CHAPTER 11

PROPERTY MANAGEMENT
TABLE OF CONTENTS

11.01.00.00 GENERAL

01.00 Interim Policy Memorandum Update
01.02 Responsibility
03.00 Delegations
04.00 No Re-Rent Residential
04.01 No Re-Rent Nonresidential
05.00 Property Held for Future Purposes
06.00 Disbursement of Rental Income to Counties
07.00 Special Assessments by Local Agencies
08.00 Rental of State-Owned Properties to State Employees
09.00 Use of Bilingual Agents
10.00 FHWA Approval of Less Than Fair Market Rent
10.01 Federal Participation in Revenue and Expenses
11.00 Other Applicable Federal Regulations
12.00 Title VI, Civil Rights Act
13.00 Right of Way Property System
14.00 Filming on State-Owned Property
15.00 Mobilehome Parks

11.02.00.00 CLOSURE PROCEDURE

01.00 General
02.00 Determination of Rentable Properties
03.00 Contact with Grantor and/or Tenant
04.00 Inspection of Property and Determination of Rental Rates
05.00 Procedures Upon Acquisition
06.00 Establishing New Accounts
07.00 Rental Filing System
08.00 New Property - Grantor Retains Improvements
09.00 Rental Period - Hardship Acquisition

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11.03.00.00 PROPERTY INVENTORY

01.00 General
02.00 Inventory Disposal Record
03.00 Improvement Disposal Authorization
04.00 Improvements and Personal Property
05.00 Numbering of IDAs and IDRs
06.00 Active Inventory of Improvements File
07.00 Closed Inventory of Improvements File
08.00 Water Stock
09.00 Lost or Stolen Property

11.04.00.00 RENTAL RATES

01.00 General
01.01 Rental Rate Increase Policy
01.02 Price Gouging During a State of Emergency
02.00 Rent Determinations
02.01 Changing the Rental Rate Shown in the Appraisal
03.00 Lease Term
04.00 Escalation Clauses
05.00 Owners Retain Improvements

11.05.00.00 NONRESIDENTIAL RENTALS

01.00 Fair Market Rent Determinations
01.01 Appraisal's Requirements
02.00 Nominal Value Nonresidential Rentals
03.00 Rental Grace Period on Business Properties
04.00 Rental Rate Increases Prior to Appraisal
05.00 Rental Rate Review
06.00 Rental Rate Increase Policy
07.00 Electric Vehicle Charging Stations – Nonresidential Tenancies
08.00 Department's Contractor's Use of Property – Construction Staging

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11.06.00.00 RESIDENTIAL RENTALS

01.00 General
02.00 Annual Rental Rate Reviews
02.01 Rental Rate Increases
03.00 RAP Eligibility
04.00 Appeals (RAP-Eligible Tenants Only)
04.01 Grounds for Appeal and Approval Authority
04.02 Appeals Hearing
04.03 Extreme Financial Hardship
05.00 Inherited Tenants
06.00 Pet Policy
07.00 Electric Vehicle Charging Stations – Residential Tenancies

11.07.00.00 RENTAL PROCEDURES

01.00 General
02.00 Marketing Plan
03.00 Finder's Fees/Rental Incentives
04.00 Advertising
05.00 Showing Property
06.00 Use of the Property
07.00 Environmental Status
08.00 Rental Application and Credit Report
09.00 Guidelines for Selection of New Tenants
10.00 Use of Cosigners
11.00 Declined Applicants
12.00 Executing the Rental Agreement
13.00 Title VI Guidelines
14.00 Lead-Based Paint and/or Hazards
15.00 Flood Disclosure on Residential Properties
16.00 Initial Rent Collection
17.00 Security Deposits
17.01 Waivers/Reductions
17.02 Refund
18.00 Utilities
18.01 Responsibility for Utility Costs
18.02 Notifying Utility Companies at Date of Recordation
18.03 Payment of Utility Bills by the State
18.04 Utility Deposits by Tenant
19.00 Possessory Interest Tax
20.00 Residential Property Occupancy and Vacancy Inspections
20.01 Non-Residential Property Occupancy and Vacancy Inspections
21.00 Uses of Rental Agreement
22.00 Courtesy Notice of Termination

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11.07.00.00 RENTAL PROCEDURES (Continued)

23.00 Rental Refunds
23.01 Leases
24.00 Notices
25.00 Cancellation - Failure to Pay Rent
26.00 Cancellation - Notice to Vacate for Reasons Other Than Failure to Pay Rent
27.00 Cancellation - Breach of Covenant
28.00 Departmental Use of State-Owned Property
29.00 Termination Requirements
30.00 Abandonment of Premises
30.01 Abandonment of Personal Property

11.08.00.00 DELINQUENT ACCOUNTS

01.00 General
02.00 Suggested Methods of Collection
03.00 3-Day Notice to Pay Rent or Quit
04.00 Method of Service of Notices
05.00 Legal Remedies for Collection and Procedures
06.00 Dishonored Checks
07.00 Late Charges
08.00 Vacated Delinquencies
08.01 Amounts $250 or Less
08.02 Amounts Greater Than $250

11.09.00.00 RENTAL INTERNAL CONTROLS

01.00 Policy
02.00 Newly Acquired Property Closure Procedure
02.01 Office Review
02.02 Field Review
02.03 Diaries
03.00 Vacated Rentable Property
03.01 Agent Activities
03.02 Property Management Senior Activities
04.00 Occupied Rentable Property
04.01 Tenant Verification
04.02 Confirming Process
05.00 Non-Rentable Property
06.00 Rental Accounting and Cash Handling
06.01 New Accounts
06.02 Rental Payments
06.03 Receipts
07.00 Termination of Rental Accounts
08.00 Rental Offsets

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11.09.00.00 RENTAL INTERNAL CONTROLS (Continued)

09.00 Contracted Maintenance

11.10.00.00 PROPERTY MAINTENANCE AND REHABILITATION

01.00 General
01.01 Storm Water Management
02.00 Asbestos and Lead Paint
02.01 Staff Training
02.02 Rental Agreement
03.00 Maintenance Expenditure Guidelines
03.01 Vacant and Non-Rentable Property
03.02 Rented State-Owned Property
04.00 Health and Safety Requirements
05.00 Exterior and Interior Appearance of Improved Properties
06.00 Field Inspections
07.00 Rodent and Pest Control
07.01 Bed Bugs
08.00 Smoke Alarm Devices
08.01 Installation and Type of Smoke Alarm
08.02 Battery-Operated Smoke Alarms
09.00 Carbon Monoxide Alarm
09.01 Installation and Type of Alarm
09.02 Carbon Monoxide Alarms with Alternative Power Sources
10.00 Rehabilitation of Residential Property
10.01 Inspections
10.02 Specifications and Estimates
10.03 Public Works Contracts
10.04 Public Works Contracts Under State Contract Act
10.05 Occupied Housing
11.00 Rehabilitation and Maintenance on Historic Structures
12.00 Reasonable Accommodations and Reasonable Modifications
13.00 Maintenance Performed by Service Contract
13.01 Inspection of Repairs
13.02 Requesting Work
13.03 Multi-provider and Single Provider Service Contracts
13.04 CAL-Card Small Purchase Program
13.05 Non-Credit Card Process (Under $10,000)
13.06 Submitting for Payment
13.07 Summary of Various Contract Processes
14.00 Draft Purchase Order (DPO)
15.00 Travel Expense Claim (TEC)
16.00 Emergency Repairs

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11.10.00.00 PROPERTY MAINTENANCE AND REHABILITATION (Continued)

17.00 Rental Offsets
17.01 New Residential Tenants
17.02 Existing Residential Tenants

11.11.00.00 INSURANCE REQUIREMENTS FOR TENANTS

01.00 Policy
02.00 When Insurance Is Required
03.00 Family Day Care Facilities
04.00 How the State Is Protected
05.00 Fire Insurance on State-Owned Properties
06.00 Self-Insurance by Tenant or Lessee
07.00 Certificate of Insurance
08.00 Fire and Explosion in State-Owned Buildings

11.12.00.00 LEASING STATE-OWNED PROPERTY

01.00 General
02.00 State Lease Forms
03.00 Lease Rates
04.00 Lease Preparation
05.00 Lease Approval by Lessee
06.00 Lease Approval by State
07.00 Title VI Guidelines
08.00 Lease Renewals
09.00 Assignment of Lease
10.00 Public Notice to Bidders
11.00 Construction of Improvements to Realty by Lessee
12.00 Construction of Tenant Improvements and Fixtures by Lessee
13.00 Leasing Excess Land
14.00 Leasing to Highway Contractor
15.00 Leasing to a City, County, or Special District Under S&H Code 104.7
16.00 Lease Recordation
17.00 Lease Cancellation
17.01 Mutual Consent
17.02 Lessee's Failure to Pay Rent
17.03 Based on Right of Termination
18.00 Materials Agreement for Removal of Materials
19.00 Available Office Space

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11.13.00.00 MASTER TENANCIES

01.00 General
02.00 Lease Form
03.00 The Master Tenant
04.00 Factors to Consider
05.00 Approval
06.00 Documentation
07.00 Minimum Acceptable Lease Rate
08.00 Advertising Availability of Master Tenancy
09.00 Bid Proposal Package
10.00 Bid Opening and Award
11.00 Commencement of Standard Lease Procedures
12.00 Posting of Public Notice

11.14.00.00 OUTDOOR ADVERTISING SIGNS

01.00 General
02.00 Prohibition Against New Signs
03.00 Sign Site Rental Procedures and Rates
04.00 Advertising Structure Agreement
05.00 Sign Rent Delinquencies

11.15.00.00 STATE AS LESSEE LEASES

01.00 General
02.00 Procedures Upon Receiving Request
03.00 Procedural Guidelines
03.01 Americans with Disabilities
03.02 State Fire Marshal Approval of Plans and Inspections
03.03 Seismic Performance Requirements
03.04 Standards for State Space
03.05 Facility Plans and/or Drawings
03.06 Energy Conservation
03.07 Hazardous Materials Certification
04.00 Lease Form
04.01 Lease Execution
04.02 Lease Extension
04.03 Triple Net Leases
05.00 Insurance
06.00 Park and Ride Facility Leases
07.00 Documentation for File
08.00 Employee Time Charging

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11.16.00.00 TRANSFERRING PROPERTIES TO CLEARANCE STATUS

01.00 Scheduling Rental Termination
02.00 Transferring Properties to Clearance Status
03.00 Property Management Senior Review
04.00 Advanced Transfers to Clearance Status
05.00 Direct Sale Pursuant to S&H Code Section 118.1

11.17.00.00 HAZARDOUS WASTE AND HAZARDOUS MATERIALS

01.00 Policy
02.00 Definition
03.00 General
04.00 Inventory
05.00 Underground Storage Tanks
06.00 Tank Removal Procedures
07.00 Potential Surface Contamination
08.00 Lease Clause for Nonresidential Properties and Information for Tenants

11.18.00.00 DEPARTMENT-OWNED EMPLOYEE HOUSING

01.00 Definition
02.00 Policy
03.00 Responsibilities
04.00 Rental Rates
04.01 Rental Rate Determinations
04.02 Rental Rate Increases
05.00 Utilities
05.01 Utility Expense Increase
06.00 Employee Housing Rental Agreement
07.00 Dormitory Accommodations
08.00 Payment of Rent
09.00 Possessory Interest Tax
10.00 Maintenance and Repairs
11.00 Carpeting for Employee Housing
12.00 Surplus Property
13.00 Reporting Requirements
14.00 Storm Water Requirements

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11.19.00.00 STATUTE AUTHORIZED USE – HOMELESS SUPPORT

01.00 State Statutes
02.00 Site Identification
03.00 Rental Rates
04.00 FHWA Approval
05.00 Rental Agreement
06.00 Term

11.20.00.00 DELEGATIONS

01.00 Delegations of Authority

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11.00.00.00 - PROPERTY MANAGEMENT

11.01.00.00 - GENERAL

11.01.01.00 Interim Policy Memorandum Updates

From time to time Headquarters Right of Way (HQ R/W) will issue interim policy memorandums to clarify policies and procedures prior to a new publication of the R/W Manual. When an interim policy memorandum is created and approved, there will be an email notification sent to the following groups: Functional Council members, R/W Management Board members, Statewide Supervising R/W Agents, other potential stakeholders, and subscribers of the R/W Manual update list. Additionally, the interim policy memorandum will appear under the *Active Right of Way Manual Directives (Interim Policy Memos)* section at the R/W Manual Revisions website.

