



RIGHT OF WAY MANUAL CHANGE

RWMC 22-01

EFFECTIVE DATE: January 14, 2022

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PURPOSE:
 The Right of Way (RW) Manual is revised each January and July to update policy, procedure and guidance. Content revisions are noted in the following pages.

CURRENT RIGHT OF WAY MANUAL DIRECTIVES:
 There are no current Right of Way Manual Directives (RWMDs) in effect.

SUPERSEDED RIGHT OF WAY MANUAL DIRECTIVES:
 The following Right of Way Manual Directives (RWMDs) have been incorporated in the RW Manual since the last publication:

RWMD	Title	Effective Date	Incorporated Date
21-02	Direct Conveyance Under Government Code (GC) Section 14012	08-06-2021	01-14-2022
21-01	Direct Sale of Commercial Property Pursuant to SHC Section 118.1	05-20-2021	01-14-2022
20-02*	U.S. DOT Mandate 1050.2A Assurances and Appendices	12-01-2020	09-13-2021

* Exhibits 05-EX-04 and 08-EX-19 were not updated; upon review, no revision needed to those two documents.

RESCINDED RIGHT OF WAY MANUAL DIRECTIVES:
 The following Right of Way Manual Directive (RWMD) has been rescinded due to [Assembly Bill 332](#) (approved 08-31-2021); revision no longer needed.

RWMD	Title	Effective Date	Rescinded Date
20-03	Treated Wood Waste Disposal	12-07-2020	09-15-2021

RELATED POLICY AND PROCEDURES:

In addition to the creation of title pages for each chapter of the manual, a summary of revisions includes:

Chapter 1 – Introduction

- **Section 1.01, Right of Way Manual Overview**
 - 1.01.06.00, Revisions –
 - Updated publication deadlines for July 2022 RW Manual.
 - Included email address RWManual@dot.ca.gov to submit other comments and suggestions regarding the RW Manual.
 - 1.01.07.00, Exceptions – incorporated new section to address policy/procedure exceptions.

Chapter 6 – Right of Way Engineering

- **Section 6.10, Standard Clauses for Freeway Deeds**
 - 6.10.04.00, "DFA" Series--Appurtenant Rights Including Access Rights – reworded the statement prohibiting use of DM series clauses with DFA clauses to permit their combined use.
 - 6.10.10.01, DM-1 General Waiver for Deeds – changed the NOTE regarding exceptions for use to specify that the DM-1 clause should be used in all fee acquisition deeds except entire fee takes. (Eliminated the prohibition of use with DFA and DFO series of clauses.)
 - 6.10.10.02 – DM-2 General Waiver for Easement Deeds – added a NOTE in between the two clauses of the DM-2 Waiver prohibiting the first clause's use in specific easements, and modified the existing NOTE after the second clause to permit that clause's use in specific easements. (Both NOTES state that the referenced clause is to be used in all highway right of way easements.) This specific wording prevents overburdening of lesser easements with rights that are only appropriate for Highway Easement, while encouraging the use of the Damage Claim portion of the waiver in those lesser easements, as well as in Highway Easements.
- **Section 6.11, Condemnation**
 - 6.11.03.00, Final Package –
 - Added language requiring the Resolution of Necessity (RON) package pdf & Word documents to meet ADA remediation requirements.
 - Added language requiring the pdf legal description to be in Arial font; revised existing language for the Word legal

description to be in Century Gothic font (instead of Times New Roman).

- Added language that the different font requirements are subject to change at the agencies' discretion, and to check with HQ for the latest info.

- **Section 6.15, Director's Deeds**

- 6.15.03.00, Deed Preparation – added language requiring the Director's deed document to meet ADA remediation requirements, and to be in Arial font, subject to change at CTC's discretion; check with HQ for the latest info.
- 6.15.06.00, Maps – added language requiring the Director's deed mapping submitted to CTC to meet ADA remediation requirements.

Chapter 7 – Appraisals

- **Section 7.10, Revision and Reviews**

- 7.10.06.00, Memorandum of Adjustment – added clarification that changes in property right requirements result in a new Memorandum to rescind the original. If the new Memorandum changes the value, a revised offer must be made.

- **Section 7.11, Outdoor Advertising Signs**

- 7.11.03.00, Process – at Item A. 1., corrected “Region/District Outdoor Advertising Coordinator” to “Headquarters Outdoor Advertising Coordinator.”

