, 2016  
 MDTA Right of Way - Plats



\* The Right of Way boundary is an approximation based on the compilation of the plats around the area.