11.01.02.00 Responsibility

Region/District Property Management manages all property held for future transportation projects, excess properties, and employee housing. For project and excess properties, this includes maintaining an inventory of state-owned properties, inspecting properties for loss prevention, marketing rentable properties, establishing tenancies, collecting rents, arranging property maintenance, and terminating tenancies. For employee housing, this includes obtaining rental agreements and arranging property maintenance.

11.01.03.00 Delegations

All Property Management approvals have been delegated to the Regions/Districts in accordance with the Statewide Delegation Matrix. (See Chapter 2, Statewide Delegation Matrix, Manual Section 2.05.00.00.) Property Management staff have full delegation to operate and approve within the parameters outlined in this chapter and as shown in the delegation matrix. Any activities outside the scope of this manual or the delegation matrix shall be subject to HQ R/W's approval. Approval may be conveyed in writing or electronically. The region/district shall maintain a copy of the approval in the rental file(s) to which it applies.

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11.01.04.00 No Re-Rent Residential

As a general rule, no vacated residential units shall be rented on projects with current environmental clearances. Vacated improvements on such projects should be cleared immediately. If an environmentally cleared project is in the STIP or SHOPP and has programmed funds for normal right of way, the no re-rent policy is mandatory.

In addition, the District/Region should consider establishing a residential no re-rent policy on other projects if a shortage of replacement housing exists, or may develop, or for other reasons, such as specified action in the Freeway Agreement or official local agency request. The recommendation should contain complete justification, with advantages and drawbacks, and detailed analysis on social and economic consequences. The analysis must recognize that improvements cannot be removed prior to environmental clearance of the project and must consider the effect of boarded vacant improvements upon the neighborhood.

Approval for establishing a no re-rent policy is as follows:

- Environmentally Cleared Projects - No approval is necessary. If the project is also in the STIP or SHOPP and has programmed funds for R/W activities, an exception to establishing a no re-rent policy requires a rental/clearance plan approved by the DD or authorized delegate.

- No Re-Rent Recommended in the R/W Stage RAP Study - Approval of the R/W Stage RAP Study constitutes approval to institute the policy, although separate written approval from the DD is required.

- No Re-Rent Recommendation Submitted Separately from R/W Stage RAP Study - Written approval from the DD is required.

11.01.04.01 No Re-Rent Nonresidential

The District/Region may also implement a no re-rent policy for nonresidential property when conditions warrant. The justification and approval required are the same as outlined above.

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11.01.05.00 Property Held for Future Purposes

Where improved property is acquired far in advance of scheduled construction and the DD or authorized delegate has approved an exception to the no re-rent policy, the policy of the Department of Transportation (Department) is:

- Keep the property occupied.
- Maximize rental revenue.
- Minimize adverse effects of right of way clearance on the community.
- Be a good neighbor.
- Demolish the improvements if necessary.

11.01.06.00 Disbursement of Rental Income to Counties

Streets and Highways (S&H) Code Section 104.6 requires that 24% of all rents received from real property acquired for future state highway purposes shall be disbursed to the counties where the rental properties are located. Department policy is to code all properties in the Right of Way Property System (RWPM), Property Screen, TPR510M, with a "Y" in the "24% TO CO" field. The only exception to this policy is when the Department owns a mobile home, but not the land. In this case, an "N" will be entered into the "24% TO CO" field. Accounting is responsible for disbursing the funds to the counties in accordance with S&H Code Section 104.10. The 24% represents payment for taxes or assessments.

11.01.07.00 Special Assessments by Local Agencies

State-owned property is exempt from property taxation per Article XIII, Section 3, Subdivision (a) of the California Constitution. With the passage of Proposition 218 and the addition of Article XIII D of the California Constitution, State-owned property may be subject to special assessments provided that certain procedural and substantive requirements are met.

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Prior to imposing a special assessment, the local assessing agency must have done the following:

- Identify all the parcels which will have a special benefit conferred upon them and upon which a special assessment will be imposed.
- Prepare a detailed resident engineer's report supporting all assessments. The report must be prepared by a registered professional engineer certified by the State of California. The report must contain the total amount chargeable to the assessment district, the amount chargeable to each parcel within the assessment district, the duration of the payments, the reason for the assessment, and the basis upon which the amount of the proposed assessment was calculated.
- Hold a public meeting on the proposed assessment and receive approval from a majority of the property owners casting a ballot.

If a special assessment bill, which will normally be shown on the secured tax roll, is received, the following actions should be taken:

- The Region/District should determine if the Department owns fee title to the subject parcel being assessed. The Department shall not pay any special assessments on real property in which the Department holds a property right less than fee title.
- The Region/District should determine whether the Department is subject to the assessment by sending a letter to the assessing agency informing it that the Department is exempt from an assessment unless the assessment is expressly allowed by law. The assessing agency should be asked to identify the specific provision in the law that allows for the assessment. If there is no expressed authorization for the assessment, the assessing agency should be asked to discontinue billing the Department.
- If the assessing agency provides express legal authorization for the assessment, the Region/District must then determine if the State-owned parcel receives a special benefit from the assessment. If the parcel in question is under pavement, it is highly unlikely that there is any special benefit conferred upon that parcel since the Department is already tasked to maintain such parcels. If it is determined that the parcel does receive a special benefit, the assessment should be submitted to the Division of Accounting for payment. If it is determined that the parcel does not receive a special benefit, the assessing agency should be informed of the determination and asked to discontinue billing the Department.
- In instances where the Region/District determines that the special assessment is to be paid, the Region/District must identify the law that

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allows for the assessment when submitting the payment package to the Division of Accounting.

If a special assessment was levied on the parcel prior to the acquisition of the parcel, that special assessment should have been paid in full including any future installments owed at the time of the acquisition.

For further information regarding special assessments, please refer to the memorandum dated August 27, 2019 (internal Caltrans link).

11.01.08.00 Rental of State-Owned Properties to State Employees

State employees, including employees of the Department, are eligible to rent state-owned properties provided their jobs do not involve managing the property, estimating or setting the rental rate, or performing other property management activities.

11.01.09.00 Use of Bilingual Agents

Every effort should be made to use bilingual Agents when working in areas where tenants are non-English speaking. The Agent may also utilize the Caltrans Volunteer/Certified Bilingual Listing or the Department's contracted interpreting services. For more information on the Caltrans Volunteer/Certified Bilingual Listing and the Department's contracted interpreting services, please refer to the Office of Civil Rights Limited English Proficiency intranet site (internal Caltrans link).

11.01.10.00 FHWA Approval of Less Than Fair Market Rent

23 CFR 710.403(e) states that acquiring agencies shall charge current fair market value or rent for the use or disposal of all real property interests, including access control, if those real property interests were obtained with title 23, United States Code, funding. Exceptions to the requirement for charging fair market value must be submitted to FHWA in writing and may be approved by FHWA in the following situations:

- When it is in the overall public interest based on social, environmental, or economic benefits, or is for a non-proprietary governmental use.
- Use by public utilities in accordance with 23 CFR part 645.
- Use by railroads in accordance with 23 CFR part 646.

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- Use for bikeways and pedestrian walkways in accordance with 23 CFR part 652.
- Uses under 23 U.S.C., Public Transportation. For public transportation purposes, whenever the public interest will be served, by publicly owned mass transit authorities where this can be accomplished without impairing automotive safety or future highway improvements.
- Use for other transportation projects eligible for assistance under Title 23 of the United States Code, provided that a concession agreement shall not constitute a transportation project exempt from fair market value requirements.

The Department must evaluate and justify all instances when charging a less than fair market rental rate is in the overall public interest based on social, environmental, or economic benefits, or for a non-proprietary governmental use. Additionally, the Department must ensure that the public will receive the benefit used to justify a less than fair market rental rate.

When evaluating a less than fair market rental rate, for the above situation, the Department must be able to understand and provide a statement of the public's problem and how the proposed agreement will address or improve said problem. The Department must be able to articulate all the benefits the public will receive by having in place such an agreement at less than fair market rent. It is essential that the proposed use allowed by the agreement complies with all State and Federal laws.

The method for ensuring that the public will receive the benefit of proposed agreement is the use defined within the agreement. The proposed agreement shall be constructed as to only allow for a very narrow and specific use that creates a benefit to the overall public. Additionally, the Department shall commit to inspecting the property in accordance with the frequency described in this Chapter; this will ensure that the property is only being used to provide the benefit to the public in accordance with the agreement.

The District/Region shall submit a written Public Interest Finding (PIF) to HQ R/W for submission to FHWA for the approval of the proposed less than fair market rental rate. The PIF must address the evaluation criteria of the less than fair market rate and the methodology for ensuring the public receives the benefit as outlined within this section.

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11.01.10.01 Federal Participation in Revenue and Expenses

The federal share of net income shall be used for activities eligible for funding under Title 23, in which case the state may retain rental and lease revenues without crediting federal accounts. Since rental and lease revenues are deposited into the State Transportation Fund, which is a Special Revenue Fund used primarily for Title 23 projects, the Department has met the intent of CFR 710.403(f). Furthermore, the Department is not required to track and report the expenditures from these revenues. Revenues should be coded as ineligible for federal reimbursement. (See Exhibit 11-EX-1, Letter to FHWA dated March 4, 1999.)

Under 23 CFR Part 710 Subpart D, property management costs continue to be eligible for federal participation until final project voucher. The Department has made a policy decision, however, that it will not seek federal reimbursement for property management costs (i.e., operating expense and support costs). Therefore, expenditures should be coded as ineligible for federal reimbursement.

11.01.11.00 Other Applicable Federal Regulations

Policies and procedures for managing real property acquired in connection with a federal-aid transportation project are contained in Title 23 CFR, Sections 710.401 through 710.409. The policies are applicable to all state and political subdivisions that manage real property acquired for transportation projects in which federal funds are used for any phase of the project.

11.01.12.00 Title VI, Civil Rights Act

Title VI of the 1964 Civil Rights Act forbids discrimination against any person in the United States because of race, color, or national origin by any agency receiving federal funds. See Manual Section 2.04.01.00 for additional information.

11.01.13.00 Right of Way Property System

Right of Way policy mandates use of the RWPM. See the RWPM User's Manual for additional information. A copy of the User's Manual is on the Right of Way Intranet under HQ Offices, Real Property Services (under functional unit links).

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11.01.14.00 Filming on State-Owned Property

Government Code Sections 14998-14998.13 is known as the Motion Picture, Television, and Commercial Industries Act of 1984.

Government Code Sections 14999.50-14999.55 is known as the State Theatrical Arts Resources (STAR) Partnership.

Government Code Sections 15363.60-15363.65 is known as the Film California First Program.

These various Government Code sections established the regulations and guidelines in association with filming on state-owned property such as: The Director of the Film Office shall be the permitting authority for the use of state-owned property and state employee services for the purpose of making commercial motion pictures; allows production companies and other film industry companies to lease property owned by the State of California at no charge or below market rates; allows state agencies to be reimbursed for the film costs incurred including state employee costs, maintenance costs, electrical costs, etc., and directs state agencies to identify surplus properties that may be available for use.

Current Department policy asserts that the Department will not charge any production company working through the California Film Commission (Commission) a rental/lease charge for utilizing surplus property for filming. However, the Department will charge production companies for employee time including overtime charges and any miscellaneous costs. Production companies shall be responsible for any related costs, such as maintenance or electrical costs, that the state incurs because of filming at the property.

Whenever a production company contacts a Region/District, you will contact either the Commission or your local Film Liaisons in California, Statewide (FLICS) person to coordinate any activities. The Commission is responsible for issuing permits, collecting fees, and making sure insurance coverage is obtained.

The Regions/Districts' initial responsibility is to show the property to interested production company representatives. If the production company decides to use the property, the Agent involved will ensure Department of Transportation, Division of Right of Way, STAR Program Agreement (Agreement), will be prepared. This will serve as the rental/lease agreement between the Department and a production company. Upon execution by both parties, the Agreement will be sent to the Commission for inclusion in

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their permit. (See 11-EX-49, Department of Transportation, Division of Right of Way, Star Program Agreement).

If any production company working through the Commission wishes to film on property obtained with title 23, United States Code funding, FHWA approval will be required prior to the execution of an Agreement or use of the property. This is due to the Department's policy of not charging a production company rent for use of the property, while FHWA approval is required when less than fair market value is charged for the use of a property. A PIF must be submitted to HQ R/W for submission to FHWA for approval of the less than fair market rental rate; please see Section 11.01.10.00 for further information.

Once a production company has been approved to film on state-owned property, it is the responsibility, with the assistance of the Commission if needed, of the Region/District to have an agent(s) on site for monitoring purposes. The agent will be there to answer questions and make sure the production company is adhering to the requirements of the Agreement.