Chapter 9 – Condemnation

- **Section 9.01, Eminent Domain**

- 9.01.11.00, Preparation of Resolution – added language requiring portions of the RON package which CTC will post on their website must be ADA compliant before sending to HQ.

Chapter 11 – Property Management

- **Section 11.01, General**

- 11.01.07.00, Special Assessments by Local Agencies – clarified that internal 2019 memorandum is not applicable to Local Agencies.
- 11.01.10.00, FHWA Approval of Less Than Fair Market Rent – clarified title 23 funding language based on FHWA's recommendation.
- 11.01.16.00, Batch Plants – added new section pertaining to batch plants.

Chapter 14 – Right of Way Certification

- **Section 14.04, Delegations**
 - 14.04.01.00, Delegations of Authority – corrected RW Manual reference for “Special Certification #3 With Work-Around.”

Chapter 15 – Airspace

- **Section 15.01, General**
 - 15.01.01.01, Definition
 - Added in the different examples of right of way use agreements.
 - Also clarified that very few Right of Way Airspace uses will be within the traveled-way or immediate shoulders of the traveled-way.
 - 15.01.02.00, Responsibilities of Headquarters Airspace
 - Added clarification regarding non-recurring uses for 30 days or less going through the Encroachment Permit Office.
 - Added reference to the Right of Way Use Agreement Matrix – new Exhibit 15-EX-17.
- **Section 15.04, Airspace Right of Way Use Agreements**
 - 15.04.01.10, Filming on State Right of Way
 - Added extra details on how the Encroachment Permit office will handle permits to film in the Right of Way.
 - Added the timelines by which Caltrans can expect a response for permits requiring FHWA approval.
 - 15.04.01.15, Park and Ride Lots as Shelter Sites – added new section regarding shelter sites.
 - 15.04.01.19, Batch Plants – added new section containing requirements for allowing Batch Plants on Caltrans property.
 - 15.04.07.02, DARC and External Reviews for Long-Term Renewals – Added mention of certificate of occupancy from State Fire Marshal for all renewals with improvements.
 - 15.04.08.00, Requirements for Continued Occupancy and/or Use of the Improvements Subject to Long-Term Renewals – added new section containing requirements for the Certificate of Occupancy before tenant can continue to use improvements on developed airspace sites with Long-Term agreements.

- **Section 15.06, Airspace Leases – Processing**
 - 15.06.12.00, Environmental Status – clarified that Environmental Approval must include language that the document meets applicable CEQA and NEPA requirements.
 - 15.06.13.04, Park and Ride Lot Development – added FHWA requirements for development on Park and Rides.
 - 15.06.13.05, NEPA Delegation to Caltrans – added FHWA NEPA delegation process to Caltrans and information on when NEPA is not delegated.
 - 15.06.15.00, Requirements for Occupancy and/or Use of the Improvements – added requirements for Certificate of Occupancy before tenant can use improvements on developed airspace sites.

- **Section 15.07, Inspection and Use Requirements**
 - 15.07.01.00, Inspections – added reference to new Exhibits 15-EX-15 and 15-EX-16.
 - 15.07.07.00, Encroachment Permits
 - Expanded section to further discuss when a Right of Way Use Agreement is necessary through Airspace or an Encroachment Permit will suffice.
 - Added reference to new Exhibit 15-EX-17 to further explain what uses go through the Encroachment Permit Office versus the R/D A/S Office.
 - Added clarification that construction must not occur prior to obtaining the Encroachment Permit.
 - 15.07.07.01, Encroachments by Exception – updated “travelway” to “traveled way.”
 - 15.07.07.03, Permits Office – added how to determine what needs a Right of Way Use Agreement through the Right of Way Airspace program.
 - 15.07.08.00, State Fire Marshal Inspections – clarified need for SFM to provide Certificate of Occupancy for improvements on Airspace Sites before tenant can occupy or use improvements.
 - 15.07.09.01, Inspections – updated title of section to “Inspections for Hazardous Material and Waste” for clarity.
 - 15.07.09.03, Inventory – updated title of section to “Inventory of Hazardous Waste Sites” for clarity.
 - 15.07.09.05, Lease Clause – updated title of section to “Lease Clause for Hazardous Materials and Waste” for clarity.
 - 15.07.11.00, Default – updated title of section to “Defaults” for clarity.
 - 15.07.12.00, Vacated Delinquent Accounts – added new section regarding the process for delinquent accounts with vacated tenants.