R/W must consult with the Division of Environmental Analysis (DEA) when properties are deemed historic in order to capture any specific requirements or restrictions associated with the use of the property especially regarding any requested alterations to the property.

11.01.15.00 Mobilehome Parks

The Region/District is encouraged to explore all options available to avoid the acquisition of mobilehome parks, even up to the selection of an alternate route. In the event that the Department acquires a mobilehome park, and the tenants own their own mobilehome, contact HQ R/W immediately. Proper management of mobilehome parks is challenging, as they are governed by the Mobilehome Residency Law. Therefore, it is imperative that the Region/District work with HQ R/W and Legal to ensure that the proper laws, regulations, and procedures are being followed.

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11.02.00.00 - CLOSURE PROCEDURE

11.02.01.00 General

Upon execution of a R/W Contract or recordation of an FOC, the Acquisition Agent (or Condemnation Agent for an FOC) shall send an MOS, RW 8-12, to Property Management with a copy of the R/W Contract or FOC as appropriate. The Property Management Senior should assign the parcel to the Agent responsible for the territory. The Agent shall review and be familiar with the documents and the appraisal involved.

In the majority of cases where property is acquired under R/W Contract, there will be a period of time, usually three to six weeks, between receipt of these documents and close of escrow or recordation. If the property is occupied, the Agent shall contact the occupants prior to close of escrow to discuss the terms of rental occupancy. The Agent should read the R/W Contract carefully to determine any special conditions imposed that might affect, for example, the rental rate, term of occupancy, rental commencement date, or special disposition of acquired property.

Where property is acquired through an FOC, the Agent shall take immediate action to contact the occupants since rental commences on the day following recordation of the FOC.

11.02.02.00 Determination of Rentable Properties

Properties shall be considered rentable if re-rental is appropriate and there is a high probability that a tenant can be found. Pertinent factors to consider in determining rentability include topography, zoning, accessibility, lead time, availability of utilities, size and location of parcel, and condition and nature of improvements.

11.02.03.00 Contact with Grantor and/or Tenant

The Agent shall accomplish the following upon initial contact with the grantor or tenant:

- Determine existing rental rate, if any.
- Determine current rental period (e.g., rent paid monthly and due dates).
- Determine if rent is prepaid, up to and including what date.

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- Determine who is responsible for payment of various utilities (water, gas, electricity, sewer, and garbage).

- Complete the Rental Application.

- Advise tenant of policies regarding security deposit, or transfer of deposit from grantor at time of close of escrow, and payment of first month of lease, if applicable.

- Advise tenant of period property will be available for rental or lease, and determine if tenant intends to stay.

- Inform tenant that all monthly rents are due on the first of the month and advise tenant that prompt payment of rent is mandatory in all cases.

- Advise tenant about Possessory Interest Tax, if applicable (see Manual Section 11.07.17.00).

11.02.04.00 Inspection of Property and Determination of Rental Rates

The Agent shall thoroughly inspect all property, including improvements, prior to acquisition or as soon as possible after acquisition. This inspection enables the Agent to become familiar with the property for purposes of reviewing the rental rate set by Appraisals and to note and abate any hazardous conditions that may exist.

11.02.05.00 Procedures Upon Acquisition

The start tenancy date must be entered in the RWPM Tenancy Screen as soon as the Agent is notified that acquisition is complete.

11.02.06.00 Establishing New Accounts

Written agreements covering rental and lease of all state property are required. The standard forms listed below shall be used but may be modified, with approval of the DDD-R/W or delegated representative, to comply with actual conditions or when special situations arise.

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TYPES OF AGREEMENTS

- Residential Rental Agreement
- Lease Agreement (Commercial, Industrial)
- Agricultural Lease Agreement
- Advertising Structure Agreement

Please refer to the specific agreement templates on the Property Management website (internal Caltrans link).

First, the Agent shall contact the RAP Unit to determine the RAP eligibility of each tenant occupying the property. The Agent shall then make any changes needed in the agreement to protect the tenant's RAP eligibility.

The Agent is responsible for seeing that agreements are processed promptly. The Agent shall have the tenant sign a minimum of two copies of the agreement and submit the agreement to the Property Management Senior for review before submitting it to the person authorized to execute on the state's behalf.

Each prospective tenant must complete a Residential Rental Application, RW 11-5, or a Non-Residential Rental Application, RW 11-6, based on the property type.

The Agent is responsible for collecting the initial rent and security deposits. (See Exhibit 11-EX-2 for departmental cash handling procedures.)

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11.02.07.00 Rental Filing System

A uniform Rental Filing System is necessary for accurate and proper control of rented properties. Each rental account file shall be kept by account number. If files become too large for one folder, additional ones shall be started. To provide a complete parcel rental history for each rental unit, all folders for one parcel shall be kept in one place; for example, in an accordion-type folder with the parcel number on it. The rental file shall be in chronological order and shall contain the items shown below.

RENTAL FILE CONTENTS

- Diary
- R/W Contract
- MOS
- FOC (if applicable)
- Rental Application
- Credit Report (if applicable)
- Rental Rate Documentation
- Rental Agreement (executed copy)
- Lead-Based Paint Disclosure (if applicable)
- Invoices or paid bills for repairs
- Vacancy Report (if applicable), 11-EX-65
- Map of location
- Inspection Forms with Photographs of Inspection
- Stormwater Inspection Forms

When property is vacated and then re-rented, the previous tenant's file shall be kept intact in the rental folder, current tenant data at the front. It is suggested that tabs be inserted in the file to indicate where the new tenancy data starts. Alternatively, the previous tenant's file may be kept separately in order by account number. The MOS, R/W Contract, and copy of the move-out inspection form should be transferred to that new rental file with any other pertinent information that provides file continuity.

Each rental unit in a multiple unit parcel shall have its own rental unit number and may be filed in its own folder as long as all unit files are kept together under the parcel number.

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11.02.08.00 New Property - Grantor Retains Improvements

Occasionally, the Department enters into a R/W Contract that permits the owner to retain improvements if they are relocated by a certain date. If improvements are occupied at close of escrow, an appropriate ground rental rate shall be charged until the improvements have been removed, unless the R/W Contract provides for rent-free occupancy, within the grace period as specified in the Right of Way Contract, of the land. The Agent should discuss unique situations or uncertainties with the Property Manager Senior or authorized representative before making a commitment. (See also Manual Section 11.04.06.00.)

11.02.09.00 Rental Period - Hardship Acquisition

On hardship acquisitions, grantors are required to vacate the property within 120 days from the date of close of escrow, provided replacement housing is available. The rental agreement is limited to a term of not more than 120 days, except in extreme cases where hardship would be compounded by requiring relocation within the 120-day period.

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11.03.00.00 - PROPERTY INVENTORY

11.03.01.00 General

Each district shall keep its inventory of rentable and non-rentable properties in RWPM up to date and accurate. The Region/District shall also keep a physical file of each property in its inventory.

Permanent easements, temporary construction easements, utility easements, employee housing, and other similar real property interests acquired or owned by the Department are not to be entered into the RWPM.

11.03.02.00 Inventory Disposal Record

The Acquisition Agent prepares the Inventory Disposal Record (IDR), Form RW 12-1, and assigns a Register Number when the MOS is prepared. (See Manual Section 8.50.03.00 for additional information.) The IDR is used for accountability of improvements and personal property purchased through Right of Way transactions, and to record the discharge of accountability at the time of clearance.

11.03.03.00 Improvement Disposal Authorization

The Improvement Disposal Authorization (IDA), Form RW 12-2, is a formal request to the DD or authorized delegate for permission to dispose of state-owned improvements or personal property. Approval of the IDA is authority to proceed with disposition of the improvements as specified. No property shall be disposed of in a manner at variance with the approved IDA without prior approval of the DD or authorized delegate.

11.03.04.00 Improvements and Personal Property

For purposes of this inventory procedure, "improvements and personal property" means those structures, improvements, or personal property (such as furniture) whose disposal requires an IDA, RW 12-2. Miscellaneous items purchased as part of the real estate, such as TV antennas, air coolers, carpets, gasoline pumps, compressors, and drapes, are listed on the IDA. This applies whether the items are to be marketed, demolished, or transferred to another department or agency. Improvements such as landscaping and driveways that normally are destroyed in right of way cleanup contracts or by the road contractor as part of clearing and grubbing need not be listed.

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Items of personal property purchased, such as furnishings, must also be shown. A Bill of Sale may be given an item number and copy attached to the IDR.

Whenever salvaged property is removed from state-owned parcels, it shall be placed in a secured area in District/Region facilities. The Agent will keep the required inventory forms in a file to account for each item. The Agent shall be responsible for the secured area and the keys thereto.

11.03.05.00 Numbering of IDAs and IDRs

IDAs and IDRs carry the Parcel Number, Improvement Register Number, Expenditure Authorization Number, Co. Rte. and KP, and Federal-Aid Project Number. District filing is by Parcel Number.

11.03.06.00 Active Inventory of Improvements File

The District/Region shall maintain a file of active IDRs. A copy of the IDA for a parcel is placed in the file when the IDR file is set up. When all improvements have been disposed of in accordance with the IDA and the "Disposal Record" section (back) of the IDR has been completed, these two documents are transferred to the parcel file.

When multiple IDAs are required to dispose of improvement items carried under one Register Number, the disposal information should be transcribed from the multiple reports to the original form. The original is filed in the permanent district records.

A copy of the Inventory and Disposal Record shall be retained until it is necessary to process the improvements for clearance and an Improvement Disposal Report file is set up.

When it has been certified that all improvements have been disposed of in accordance with the Improvement Disposal Report or Reports, and the "Disposal Record" section (back) of the Inventory Disposal Record is completed, the Improvement Disposal Report shall be transferred to a closed file. The original in the active file may be destroyed.

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11.03.07.00 Closed Inventory of Improvements File

The closed inventory record form shall be part of the District's/Region's permanent records. As long as any items originally set up remain uncleared, however, the record must remain in the active file.

11.03.08.00 Water Stock

If appurtenant stock is acquired, such as for agriculture watering, it shall be held until the need for a water supply ceases. If it is not necessary to retain appurtenant water stock, the district shall submit the stock to the company secretary for cancellation.

In those cases involving excess land, the District/Region must arrange for reissuance of the stock to the purchaser at the time of sale.

If non-appurtenant water stock is purchased, it shall be held until the need for a water supply ceases. It shall then be submitted to the water company for cancellation with immediate reimbursement to the state by the water company or reimbursement upon resale of the stock, at the water company's option.

If it is not necessary to purchase water stock, the Region/District shall acquire the land without paying any consideration for the water stock.

Each District/Region shall maintain an inventory and disposal record of water stock. The Region/Ddistrict shall inventory each acquired share or fractional share of water stock and keep a complete record of all water stock acquired.

After stock certificates are reissued in the state's name, the District/Region shall forward them to the Division of Accounting for filing.

The state is subject to assessments whenever it holds such shares of mutual water company stock. Prior approval from the DD or authorized delegate is required before any assessment can be paid.

Mutual water company stock that is acquired in connection with acquisition of land for other than right of way purposes shall be processed as set forth in this section.

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11.03.09.00 Lost or Stolen Property

Government Code Section 14613.7 requires each state agency be protected by the California Highway Patrol (CHP). The CHP personnel shall document all crimes, miscellaneous law enforcement-related incidents, or services provided on State-owned or State-leased property for statistical record keeping purposes. In addition, Government Code 14613.7 requires the CHP to compile all reported information and report to the State Legislature as necessary.

All notifications of an incident and/or crime shall be expeditiously directed to the Department's Statewide Operations Security (SOS) Office via email or fax no later than the third working day following the discovery of an incident and/or crime. Incidents/crimes involving injury or death of individuals or property losses totaling over $500 shall be reported no later than the first working day following the discovery or notification.

An STD, 99, Report of Crime or Criminally Caused Property Damage on State Property, shall be prepared for all crimes or incidents occurring on State-owned or State-leased property and sent to:

Statewide Operations Security Office
1120 N Street, Mail Station 55
Sacramento, CA 95814

The IDR should be properly annotated concerning lost, stolen, or destroyed property.

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11.04.00.00 - RENTAL RATES

11.04.01.00 General

Our policy is to charge fair market rent and to rent only to tenants willing and able to pay fair market rent. For definition of Fair Market Rent, see Manual Section 11.04.02.00. Exceptions are made for:

1. Tenants whose rental rates are established by Right of Way Contract.

2. Residential tenants who qualify for the Affordable Rent Program. (See Exhibit 11-EX-3, Affordable Rent Tenants. See Exhibit 11-EX-38 Gross Income for The Purpose of Calculating Affordable Rent)

3. Local rent control (see Manual Section 11.04.05.00).

4. Instances when it is in the overall public interest based on social, environmental, or economic benefits, or is for a non-proprietary governmental use. Prior written approval must be obtained from FHWA when the property was acquired with title 23, United States Code, funding.

5. Instances in which the Department must charge a less than fair market rate due to legislation. FHWA approval may be required if the property was acquired with title 23, United States Code, funding.

The District/Region shall set up in RWPM all state-owned properties that are suitable for renting and are proposed for occupancy as rental accounts and shall charge rent as follows:

- **Property Improved with an Owner-Occupied Residential Unit** - Grantor's rental shall commence on the 16th day after the close of escrow or the day after the Order of Possession becomes effective.
- **Property Occupied by a Business -** A rental grace period (maximum of 60 days) may be granted to the tenant (former owner, inherited tenant) if circumstances warrant. The grace period may commence on the day after the close of escrow, or the day after the Order of Possession becomes effective, or at some other time during the lease term, depending on whether or not the business has a commitment to pay rent on a replacement site. See Manual Section 10.05.25.00 for further details.

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- **All Other Classes of Property, Including Property Partially Tenant-Occupied -** Rentals shall commence on the day following close of escrow or the day after the Order of Possession becomes effective.
- **Exceptional Cases -** Adherence to rental rates established by executed R/W Contracts is required. Lease purchase sale of excess land to a tenant-buyer will provide for a lease at above market rate. See Excess Land Chapter, Manual Section 16.05.14.00, for further details.

These provisions do not preclude longer free occupancy periods where necessary or desirable with the DDD-R/W's approval. The terms of either the R/W Contract or the transmittal memorandum must indicate, however, that the state is receiving a consideration for the extended rent-free occupancy.

The initial rental rate for all improved properties and rented unimproved properties is in the appraisal report.

- **Tenant-Occupied Properties -** The actual existing rental rate and the estimated fair market rental rate are shown.
- **Owner-Occupied Properties -** Only the fair market rental rate is shown. The rentals of similar properties shall be the basis for estimating the fair market rental rate.

11.04.01.01 Rental Rate Increase Policy

Department policy is to review rental rates annually and make the appropriate adjustments. Effective January 1, 2020, pursuant to an amendment to Section 827 of the Civil Code, a 90-day written notice is required prior to raising rents for residential tenancies when the increase is greater than 10 percent; prior to January 1, 2020, a 60-day written notice is required prior to raising rents for residential tenancies when the increase is greater than 10 percent. A 30-day written notice is required when the rent increase is 10 percent or less for residential tenancies. For non-residential tenancies, a 30-day courtesy notice is highly recommended.

Effective March 15, 2019, the Department will be subject to rental rate caps for residential properties that are not alienable separate from the title to any other dwelling unit, i.e. multi-family residential properties, and do not have a certificate of occupancy issued within the previous 15 years. In the course of any 12-month period the rental rate increase for these properties cannot exceed 5 percent plus the percentage change in the cost of living, or 10 percent, whichever is lower. Between March 15, 2019, and January 1, 2020, if the rent has been increased by more than the prescribed amount in this

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paragraph, then the applicable rent on January 1, 2020, shall be the rent as of March 15, 2019, plus the maximum permissible increase and the Department is not liable for any rental overpayments for the rental increase over and above the prescribed amount in this paragraph. This statute, Section 1947.12 of the Civil Code, is in effect until January 1, 2030.

For **residential** properties that are alienable separate from the title to any other dwelling unit, i.e. single-family residences, townhomes, and condominiums, or any residential properties that have been issued a certificate of occupancy within the previous 15 years, the rental rate cap does not apply. Again, this statute, Section 1947.12 of the Civil Code, is in effect until January 1, 2030. The following language for residential properties that are exempt from the rental rate cap must be in the rental agreement for all tenancies that commenced or renewed on or after July 1, 2020; for tenancies that existed prior to July 1, 2020, the tenant must be provided the following language in a written notice:

- "This property is not subject to rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation."

The Department's rental rate policy for residential properties that are alienable separate from the title to any other dwelling unit or have been issued a certificate of occupancy within the previous 15 years, which are not subject to the statutory rent caps described in this section, shall be as follows:

- If the current rent is 25% or less below fair market rent, there will be annual 10% rent increases until actual rent equals market rent.
- If the current rent is more than 25% below fair market rent, there will be 10% rent increases every six months until actual rent is 25% or less below fair market rent and then there will be annual 10% rent increases until actual rent equals fair market rent.

11.04.01.02 Price Gouging During a State of Emergency

Upon the proclamation of a state of emergency declared by the President of the United States, the Governor of California, or a city and/or county official, board, or other governing body vested with authority, anti-price gouging statutes go into effect immediately after such proclamation or declaration.

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Pursuant to Penal Code Section 396, it is unlawful to increase the rental rate advertised, offered or charged for housing, to an existing or prospective tenant, by more than 10 percent for a period of 30 days following the proclamation or declaration of a state of emergency or any period the proclamation or declaration is extended by the applicable authority. The rental rate may be increased by more than 10 percent during a state of emergency if the increase was contractually agreed to by the tenant prior to the proclamation or declaration.

Additionally, pursuant to California Penal Code Section 396, for a period of 30 days following the proclamation or declaration of a state of emergency, or any period the proclamation or declaration is extended by the applicable authority, it is unlawful to evict a residential tenant and then rent or offer to rent to another person at a rental rate greater than the evicted tenant could be charged.

California Penal Code Section 396 defines the rental rate as follows:

- For housing rented within one year prior to the proclamation or declaration of emergency, the rental rate is the actual rental rate paid by the tenant.
- For housing not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency the rental rate is the most recent rental rate offered prior to the proclamation or declaration of emergency.
- For housing rented at the time of the proclamation or declaration of emergency but which becomes vacant while the proclamation or declaration of emergency remains in effect and which is subject to any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the rental rate is the greater of the actual rental rate paid by the previous tenant or 160 percent of the fair market rent established by the United States Department of Housing and Urban Development.
- For housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, the rental rate is 160 percent of the fair market rent established by the United States Department of Housing and Urban Development.

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11.04.02.00 Rent Determinations

Property Management is responsible for establishing fair market rent determinations on residential properties. Property Management may request assistance from Appraisals, but must provide Appraisals with detailed information about the subject properties. For information and responsibilities for rent determinations on nonresidential properties, see Manual Section 11.05.01.00 for guidance.

A fair market rent determination is an estimate of the amount of rent, which a parcel would command in the open market, if offered under the terms and conditions typical of the market for similar properties.

The rent determination shall be based on current rents being paid in the area for comparable property. An analysis of the comparable rental and other market data such as size, location, condition of property (exterior and interior), etc., will be completed. The subject properties and comparable data shall be viewed in the field and the comparable property will be inspected if available. Exhibit 11-EX-46, Documentation of Residential Fair Market Rental Rate, will be used for all rent determinations. The rent determination includes a signed statement that the agent has personally viewed and inspected the parcel. The rent determination shall also be signed by a Property Management Senior and placed in the rental file.

At minimum, a 48-hour notice will be given to the tenants prior to inspecting the property for rent determinations.

11.04.02.01 Changing the Rental Rate Shown in the Appraisal

Although Property Management will normally use the rental rate shown in the appraisal, it has the right to revise the rate if justified by more recent market data. If a change in the rental rate for residential properties is proposed, the Agent shall complete Exhibit 11-EX-46, Documentation of Residential Fair Market Rental Rate, and submit to the Property Management Senior or designee for approval. For nonresidential properties, the Agent will complete Exhibit 11-EX-53, Nominal Value Nonresidential Rental Appraisal, and submit to the Property Management Senior or designee for approval. (See Manual Section 11.05.04.00 for additional information in regard to nonresidential properties.) All documentation shall be filed in the rental folder.

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11.04.03.00 Lease Term

At its discretion, the District/Region may set the length of lease terms up to five years, provided rate adjustments are incorporated and 90-day (or less) cancellation clauses are included. Suggested guidelines are as follows:

- **The Property Is in an Active Market, Subject to Recent or Anticipated Property Value Increases -** Consideration should be given to keeping the term short (e.g., one year). The advantage is that the rent can be reappraised and adjusted with market changes; the disadvantage is that a yearly reappraisal and renewal are required.
- **Properties Are of Relatively Low Value (e.g., Agricultural and Nominal Leases) and the Market Is Stable -** Consideration should be given to a longer-term lease (e.g., 3-5 years). This reduces the need for annual reappraisal and lease renewal where little or no rental change is likely. In such a case, a rental adjustment lease clause may be omitted.
- **Other Leases (e.g., Commercial and Industrial) in a Stable Market -** Consideration should be given to a longer-term lease (e.g., 3-5 years). To keep up with the rental market, the lease should contain a provision for annual rental escalation. Examples include level or graduated rental step raises (based on projected market trends) and raises tied to a Consumer Price Index. (Please refer to the Lease Agreement template on the Property Management website (internal Caltrans link) for standard rent escalation clauses.)

  Use of a flat rate must be justified and documented in the file or preapproved in writing by the DD or authorized delegate.

Where possible, all leases should be written with a short termination time (e.g., 90 days or less) to provide maximum flexibility. Leases with terminations longer than 90 days should be written on an exception basis only and must not conflict with project certification schedules. Similarly, multiyear leases must be written to avoid such conflict.

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11.04.04.00 Escalation Clauses

The assigned Agent shall annually review each lease agreement containing a rental escalation clause. The Agent shall adjust the lease rate according to the terms of the agreement and notify the lessee. It is highly recommended that the Agent provide at least a 30-day courtesy notice to the lessee informing them of the rental rate increase. The rental file and RWPM shall be appropriately documented. In order to ensure proper billing, the Agent should go into the "Update Tenancy" screen in RWPM and enter the new rental amount and effective date under the "Pending Amounts" section. Additionally, the Agent should update the "Market Rent" and "Date of Value" on the "Property" screen within RWPM. The Property Management Senior shall be responsible for reviewing the rental files and the RWPM to ensure compliance.

11.04.05.00 Owners Retain Improvements

If the R/W Contract requires the owner to remove retained improvements within a short time period (e.g., 90 days), a rental rate providing a current market return on the acquired property is charged. The rental rate shall not include a return on retained improvements. If the acquired land is of such size and irregular shape (e.g., narrow strips) that the market rental rate cannot be readily determined, the monthly rental rate may be set at one percent (1%) of the payment for the acquired property or the nominal monthly rental rate, whichever is greater.

After the close of escrow, if any structural improvement retained by the grantor remains on the acquired property past the term agreed to, the District/Region shall charge fair market rent for the use of the property purchased from the grantor. The Agent should also check the Right of Way Contract for clauses pertaining to provisions agreed upon if such issue occurred. (For example, the right of the Department to sell or demolish the improvements remaining on State property.)

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11.05.00.00 - NONRESIDENTIAL RENTALS

11.05.01.00 Fair Market Rent Determinations

Appraisals shall independently establish, review, and approve fair market rent for nonresidential properties with the following exceptions:

- Nominal value rentals up to $200 per month or $2,400 per year
- Oil and gas rights set by contract or other binding document
- Field offices and other properties being used by the Department
- Signboard sites
- Porter Bill park leases
- Residential master tenancy leases
- Bid leases
- Bike paths leased to public agencies
- Leases for agricultural, community garden, or recreational purposes under S&H Code Section 104.7
- Interim rent changes (see Manual Section 11.05.04.00 below)

Property Management shall determine the actual rental rates and shall fully justify and document any adjustments from fair market. Any rates less than fair market on property acquired with title 23, United States Code, funding requires approval from FHWA.

11.05.01.01 Appraisal's Requirements

The Appraisal Branch prepares, reviews, and approves fair market rent determinations for all nonresidential properties except those noted above.

The service is provided upon written request from Property Management. These requests should be scheduled so as to give Appraisals as much lead time as possible, and will include the following information:

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- A map of the property.
- Parcel number, county, route, post mile/kilometer post and property address.
- Improvements that belong to the tenant and should be excluded from consideration.
- Special items on the property, such as machinery or equipment. An inventory should be available if needed.
- Whether construction of improvements on the property will be permitted.
- Term of the proposed lease and estimated length of time property will be available for rent.

Rent determinations will be updated upon written request from Property Management.

11.05.02.00 Nominal Value Nonresidential Rentals

Many properties cannot be rented for more than nominal rent because of use, size, irregular shape and/or location. Nominal rent for this purpose is defined as $2,400 per year ($200 per month).

At the Region/District's option, the Appraisal Branch staff or the Property Management Branch staff may be used for rent determinations on nominal value nonresidential rentals.