- 15.07.12.01, Amounts \$250 or Less – added new section regarding process for requesting write off or adjustment for delinquent amounts of \$250 or less.
- 15.07.12.02, Amounts Greater Than \$250 – added new section regarding process for submitting delinquent accounts to Accounting for collections.
- 15.07.12.03, Collection Agency Procedures – added new section regarding process when a delinquent account has been submitted to Accounting for processing.

Chapter 16 – Excess Land

- **Section 16.01, General**
 - 16.01.03.10, Direct Fee Sale to Government Agencies – added guidance for application of Government Code Section 14012 when conveying excess land to a municipality or public agency. (Supersedes RWMD 21-02)
- **Section 16.05, Disposal Methods and Procedures**
 - 16.05.04.07, Notice of Surplus Real Estate Sale (RW 16-4)
 - Removed references to RW 16-4 and replaced with “auction brochure.”
 - Also removed outdated policy references to continuous bid, the Division of Accounting, etc.
 - 16.05.06.01, Direct Sale of Commercial Property Pursuant to S&H Code Section 118.1 – added clarification regarding the correct application of Section 118.1 of the Streets and Highways Code pertaining to direct sale of commercial surplus property. It was discovered that application of 118.1 was not being appropriately applied due to a key component being largely overlooked when determining whether to offer a direct sale of commercial property to an existing tenant. (Supersedes RWMD 21-01)
- **Section 16.07, Processing Transactions**
 - 16.07.03.00, Transmittal of Résumé Package and Director’s Deed to HQ R/W – CTC-Approved Deeds – added language requiring the electronic copies of Director’s deed mapping and deed document submitted to CTC to meet ADA remediation requirements, and for the legal description to be in Arial font, subject to change at CTC’s discretion; check with HQ for the latest info.

Chapter 17 – Local Programs

- **Section 17.01, General**
 - 17.01.01.00, Introduction
 - Removed “intermediary” language and added oversight language.
 - Added hyperlink to Stewardship and Oversight Agreement.
 - 17.01.01.02, Background – removed language to specific outdated funding acts (TEA-21).
 - 17.01.01.04, Types of Projects – at Federal Aid Highway System portion, removed reference to Local Assistance Program Guidelines and replaced with FHWA website.

- **Section 17.02, Roles and Responsibilities**
 - 17.02.01.01, FHWA – General – noted expansion of National Highway System under MAP-21.
 - 17.02.01.02, FHWA Role – removed specific authorization for utility relocation (moved to Section 17.02.04.06, Region/District Role – Right of Way).
 - 17.02.01.04, Title VI, 1964 Civil Rights Act – added U.S. DOT Mandate 1050.2A language consistent with RWMD 20-02; clauses also required in Local Public Agency agreements per the Mandate.
 - 17.02.04.01, Department's Role – removed references to 23 CFR 710.201(h) re: political subdivisions; added compliance language in reference to 23 CFR 710.201 (a).
 - 17.02.04.06, Region/District Role – Right of Way
 - Added item G regarding Specific Authorizations for utilities (relocated from Section 17.02.01.02, FHWA Role)
 - Added item J regarding property management duties and the sale of excess land.

- **Section 17.04, Local Public Agency Projects on the State Highway System**
 - 17.04.02.06, FHWA Role – Mixed Funding – revised and condensed language in collaboration with FHWA.
 - 17.04.03.03, Advance Acquisition – Procedures – revised language for clarification in collaboration with FHWA.
 - 17.04.03.04, Hardship Acquisition – added “on all Federal-Aid projects” language to clarify when FHWA approves in accordance with 23 CFR 710.503.
 - 17.04.03.05, Protection Acquisition – added “on all Federal-Aid projects” language to clarify when FHWA approves in accordance with 23 CFR 710.503.

- 17.04.03.06, Early Acquisition Options Under MAP-21 – added clarification regarding Early Acquisition Projects prior to completion of environmental review process subject to 23 CFR 710.501.
- 17.04.03.08, Donations (Contributions) – clarified/corrected language and added reference to 49 CFR 24.108.
- 17.04.03.10, Acquisition of Excess – added language regarding FHWA participation for clarification and CFR references.
- 17.04.07.01, Appraisal Requirements – added/corrected CFR references.
- 17.04.07.03, Access Control – Private Property Benefits
 - Added language to clarify property owner is responsible for costs associated with a change to access control that directly benefits them.
 - Corrected/clarified manual reference.
- 17.04.09.01, Notice of Intent – added clarification and CFR reference to define “reasonable amount of time.”
- 17.04.10.01, Property Management – Income
 - Added language to clarify rent shall be deposited into a State Highway Account.
 - Removed the language applicable to Caltrans requirement to pass 24% to LPA for possessory interest taxes.