In these cases, Exhibit 11-EX-53, Nominal Value Nonresidential Rental Appraisal, is required. It should identify and describe the parcel, and summarize the data and analysis that lead to the appraiser's conclusion of fair market rent. The nominal rental conclusion should be stated as a specific rental amount. A map of the appraised property is required (8½" x 11" print is sufficient); photographs are recommended.

The rent determination should include a signed statement that the Appraiser or Property Agent has personally viewed and inspected the parcel. The determination should also be signed by the function's Senior.

All nominal rents shall be supported by the use of comparables in the area or other available market data, such as the opinions of realtors or other experts. Consideration shall be given to:

- Length of time the property will be available.

- Market demand.

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- Any savings in maintenance costs to the state.

Many parcels of vacant land require annual expenditures by the state for weed abatement and trash removal, and these expenditures can be passed on to lessees with nominal rent leases. Any reduction in rent for maintenance costs saved by the Department shall be clearly documented in the file.

11.05.03.00 Rental Grace Period on Business Properties

See Manual Section 10.05.25.00, for information on rental grace periods.

11.05.04.00 Rental Rate Increases Prior to Appraisal

When Appraisals is unable to furnish the fair market rent for nonresidential properties on a timely basis, and where the existing rental rates are thought to be substantially below market, Property Management may establish interim rental rates based on the best available data. The interim rental rate must be documented in the property file, including comparables used and supported adjustments.

When a rental rate is established without an appraisal determination, the Agent shall inform the lessee that the rental rate is temporary, pending an appraisal determination. A clause similar to the following should be included in the rental agreement or lease:

> *Lessee agrees that the rental rate of $_____ per month/year set forth above is an interim rate for a period of at least six (6) months. The lessor will obtain an appraisal of the fair market rent for the leased property. Lessee agrees that lessor may adjust the rental rate based on the market rent appraisal by giving lessee sixty (60) days' prior written notice.*

11.05.05.00 Rental Rate Review

The Property Management Senior or designee shall review the rental rate on all nonresidential accounts annually and shall maintain an up-to-date sampling of fair market rental rates for similar properties in the vicinity of the state-owned properties. The exceptions are those rental rates that are determined by set increases such as CPI Index and those that are established in the rental agreement or lease for multiple years.

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11.05.06.00 Rental Rate Increase Policy

See R/W Manual Section 11.04.01.01.

11.05.07.00 Electric Vehicle Charging Stations – Nonresidential Tenancies

Pursuant to Section 1952.7 of the Civil Code, a landlord is required to approve a nonresidential lessee's written request to install an electric vehicle charging station for any lease agreements executed, extended, or renewed on and after January 1, 2015.

Section 1952.7 of the Civil Code does not apply to the following: a commercial property where charging stations exist for use by lessees in a ratio that is equal to or greater than two available parking spaces for every 100 parking spaces at the property; and, a property where there are less than 50 parking spaces.

The lessee does not have the right to install charging stations in more parking spaces than are allotted to the lessee. If the lessee has no parking spaces allotted to them, the lessee can convert a certain number of existing parking spaces by multiplying the total number of existing parking spaces by a fraction, consisting of a numerator being the total square footage leased and the denominator being the total square footage of the entire property. If the installation of a charging station has the effect of granting the lessee a reserved parking space and a reserved parking space is not allotted to the lessee, the landlord may charge a reasonable monthly rental amount for the parking space.

If the landlord's approval is required for the installation of a charging station, the lessee shall obtain approval from the landlord and must agree in writing to do all of the following: comply with the landlord's reasonable standards for installation of the charging station; engage a licensed contractor to install the charging station; and, within 14 days of approval, provide a certificate of insurance that names the landlord as an additional insured under the lessee's insurance policy in the amount of $1,000,000.

The lessee shall be responsible for the following: costs for damage to the property and the charging station resulting from the installation, maintenance, repair, removal, or replacement of the charging station; costs for the maintenance, repair, and replacement of the charging station; and, the cost of electricity associated with the charging station.

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11.05.08.00 Department's Contractor's Use of Property – Construction Staging

Section 5-1.32, "Areas for Use", of the Department's Standard Specifications allows the Department's contractor to occupy the highway only for purposes necessary to perform the work. The areas for use available to the Department's construction contractor must be within the project limits and must be within the environmentally approved project footprint.

It is preferable for the construction staging areas to be incorporated into the Construction Bid Package. This may be achieved by the Plans, Specifications, and Estimates (PS&E) package including designated temporary construction easements or the construction contract's standard specifications allowing the use of Airspace's Freeway Lease Areas (FLAs) within the project's limit.

In the instances in which the Department's construction contractor requires a construction staging area not included within the Construction Bid Package, Property Management properties may be used for construction staging if the following conditions are met:

- If federal funds were used to purchase the property, the property must be leased at fair market value (FMV).
- If the Department believes that it is in its best interest to lease at less than FMV, then the Department must obtain FHWA approval for the less than FMV rate through a Public Interest Finding (PIF). This situation would arise when the Department is required to compensate the construction contractor a certain percentage markup for costs incurred, e.g. force account due to a Director's Order project.
- If the construction contractor is paying less than FMV, rental terms shall only be for the length of time of the construction project (with allowances for short periods before and after the project for site-preparation and site clean-up).
- The rental terms and conditions must include environmental protections, e.g. placement of non-permeable barriers, placement of stormwater best management practices, etc.
- The construction contractor is responsible for obtaining all local permitting.
- The property must be returned to the original condition after the construction staging use is completed.

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11.06.00.00 - RESIDENTIAL RENTALS

11.06.01.00 General

The Agent should fully inform tenants of:

- The Department's rental rate policy.
- Their responsibility to maintain the property.
- Title VI policies.
- Any required disclosures (e.g. lead-based paint).

11.06.02.00 Annual Rental Rate Reviews

The Property Management Senior or designee shall annually review the rental rate on all residential accounts and those accounts where the rental rate is not set by agreement or lease and shall maintain an up-to-date sampling of fair market rental rates for similar properties in the vicinity of the state-owned properties.

A request for fair market rent determinations should be submitted to the Appraisal Branch, completing Exhibit 11-EX-45, Request for Rent Determination. Keep in mind the time frame should allow adequate time for Appraisals to complete the determinations and still allow for Property Management to issue a written 90-day notice of rental rate increase to the tenant.

When Appraisals are unable to furnish the fair market rent determinations for residential properties on a timely basis, Property Management may establish the rental rates. Exhibit 11-EX-46, Documentation of Residential Fair Market Rental Rate, or similar form of Region/District's choice will be completed and filed in such a manner and office location that it will be available to the District Property Management Senior and other personnel for possible reference. A copy will be kept in the rental file. The Region/District Property Management Senior or designee must approve Exhibit 11-EX-46, or similar form.

11.06.02.01 Rental Rate Increases

See R/W Manual Section 11.04.01.01.

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11.06.03.00 RAP Eligibility

The RAP Unit determines the eligibility of existing tenants for relocation assistance and payments and provides this information to the Property Management Senior. Property Management should coordinate with the RAP Unit when RAP-eligible tenants vacate state-owned property.

11.06.04.00 Appeals (RAP-Eligible Tenants Only)

RAP-eligible tenants have the right to appeal the Department's "Property Management Practices," including rental rate increases. All appeals must be in writing and must be filed within 15 days from the date of the notice of rental increase. Tenants shall have the right of personal appearance.

The District/Region shall inform RAP-eligible tenants of their right of appeal and sufficiently explain the appeal procedure so the tenants understand:

- Grounds for appeal.
- How to make the appeal in a timely manner.
- Appeal must be in writing.
- Their right to a personal appearance.

11.06.04.01 Grounds for Appeal and Approval Authority

RAP-eligible tenants may appeal rental rate increases when:

- They believe rental rates have been improperly established.
- They believe the Department's maintenance of the property is inadequate.
- They believe a rental rate increase will cause an extreme financial hardship.

A basic role of the Department in reviewing appeals is to determine that rental rates have been properly established and tenants have been thoroughly advised of the rental rate policy requiring fair market rent.

Extreme financial hardship appeals may be based on tenants' inability to pay increased rent because of unusual or excessive expenses. Other consumer or voluntary expenses of the appellant will not constitute grounds for reducing the new rental rate.

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11.06.04.02 Appeals Hearing

All appeals will be forwarded to the DDD-R/W, who may appoint a single Hearing Officer or form a District Appeals Board to hear appeals and make recommendations for the DDD to consider in making a decision.

If a District Appeals Board is appointed, it shall consist of at least three members who will meet to hear appeals in a timely manner. Board members must be thoroughly familiar with the Department's rental rate policy and rental management procedures.

Appeals will be heard within 20 days after the appeal has been received. Bilingual services will be provided if necessary. Any person may be allowed to assist the appellant in making a presentation. This rental appeal procedure is a departmental administrative policy, however, and is not a legal hearing subject to legal procedures or arguments.

Prior to considering any appeal, the DDD-R/W, Hearing Officer, or Board shall be briefed on reasons for the appellant's rent increase, including pertinent comparable rentals.

All data furnished by the appellant and District staff shall be carefully reviewed to determine if the rental rate has been properly established. The appellant may be asked to provide additional information and to confirm data presented in the appeal.

Upon completion of the appeal hearing, the Hearing Officer or Board shall recommend to the DDD-R/W that the appeal be wholly granted, granted in part, or denied. The recommendation shall be by the Hearing Officer or by a majority vote of Board members, shall be in writing, and shall contain the basis for the recommendation.

The DDD-R/W shall make the final decision. The DDD's decision will be conveyed to the appellant in writing within ten working days after the hearing. Notification of the decision will include the reasons supporting the decision.

Appeals will be processed promptly in accordance with the preceding time frames. The scheduled rental rate increase will be deferred until the tenant has received notification of the results of the appeal. If the appeal is denied, the tenant is responsible for the rental increase from the effective date of the initial notice.

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11.06.04.03 Extreme Financial Hardship

The intent of the financial hardship procedure is to provide tenant(s) a relief mechanism for a temporary period in recognition of extreme financial hardship circumstances resulting from a rental rate increase. It is not the Department's intent to assume continuing involvement in, or responsibility for, tenant financial affairs or to otherwise compromise the rental program on a long-term basis.

When the appeals process documents such an extreme financial hardship, the District's/Region's decision may provide for temporarily suspending the rental rate increase. This will enable the tenant to either resolve the hardship circumstance and thereafter continue in tenancy at the new rate, or to secure alternate housing and relocate from the Department's property. The recommended suspension should rarely exceed six months in duration. The policy should be thoroughly discussed with and understood by the tenant when the appeals process is initiated.

In considering appeals for exceptions, the DDD-R/W will consider all factors leading to the appeal to determine:

- If a true extreme financial hardship caused by the rental rate increase exists.
- If the extreme financial hardship is of a temporary or permanent nature.
- If relocation of the tenant to accommodations within their economic means is feasible.

The appellant shall be notified of the decision as outlined in the appeals procedure.

In all cases where an exception is granted, Accounting must be notified in time to make the new rental rate effective at the end of the exception period.

11.06.05.00 Inherited Tenants

An inherited tenant is one who was in occupancy at the time of the state's acquisition. Rent charged to inherited tenants whose rent at close of escrow is below fair market will be increased to fair market 90 days after close of escrow.

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11.06.06.00 Pet Policy

Department policy is to discourage the occupancy of pets in Department-owned property. In the event a Region or District allows tenants to have pets, the following procedures must be followed:

- A Pet Application(s) (Exhibit 11-EX-51) for each pet must be completed by the tenant(s) and approved by the Department. The pet application(s) with approvals will be kept in the rental file.
- A Pet Addendum(s) (Exhibit 11-EX-52) for each pet must be executed by the tenant(s) and the Department. The Pet Addendum becomes a rider for the rental agreement or lease and shall be attached to such and kept in the rental file.
- A pet deposit will be collected from the tenant(s). The amount of the deposit should be equal to the risk associated with the pet but in no circumstances less than $200. The deposit is refundable depending on the findings discovered during the move-out inspection.

The Agent and Property Management Senior must determine if the tenant(s) must obtain and carry liability insurance due to the presence of approved pet(s) on the properties. If insurance is required, the tenant(s) must provide proof of insurance covering said pet(s). This can be in the form of a renter's insurance policy or an individual pet liability insurance policy. The Agent must verify that there is coverage for said pet(s) on the specific policy. A call to the insurance agent may be necessary if the policy doesn't clearly state that said pet(s) are covered. If insurance for said pet(s) is required, the liability insurance coverage shall be at least $100,000.

It is the responsibility of the tenant(s) to adhere to all requirements of the Pet Addendum including, but not limited to, keeping the property (inside and outside) free from pet waste, not allowing the pet(s) to become a nuisance to neighbors, and preventing the pet(s) from damaging the Department-owned property. (Damage could be digging of holes in the yard, staining of carpet, chewing of fences, etc.)

If at any time during the tenancy, an agent discovers damage (in any form) caused by a pet(s), the damage will be repaired immediately at the sole expense of the tenant(s). If the pet deposit and/or security deposit is insufficient to cover the repair costs, the tenant(s) will be charged the difference. All payments must be made immediately or face immediate termination. If the pet deposit and/or security deposit is utilized during the term of the tenancy to remedy any situation, a new pet deposit and/or

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security deposit will be assessed to the tenant(s). If this situation occurs, a larger pet deposit may be warranted.

When completing a property inspection and pet(s) are present, the agent must include any pet information on the Residential Property Inspection sheet. A copy of the Residential Property Inspection sheet may be found on the Property Management website (internal Caltrans link).

All policies and procedures listed above apply to inherited and existing tenants with pet(s).

Note: RWPM guidelines for collecting and keeping track of a pet deposit are as follows:

- The pet deposit will become part of the security deposit.
- On the "Tenancy" Screen mark the "STD" indicator as "N". This will flag the deposit as being non-standard. In the "Remarks" section, add notes that the security deposit includes a pet deposit and the amount of the pet deposit.
- For existing tenants, an Adjustment Screen will need to be completed and sent to Accounting increasing the amount of the security deposit.
- For new or inherited tenants, the amount of the security deposit will be the sum of the security deposit and the pet deposit. The security deposit should not be reduced to accommodate the need for a pet deposit. These are two separate deposits, each with their own merit.

- Department policy in regard to refunding pet deposits is the same as with security deposits. (See Manual Section 11.07.15.02.) A pet deposit may be utilized only for damage caused by a pet, not delinquent rent or damage not caused by a pet.

Pursuant to Civil Code 54.1, the Department shall not deny the occupancy of guide dogs, signal dogs, and service dogs to tenants that are disabled and require the uses of such animals. Pursuant to Civil Code 54.2, an additional pet deposit may not be imposed on tenants that use such animals. Although an additional pet deposit may not be imposed on tenants, the tenants are still liable for any damage done to the premises by their animals.

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11.06.07.00 Electric Vehicle Charging Stations – Residential Tenancies

Pursuant to Section 1947.6 of the Civil Code, a landlord is required to approve a tenant's written request to install an electric vehicle charging station at the tenant's parking space for any residential rental agreements executed, extended, or renewed on and after July 1, 2015.

Section 1947.6 of the Civil Code does not apply to the following residential rental properties: electrical vehicle charging stations already exist for 10 percent or more of the designated parking spots; parking is not provided as part of the rental agreement; there are fewer than five parking spaces; the dwelling is subject to a rent control ordinance, except for residential rental agreements that are executed, extended, or renewed on and after January 1, 2019; and the dwelling is subject to both a residential rent control ordinance and an ordinance, adopted on or before January 1, 2018, that requires the landlord to approve a tenant's written request to install an electric vehicle charging station at a parking space allotted to the tenant.

The tenant must enter into a written agreement which includes, but is not limited to, the following: compliance with the landlord's requirements for installation, use, and maintenance of the charging station and infrastructure and removal of the charging station; an obligation of the tenant to pay for all costs associated with the charging station and its infrastructure; an obligation of the tenant to pay as part of rent for the costs of the electrical usage of the charging station. A landlord is not obligated to provide an additional parking space to a tenant in order to accommodate a charging station, and if the charging station has the effect of providing the tenant with a reserved parking space, the landlord may charge a monthly rental amount for that space.

Effective January 1, 2020, the tenant must obtain personal liability coverage in an amount not to exceed ten (10) times the annual rent charged, covering property damage and personal injury caused by the installation or operation of the charging station. No insurance is required if the charging station has been certified by a Nationally Recognized Testing Laboratory that is approved by the Occupational Safety and Health Administration of the United States Department of Labor and the charging station and any associated alterations to the properties electrical system are performed by a licensed electrician.

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11.07.00.00 - RENTAL PROCEDURES

11.07.01.00 General

The following sections specify procedures for renting vacated property that are in addition to those set forth in Manual Section 11.02.00.00, Closure Procedure.

11.07.02.00 Marketing Plan

Each District/Region should maintain a Marketing Plan that should be updated annually in July. The Plan should list by project the number and types of properties estimated to become available for rent/lease in the coming fiscal year. The Plan should also indicate the manner in which the properties will be marketed along with estimated costs.

11.07.03.00 Finder's Fees/Rental Incentives

Finder's fees and rental incentives may be used when necessary to reduce the vacancy rate. A finder's fee is a rent credit given to an existing tenant as compensation for referring a prospective tenant to the state. A rental incentive is a rent credit given to a new tenant as an enticement to rent our property. A rental incentive should be used only as a last resort and may be spread over several months when used in a month-to-month rental agreement.

The RWPM Adjustment Request Screen is used to notify Accounting of any rent credit.

11.07.04.00 Advertising

Whenever the District/Region uses newspaper advertisements, it shall comply with Public Contract Code Section 10115.13 relating to the use of certain advertising business enterprises. The Agent shall contact the Department's Office of Civil Rights prior to advertising and request a list of any certified media firms for the area. The findings and subsequent actions shall be documented.

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- **Improved Properties** - The Agent should use newspaper advertisements for residences and other improved properties when necessary to attract tenants. Posting of improved properties with advertising signs may be desirable in some cases and is at the District's/Region's discretion. Posting is not desirable where, for example, it would invite vandalism.

- **Vacant Land** - Rentable vacant land shall be posted with advertising signs indicating the property is for rent. Exceptions are allowed only when posting would be unreasonable, uneconomical, invite dumping or vandalism, or conflict with local sign ordinances. In some cases, newspaper advertisements may be desirable for vacant land of high value.

11.07.05.00 Showing Property

Under no circumstances are prospective tenants to be given keys that enable them to inspect state property on their own. If several parcels are available and a prospective tenant is interested in seeing a number of them, the Agent should ask the person to view the properties and improvements from the exterior. Thereafter, the prospective tenant may set up an appointment with the Agent to inspect those of primary interest.

11.07.06.00 Use of the Property

The prospective lessee shall get prior approval for their proposed use of the property by the local jurisdiction's planning/zoning department for all properties except for improved residential properties. In many instances the state's property will not have a zoning designation, in which case the uses allowed by the local jurisdiction will be unknown to the Agent. It is the responsibility of the prospective lessee to get written approval from a representative in the local jurisdiction's planning/zoning department. If the state's property does have a zoning designation, it is the responsibility of the Agent and Property Management Senior to be aware of the zoning designation and to be aware of the permitted uses and conditionally permitted uses allowed per that zoning designation. If the proposed use requires an issuance of an administrative or conditional use permit, the prospective tenant/lessee shall obtain all necessary permits at their sole cost and expense. The tenant/lessee shall provide copies of all written approvals and any necessary permits to the Agent for the tenancy file.

If a property does not have a zoning designation and the local jurisdiction refuses to provide guidance on the uses allowed, then the Property Management Senior shall decide if the proposed use is compatible with the

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property. The Property Management Senior must take into account how the use will affect the adjoining neighbors and neighborhood in general. The Property Management Senior must ensure proper measures are implemented, and explicitly stated in the lease agreement, so not to infringe on the neighbors' right to quiet enjoyment of their properties and to avoid blight in the neighborhood. Items to consider include, but are not limited to, the following: adhering to local noise ordinances, limiting the hours of operations, establishing setbacks of certain uses along common fences, limiting the height of storage of materials, and requiring privacy screens on chain link fencing.

If the property is improved with a structure, the Agent must know what use classification the Certificate of Occupancy originally issued by the city or county building department allowed. If the use classification is changing, such as an Industrial use to a Commercial use, then a new Certificate of Occupancy shall be obtained. The tenant/lessee shall provide a copy of the Certificate of Occupancy to the Agent for the tenancy file prior to occupying the property.

Prior to the tenant/lessee occupying a property improved with a structure, with the exception of improved residential properties, the State Fire Marshal and the local fire department must perform an inspection of the property.

If a property once had underground storage tanks, such as a former maintenance station, the Agent must verify that the property has been cleared for use. The property should have had a site investigation and remediation actions taken for such clearance. It is recommended that the Agent utilize the State Water Resources Control Board's GeoTracker website to verify the status of the property. The Agent shall also consult with the Hazardous Waste Branch within the Division of Environmental Analysis for what types of uses would be allowed on the property based on the type of clearances for the property. Based on the remediation actions taken, a site may have only been cleared for a very specific use, and any other use may require the site to be re-evaluated with additional remediation actions required.

11.07.07.00 Environmental Status

If a Property Management site involves a change in the occupancy classification of a structure, an alteration to an existing structure, or construction of a new structure, then the prospective lessee must provide a NEPA/CEQA document, at their sole cost and expense, which must also include a "6010 Metal Study" report. The prospective lessee may also need to obtain final approval of their plan from the local agency. The Environmental

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Document and the "6010 Metal Study" report must meet applicable CEQA and NEPA requirement and must be reviewed and approved by the Division of Environmental Analysis for the proposed use. Testing must be done to the depth of excavation. If there are any environmental issues with the site, it is the responsibility of the prospective lessee to remediate the site, at their sole cost and expense, to acceptable use levels; all remediation plans must be approved by the Division of Environmental Analysis.

The Agent should consult the Division of Environmental Analysis regarding any specific questions.

11.07.08.00 Rental Application and Credit Report

Before making a commitment to rent, the Agent shall have the prospective tenant complete Form RW 11-5, Residential Rental Application, or RW 11-6, Nonresidential Rental Application, and verify the information. Government Agencies are excepted from rental application and credit report requirements.

- **Credit Reporting Agency Used** - A satisfactory credit report must be received. The applicant(s) shall pay the actual costs of the credit report(s).
- **Credit Reporting Agency Not Used** - The Property Manager or authorized representative must make a diligent effort to verify the information on the Rental Application before committing to rent to the applicant.

11.07.09.00 Guidelines for Selection of New Tenants

Property Management is responsible for renting to qualified applicants only. The Agent shall review all applications and select the most qualified applicant based on available data. The decision shall be based on ability to pay rent and ability and willingness to maintain the property and improvements.

As a guideline in determining the applicant's ability to pay rent, the applicant's gross household income should equal or exceed four times the rental rate. The District/Region may make exceptions to this guideline at its discretion, but it must document all exceptions and retain the documentation in the rental file. Examples of exceptions include good employment history, prior record of consistently paying rents, good credit report, etc. All these factors will determine an applicant's eligibility to rent from the Department.

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One test of ability to pay rent is that the applicant's gross household income should equal or exceed four times the rental rate. The District/Region may make exceptions to this procedure at its discretion, but it must document all exceptions and retain the documentation in the rental file. Examples of exceptions include good employment history and prior record of consistently paying rents.

Federal and state laws prohibit discrimination in housing accommodations against tenants because of race, sex, sexual orientation, gender, gender identity, gender expression, creed, color, religion, national or ethnic origin, ancestry, familial status, source of income, age, marital status, genetic information, military and veteran status, or disability.

For non-residential lessees, the Agent should carefully review the last two years of financial statements such as profit/loss statements, balance sheets, and tax returns. For a new business, the Agent should also examine bank statements to verify that the lessee can cover 6 months of costs. The Agent should speak with the lessee's prior landlord to verify that the lessee paid their rent on time.

The Agent may want to examine a business by evaluating their current ratio. The current ratio is calculated by dividing a business' current assets by their current liabilities. If this yields a number greater than 1, it is an indicator that the business is in a good position to meet their short-term obligations.

If the information is available, the Agent can evaluate a business' quick ratio. The quick ratio is calculated by subtracting inventories from a business' current assets and dividing that by their liabilities. The quick ratio is a better indicator of the ability of a business to meet their short-term obligations based on their liquidity.

11.07.10.00 Use of Cosigners

Cosigners should not be used to qualify an applicant with insufficient income or credit. In the case of a prospective residential tenant who is disabled, a cosigner must be considered in accordance with the Fair Housing Amendments Acts (42 U.S.C. § 3601 et seq.).

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11.07.11.00 Declined Applicants

If an applicant is denied housing, the applicant will receive the denial in writing and the reasons for denial stated.