Exhibit Updates

- **07-EX-26, Notificación de Derecho de Reclamar Pérdida de Plusvalía Comercial (Notification of Right to Claim Loss of Business Goodwill [RW 7-30] – Spanish version)** – added new Spanish version of Form RW 7-30. (Will ultimately be converted to a CEFS Form). (11-2021)
- **08-EX-06, Appraisal Cost Reimbursement Agreement (with property owner)** – added Item 6 to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **08-EX-06A, Appraisal Cost Reimbursement Agreement (with appraiser)** – added Item 7 to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **08-EX-13, Permit to Enter for Underground Tank Testing for Hazardous Waste** – added Item 5 to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)

- **08-EX-14, Permit to Enter for Other Testing for Hazardous Waste** – added Item 4 to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **08-EX-20, Assignment of Lease-To State** – added language to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **08-EX-23, Right of Entry – Long Form** – added language to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **08-EX-24, Right of Entry – Short Form** – added language to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **08-EX-25, Possession and Use Agreement** – added language to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **08-EX-26, Construction Permit** – added Item 4 to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **08-EX-27, Permit to Enter and Construct** – added language to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **11-EX-K, Lease Agreement Amendment** – added new Exhibit to incorporate “Lease Agreement Amendment” into formal policy (as opposed to modifying the “Rental Agreement Amendment” for leases). (11-2021)
- **13-EX-07, Utility Agreement Worksheet** – added new Exhibit as a new tool to assist utility agents in selecting the appropriate clauses for a utility agreement. (11-2021)
- **13-EX-09, Relocation Claim Letter to Owner** (11-2021)
 - At first paragraph, included “[scenic highway]” as a template option.
 - At first paragraph and Item 1, updated “two sets” and “six sets” of plans to “an electronic copy.”

- **13-EX-10, Verification Letter to Owner** (11-2021)
 - At first and third paragraphs, included “[scenic highway]” as a template option.
 - At third paragraph, added language “(paper copies or an electronic copy)” and “(via mail or electronically)” to accommodate both formats.
- **13-EX-12, Letter to Owner Requesting Positive Location** (11-2021)
 - At first paragraph, included “[scenic highway]” as a template option.
 - At first paragraph, updated “two sets” of plans to “an electronic copy.”
- **15-EX-15, Developmental Inspection Report** – new inspection document for Developmental properties. (01-2022)
- **15-EX-16, Non-Developmental Inspection Report** – new inspection document for Non-Developmental properties. (01-2022)
- **15-EX-17, FHWA/Caltrans Approval Matrix – Right of Way Use Agreement** – new matrix created in partnership with FHWA to create a more definitive breakdown of what programs/proposals are handled through the Airspace program and what can go solely through the Encroachment Permit office. (01-2022)
- **15-EX-18, Collection Agency Transmittal** – new document for when properties are in default and need to be sent to accounting for collection. (01-2022)
- **15-EX-19, Airspace Lease Application** – new lease application with instruction. (01-2022)

Form Updates

- **RW 08-04, Right of Way Contract – State Highway – Temporary Easement** – added Item 6 to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02. (09-2021)
- **RW 08-10, Grant of Right to Take Material** – added Item 15 to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02; also added digital signatures. (09-2021)
- **RW 08-11, Grant of Right to Dispose of Material** – added Item 13 to incorporate the U.S. DOT Mandate to ensure compliance with Title VI of the Civil Rights Act of 1964 consistent with RWMD 20-02; also added digital signatures. (09-2021)

- **RW 15-04, Lease Renewal** – added section to incorporate language to accept electronic signatures and added electronic signatures. (08-2021)
 - **RW 15-07, Consent of Assignment (Relief)** – added section to incorporate language to accept electronic signatures and added electronic signatures. (08-2021)
 - **RW 16-29, Excess Land Fiscal Transmittal** – added electronic signature. (11-2021)
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The [Right of Way Manual](#) is located on the [Division of Right of Way and Land Surveys website](#).

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Anyone can propose an update to the RW Manual! Simply visit the [RW Manual website](#) and submit a “Right of Way Manual Revision Request.” (Please save the document to your local drive prior to completing to access all features).

Other comments and suggestions for improvement to the RW Manual may be submitted to RWManual@dot.ca.gov.