If Property Management's decision to deny tenancy to an applicant is based wholly or in part on information contained in a credit report, California Civil Code Section 1785.20 requires the following:

1. Provide written notice of the adverse action to the applicant.
2. Provide the applicant with the name, address, and telephone number of the consumer credit reporting agency which furnished the report to Property Management.
3. Provide a statement that the Department's denial was based in whole or in part upon information contained in a consumer credit report.
4. Provide the applicant with a written notice of the following rights of the applicant:
   A. The right of the applicant to obtain within 60 days a free copy of the applicant's consumer credit report from the consumer credit reporting agency identified pursuant to paragraph (2) and from any other consumer credit reporting agency which complies and maintains files on consumers on a nationwide basis.
   B. The right of the applicant under Section 1785.16 to dispute the accuracy or completeness of any information in a consumer credit report furnished by the consumer credit reporting agency.

(See 11-EX-4, Written Notice of Denial.)

11.07.12.00 Executing the Rental Agreement

All occupants 18 years of age or older must sign the rental agreement. (An exception could be students still living at home or living at home during the summer.) Under no circumstances are new tenants to take occupancy prior to signing the rental agreement and paying all monies due, such as security deposits and prorated rents.

The DDD-R/W or authorized representative may execute all residential and nonresidential rental agreements on the state's behalf.

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11.07.13.00 Title VI Guidelines

The Agent will inform the state's tenants about the Department's policy and procedures under Title VI of the 1964 Civil Rights Act and will deliver a "Your Rights under Title VI & Related Laws" brochure at the time the rental agreement is signed.

11.07.14.00 Lead-Based Paint and/or Hazards

Section 4852d of Title 42 of the United States Code requires disclosure of information concerning lead upon transfer of residential property.

Section 4852d requires that the seller or lessor do the following:

a) Provide the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under Section 406 of the Toxic Substances Control Act [15 USC § 2686];

b) Disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and

c) Permit the purchaser or lessee a 10-day period (unless the parties mutually agreed upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

The Department must also do the following:

- Include certain warning language in the rental agreement or lease.
- Provide all tenants the Environmental Protection Agency's lead hazard information booklet titled *Protect Your Family From Lead in Your Home*.
- Have a complete and fully executed Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazard form, Exhibit 11-EX-48, on file.
- Retain signed acknowledgements in the file, as proof of compliance. Department guidelines dictate that we will keep signed acknowledgements in the rental file for as long as we keep the file. It is good practice to attach the *Protect Your Family From Lead in Your Home*. booklet and Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazard form as exhibits to the Residential Rental Agreement.

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11.07.15.00 Flood Disclosure on Residential Properties

Pursuant to California Government Code Section 8589.45, for every lease or rental agreement for residential property entered into on or after July 1, 2018, the Department shall disclose to the Tenant if the rental property is located in a special flood hazard area or an area of potential flooding, if the Department has actual knowledge of that fact.

Actual knowledge of the property being located in a special flood hazard area or an area of potential flooding includes:

- The owner has received written notice from any public agency stating that the property is located in a special flood hazard area or an area of potential flooding.
- The property is located in an area in which the owner's mortgage holder requires the owner to carry flood insurance.
- The owner currently carries flood insurance.

Since the Department does not have any mortgages on state-owned properties and since the Department is self-insured and does not carry insurance policies on state-owned property, the only instance of the Department having actual knowledge of properties being located in a special flood hazard area or an area of potential flooding would be in the instance of the Department receiving written notice from a public agency.

For all residential agreements, including employee housing, entered into on or after July 1, 2018, the Department shall include the Flood Disclosure Addendum, 11-EX-66, as a part of the agreement.

11.07.16.00 Initial Rent Collection

When a new tenancy is created, one month's rent or the prorated amount due for the balance of the month shall be collected prior to the tenant's occupancy. Prorated amounts are based on a 30-day month. (See Exhibit 11-EX-5, Rent Proration Examples.)

11.07.17.00 Security Deposits

A security deposit shall be collected from new tenants, except for state's grantor, before tenancy commences. The security deposit is not a means of establishing a tenant's qualifications, but may be used to remedy any damages or defaults in rent payment.

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Generally, residential tenants shall make a security deposit as follows:

- **Improved Unfurnished Property** - not to exceed an amount equal to two months' rent.
- **Improved Furnished Property** - not to exceed an amount equal to three months' rent.

Effective January 1, 2020, residential tenants who are service members, as defined in Section 400 of the Military and Veterans Code, shall make a security deposit as follows:

- **Improved Unfurnished Property** – not to exceed an amount equal to one months' rent.
- **Improved Furnished Property** – not to exceed an amount equal to two months' rent.

The Department may receive a greater security deposit from service members, up to the amounts specified in Section 1950.5 (c)(1) of the Civil Code (the amounts specified for non-service members), if the following applies:

- The service member has a history of poor credit or of causing damage to the rental property or its furnishing.
- The property is rented to a group of individuals, one or more of whom is not the service member's spouse, parent, domestic partner, or dependent.

For non-residential tenancies, there are no restrictions on the amount of a security deposit. The amount collected should reflect what the market will bear and the risk of damage involved with the lessee's use of the premises.

11.07.17.01 Waivers/Reductions

In certain instances, the District may waive the requirement for collection of a security deposit or reduce the amount. Where the requirement is waived, the account file shall be fully documented. Acceptable conditions for a waiver or reduction are:

- In neighborhoods where improvements are in a state of decline and demand for rental units is relatively low, and where extensive efforts to rent have shown that the improvements are not sufficiently desirable to attract a renter who can make a security deposit.

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- From a tenant inherited from state's grantor where a security deposit had not formerly been established and where the tenant is acceptable in all respects.
- From governmental agencies.
- For unimproved properties.

11.07.17.02 Refund

For residential tenancies, the district shall furnish the tenant, by personal delivery or by first class mail, postage prepaid, a copy of an itemized statement indicating the basis for, and the amount of, any security deposit received and the disposition of the security deposit and shall return any remaining portion of the security deposit to the tenant(s) pursuant to California Civil Code, Section 1950.5. The District must deliver any refund and the itemized statement within twenty-one (21) calendar days of the vacancy date.

In order to meet the twenty-one (21) calendar days deadline, the Agent must submit the information to the Division of Accounting within five working days from the date of vacancy. It is the responsibility of the Agent to ensure the tenant(s) receives the itemized statement within twenty-one (21) calendar days, preferably prior to the tenant(s) receiving a refund from the State Controller.

For non-residential tenancies, the refunding of any security deposit is governed by California Civil Code 1950.7. Although an itemized statement regarding the disposition of the security deposit is not required per statute, the Agent should provide written notice to the lessee regarding the disposition of the security deposit as good business practice. The Department must return the security deposit within thirty (30) days from the date the Department receives possession of the premises.

An exception to the thirty (30) day time frame above is in the instance when the security deposit exceeds one month's rent plus a deposit amount clearly described as the payment of the last month's rent and the only deduction is for delinquent rent; in this case the Department must return, within two weeks after taking possession of the premises, the remaining amount of the security deposit, after deducting the delinquent rent, exceeding one month's rent. The remaining security deposit balance must be returned or accounted for within thirty (30) days of the Department taking possession of the premises.

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If the property is sold, the District/Region, at its discretion, may return the security deposit to the tenant, less any lawful deductions, or transfer the deposit to the new owner. If transferred to the new owner, the District/Region must notify the tenant in writing either by personal delivery or by certified mail. The tenant must be given an accounting of any deductions made and the new owner's name, address, and telephone number. If notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of such notice.

11.07.18.00 Utilities

Utilities generally include gas, water, sewer, telephone, electricity, and garbage service. Multiply these types of services by the number of utility companies involved and the number of properties a Region/District maintains, and it is apparent that initiating, monitoring, and terminating utility services can be a considerable undertaking. The Region/District, therefore, must adhere to the following guidelines, as well as develop additional procedures that address Region/District problems and meet their specific needs.

11.07.18.01 Responsibility for Utility Costs

Tenants shall be solely responsible for all utilities including deposits. On an exception basis, there may be instances when it would be appropriate for the state to pay for electricity and gas, such as in a multiple residential unit where there is only one meter for supplying electrical or gas service for the property. If, however, individual meters are available, tenants should pay for their own utilities.

In those localities where the suppliers of water and sewer require the bill to go directly to the property owner, the Regions/District shall have those bills sent directly to the Department. The Department shall monitor those utility costs and charge the tenant the appropriate amount. This will require a clause in the rental or lease agreement which states the tenant is responsible for the actual cost of those utilities and the Department will notify the tenant of such costs on a regular basis.

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Rental agreements must be specific about:

- Which utilities are assumed by the state and, therefore, are the state's responsibility.
- Which utilities are the tenant's responsibility and are to be paid directly to the utility company by the tenant.
- Which utilities are the tenant's responsibility but are collected from the tenant by the state and conveyed to the utility company.

It is imperative upon the Region/District to ensure adequate utility costs are being collected from the tenant. The Agent may contact utility companies, housing agencies, or other data sources for estimated utility expenses for a particular area. Utility companies usually have information on average costs for their area based on number of rooms, number of occupants, etc. All utility justifications must be documented in the rental file.

Utility charges will be reviewed at least annually, earlier if needed, and adjustments made in accordance with the Utility Clause in the rental or lease agreement.

11.07.18.02 Notifying Utility Companies at Date of Recordation

Region/District should take special care transferring utility charges when an acquired parcel is recorded in the state's name. Problems encountered will vary from one area to another. Specific requirements, therefore, are brief and set forth general guidelines that shall be used to attain a reasonable degree of uniformity among Regions/Districts.

Prior to acquisition or as soon thereafter as possible, the Agent shall observe the utility requirements of the property and note the types of service in the rental file. The determination about which utilities the state will pay shall be based on information the Agent gathers while inspecting the property. If the state is responsible for payment of utilities, the Region/District shall notify the appropriate companies in writing, specifying the date the deed was recorded in the state's name and the date the state will assume responsibility for the utility charges.

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11.07.18.03 Payment of Utility Bills by the State

Whenever utility service is initiated in the state's name or is transferred back into the state's name (e.g., when a tenant vacates rental property), the Agent shall request that the utility company send the initial bill directly to the Region/District Property Management office. The Agent shall review the bill for accuracy and shall submit the bill along with a completed Utility Account Action Request, Form FA-2134, to the Division of Accounting, Accounts Payable, Utility Service Payment Section including the source, charge, EA, special designation, and agency object (x002) codes. For residential rental property, the Agent shall also check to make sure the state is being charged a residential rate and not a commercial rate. Once Accounts Payable receives the bill, they will send the change of address to the utility company so future bills will be sent to Accounts Payable.

When properties are rented or sold the Agent must contact the utility service provider to close the account. The agent will complete the Utility Account Action Request, Form FA-2134, to terminate the account.

On a quarterly basis, Accounts Payable will send a Utility Report to the Regions/Districts for verification.

11.07.18.04 Utility Deposits by Tenant

If a tenant is to assume responsibility for utility service, the Agent shall advise the tenant that:

- The utility company may require a deposit.
- If any problems occur as a result of the deposit, the problems are solely between the tenant and the utility company, as the state will not become involved.

11.07.19.00 Possessory Interest Tax

A tenant's interest is subject to possessory interest tax (PIT) imposed by the county. S&H Code Section 104.13 requires the Department to pay the PIT on behalf of its tenants directly to the city or county where the property is situated. Tenants should be instructed to send any PIT bill they receive to the Region/District office for handling. The exception to these actions is employee housing; tenants of employee housing are responsible for the payment of the PIT for their use of renting state owned facilities.

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When the Region/District receives any PIT bills, either from the tenant or directly from a county, they are instructed to send the PIT bill back to the county with a letter to explain S&H Code requirements concerning PIT. A sample letter may be found at Exhibit 11-EX-9, Sample Possessory Interest Tax Letter. The letter must include reference to S&H Code Sections 104.6, 104.10, and 104.13.

S&H Code Sections 104.6 and 104.10 require the Department to pay 24% of the rents collected to the county in which the property is situated and set forth when the payment must be made. S&H Code Section 104.13, subdivision (c), states that all funds distributed to a county pursuant to Section 104.10 shall be deemed to be in full or partial payment on the total possessory interest taxes due on the Department's property in the county held for future state highway needs but no longer needed for that purpose. If any amount transferred to a county pursuant to Section 104.10 in any year is less than the total possessory interest due on all the Department's property located in that county, the Department must promptly forward to the county the amount of the balance due.

See Manual Section 11.01.06.00 for further information on the 24% payment to the counties.

11.07.20.00 Residential Property Occupancy and Vacancy Inspections

When a new tenant moves into a residential property, or when a newly acquired property has an inherited tenant, the tenant shall accompany the Agent on an inspection of the property. Page 1 of the Residential Property Occupancy and Vacancy Inspections sheet shall be completed. All fields shall be completed noting the condition of the property. Any items that are deemed unsatisfactory shall have a comment as to why the item is unsatisfactory. The form is to be signed by the tenant and the Agent and a copy shall be given to the tenant. The Agent shall photograph the condition of the property including any deficiencies. For deficiencies that make the property unfit for human occupancy, the Agent shall arrange for the remediation of such deficiencies. The Agent shall submit a task order to the contracted vendor and follow up to ensure the repairs are completed. The Agent shall complete a re-inspection after repairs are completed utilizing the Residential Property Inspection sheet. Photographs of the condition of the property after repairs are completed shall be attached to the Residential Property Inspection form. The Agent shall notate the diary to document the initial inspection, the deficiencies found, the actions taken to remediate the deficiencies, and the re-inspection after the repairs have been completed.

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Page 2 of the Residential Property Occupancy and Vacancy Inspections sheet shall be completed when the tenant moves out. If possible, the tenant should accompany the Agent during the inspection and sign the move-out form, which is the basis for deposit refunds or withholdings. The Agent shall photograph the condition of the property, paying special attention to any damages caused by the tenant requiring a deduction of the security deposit. After the inspection, the Agent shall submit a task order to the contracted vendor to repair any damages caused by the tenant. The Agent shall notate the diary to document the move-out inspection and any actions taken to repair the property after the tenant has vacated.

The Agent shall reconcile the Tenancy Account by completing 11-EX-65, Vacancy Report. The Agent shall determine if there are any damages, account under-billings, and account over-billings. The agent shall submit Adjustment Screens in RWPM to reconcile the account. After the reconciliation has been completed, the Agent can then determine the disposition of the security deposit and determine if the tenant is entitled to any refunds or owes a balance to the Department.

A copy of the Residential Property Occupancy and Vacancy Inspections sheet may be found on the Property Management website (internal Caltrans link).

11.07.20.01 Non-Residential Property Occupancy and Vacancy Inspections

When a new lessee moves into a non-residential property, or when a newly acquired property has an inherited non-residential lessee, the lessee shall accompany the Agent on an inspection of the property. Page 1 of Exhibit 11-EX-58, Property Occupancy and Vacancy Inspections, shall be completed. All fields shall be completed noting the condition of the property. Any items that are deemed unsatisfactory shall have a comment as to why the item is unsatisfactory. The form is to be signed by the lessee and the Agent and a copy shall be given to the lessee. The Agent shall photograph the condition of the property including any deficiencies. The Department will only remediate certain deficiencies the Department is responsible for per the lease agreement. The Agent shall submit a task order to the contracted vendor and follow up to ensure the repairs are completed. The Agent shall complete a re-inspection after repairs are completed utilizing the Non-Residential Property Inspection form, Exhibit 11-EX-55 (for internal Caltrans use). Photographs of the condition of the property after repairs are completed shall be attached to the Non-Residential Property Inspection form. The Agent shall notate the diary to document the initial inspection, the deficiencies found,

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the actions taken to remediate the deficiencies, and the re-inspection after the repairs have been completed.

The Agent shall reconcile the Tenancy Account by completing 11-EX-65, Vacancy Report. The Agent shall determine if there are any damages, account under-billings, and account over-billings. The agent shall submit Adjustment Screens in RWPM to reconcile the account. After the reconciliation has been completed, the Agent can then determine the disposition of the security deposit and determine if the lessee is entitled to any refunds or owes a balance to the Department.

11.07.21.00 Uses of Rental Agreement

The Residential Rental Agreement is to be used for month-to-month tenancies only for the following types of rentals:

- Single-family residential property.
- Multiple-family residential property.

11.07.22.00 Courtesy Notice of Termination

The Department's policy is to provide all inherited occupants who are eligible and not eligible for relocation benefits a 90-Day Information Notice. This courtesy notice is not a notice to vacate and is served by the RAP Agent. This notice is served to inherited occupants who are required to vacate due to proposed construction or other state use. This requirement does not alter the state's authority to terminate on a 30-day or 60-day notice as provided in the standard rental agreement when such notice is absolutely necessary. For more information regarding the 90-Day Information Notice, please refer to Manual Section 10.03.10.03.

If the notice of termination is for a tenant that resides in a multi-family dwelling unit, additional provisions regarding the notice of termination may apply (such as providing just cause, providing the tenant a relocation payment, and providing the tenant an opportunity to cure a curable breach prior to issuing a notice to terminate). Please refer to Manual Section 11.07.24.00 for additional information,

11.07.23.00 Rental Refunds

The Region/District shall return any unearned rents to tenants who give proper notice and vacate the property in good condition. The rents owed for a partial month shall be prorated on a 30-day month basis in accordance with

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Exhibit 11-EX-5, Rent Proration Examples. Prorated rent cannot exceed the monthly rent. Tenant is responsible for rent covering the period of time up to, and including, the date of vacation. If property is vacated on the last day of the month, tenant is responsible for the entire month, and rent is not prorated regardless of the number of days in the month. Any remaining security deposit, after any lawful deductions, must be returned within 21 calendar days for any residential tenancies.

- **Tenant Has Paid Rent in Advance and Vacates the Premises on Their Own Volition Before the Rental Term Expires** - The District/Region will make a refund for the difference between the amount paid in advance and the amount owed for the partial month, provided there is no delinquent rent, and the tenant has provided proper notice and is leaving the premises in good condition.
- **Tenant Has Paid Rent in Advance and Vacates the Premises at the State's Request Before the Rental Term Expires** - A refund will be made for the difference between the amount paid in advance and the amount owed for the partial month.
- **Tenant Has Not Paid Rent in Advance and Vacates the Premises Before the Rental Term Expires** - The tenant will be responsible for the period of time up to, and including, the date that vacation of the premises was discovered or enforced. Every effort must be made to collect the amount due. If the amount due is not collected, the amount due will be deducted from the tenant's security deposit.

All requests to Accounting or adjustments to the account will be made utilizing the RWPM Adjustment Request Screen.

The Region/District may waive the requirement that a tenant provide a termination notice when vacating property under a rental agreement.

11.07.23.01 Leases

Refunds will be made of rent collected for the period subsequent to the termination date of the lease. The termination date is determined pursuant to the notification of termination by the state or lessee as required by the lease.

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11.07.24.00 Notices

The Department may use the following notices:

- 3-Day Notice to Pay Rent or Quit, Form RW 11-11
- 3-Day Notice to Correct Breach of Covenant or Quit (Curable Breach), Form RW 11-12
- 3-Day Notice to Quit for Breach of Covenant (Incurable Breach), Form RW 11-13
- 60-Day Notice to Terminate Tenancy, Form RW 11-10
- Notice to Terminate Non-Residential Tenancy, Form RW 11-33
- 3-Day Notice to Correct Breach of Covenant (Curable Breach for residential properties subject to just cause termination requirements), Exhibit 11-EX-68
- 60-Day Notice to Terminate Residential Tenancy - Just Cause, Exhibit 11-EX-69

Effective September 1, 2019, Saturdays, Sundays, and judicial holidays must be excluded when calculating the notice period for any 3-Day Notices.

Form RW 11-10, 60-Day Notice to Terminate Tenancy, should only be used to terminate Residential Tenancies. Exhibit 11-EX-69, 60-Day Notice to Terminate Tenancy - Just Cause, shall only be used when terminating Residential Tenancies that are subject to the just cause termination requirements set forth in Section 1946.2 of the California Civil Code; the just cause must be stated in the notice to be valid. California Civil Code Section 1946.1(b) requires owners of **residential dwellings** giving notice to give notice at least 60 days prior to the proposed date of termination. Although California Civil Code Sections 1946.1(c) and 1946.1 (d) allows for termination based upon on a 30-day notice, it is the Department's policy to provide 60-days' notice for all Residential Tenancies.

Special attention must be made for residential tenants whose rents are subsidized by any federal, state, or local governments; these tenancies require a 90-Day Notice to Terminate and require just cause for termination of the tenancy. The Region/District must consult with Legal if there is a need to serve a Notice to Terminate Tenancy on a tenant participating in a government subsidized housing program to ensure all essential requirements of the notice are met.

Section 1946.1(c) allows an owner of a residential dwelling to give notice at least 30 days prior to the proposed date of termination if the tenant has resided in the dwelling for less than one year.

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Section 1946.1(d) allows for the owner of a residential dwelling to give notice at least 30 days prior to the proposed date of termination if all of the following are true:

1. The dwelling or unit is alienable separate from the title to any other dwelling unit.
2. The owner has contracted to sell the dwelling or unit to a bona fide purchaser for value, and has established an escrow with a title insurer or an underwritten title company, as defined in Sections 12340.4 and 12340.5 of the Insurance Code, respectively, a licensed escrow agent, as defined in Sections 17004 and 17200 of the Financial Code, or a licensed real estate broker, as defined in Section 10131 of the Business and Professions Code.
3. The purchaser is a natural person or persons.
4. The notice is given no more than 120 days after the escrow has been established.
5. Notice was not previously given to the tenant pursuant to this section.
6. The purchaser in good faith intends to reside in the property for at last one full year after the termination of the tenancy.

Effective January 1, 2020, pursuant to Section 1946.2 of the Civil Code the Department shall not terminate the tenancy of any residential tenant, who resides in real property that is not alienable separate from the title to any other dwelling unit (i.e. multi-family dwelling units) and has not been issued a certificate of occupancy within the previous 15 years, without just cause pursuant to Section 1946.2 (b) of the Civil Code if the following applies:

- The tenant has continuously and lawfully occupied a residential real property for 12 months.
- If any adult tenants are added to the agreement before an existing tenant has continuously and lawfully occupied the residential real property for 24 months and either of the following apply:
    - All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.
    - One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

Any notice of termination for a no-fault just cause, as defined per Section 1946.2 (b)(2) of the Civil Code, entitles tenants residing in real property that is not alienable separate from the title to any other dwelling unit and has not been issued a certificate of occupancy within the previous 15 years, who are entitled to receive a just cause for the termination of their tenancy, to be provided a relocation payment of either a direct payment of one month's rent or having their payment of the final month of tenancy waived, in writing, prior to the rent becoming due. The Department shall waive the rent of for

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the final month of the tenancy, the notice of termination shall state the amount of rent waived and that no rent is due for the final month of tenancy. The Agent must create an Adjustment Screen, which must be approved by the Property Management Senior, in RWPM to have Accounting reverse the final month of billing in RWPM. Any relocation assistance shall be provided within 15 calendar days of service of the notice of termination. The Agent shall use Exhibit 11-EX-69 when providing a notice of termination. Section 1946.2 of the Civil Code remains in effect until January 1, 2030 and is repealed as of that date.

Please note that the intent to demolish is considered a form of no-fault just cause per Section 1946.2 of the Civil Code. When a construction project is scheduled to commence, the Department may need to provide relocation payments to tenants if those tenants qualify for such relocation payments under Section 1946.2 of the Civil Code.

Additionally, effective January 1, 2020, pursuant to Section 1946.2 (c) of the Civil Code, before the Department issues a notice to terminate a tenancy for just cause, pertaining to a curable lease violation, to tenants who reside in real property that is not alienable separate from the title to any other dwelling unit and has not been issued a certificate of occupancy within the previous 15 years, that is entitled to receive a notice of termination for just cause, must provide the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a 3-Day Notice to Quit for Breach of Covenant may thereafter be served to terminate the tenancy. The Agent shall use Exhibit 11-EX-68 to provide the initial notice prior for a curable violation prior to serving a notice of termination or a 3-Day Notice to Quit for Breach of Covenant. Section 1946.2 of the Civil Code remains in effect until January 1, 2030, and is repealed as of that date.

For residential real properties that are subject to receiving a just cause notice to termination, provide a relocation payment for a no-fault just cause, and provide an opportunity to cure a curable lease violation prior to issuing a notice to terminate, the Department must provide the following notice to the tenant:

- "California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to

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terminate a tenancy. See Section 1946.2 of the Civil Code for more information."

- The notice above must be in no less than 12-point type.
- For any tenancy that commenced or renewed on or after July 1, 2020, the notice shall be an addendum to the rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.
- For any tenancy existing prior to July 1, 2020, the written notice shall be provided to the tenant no later than August 1, 2020, or as an addendum to the rental agreement.

The requirements to provide just cause in the notice of termination, provide a relocation payment, and provide an opportunity to cure a curable lease violation prior to issuing a notice to terminate is not applicable if the property is a residential property that is alienable separate from the title to any other dwelling unit (i.e. single family residences, townhomes, and condominiums) and the tenant has been provided the following notice in writing or in their rental agreement:

- "This property is not subject to rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation."

The provisions of Section 1946.2 of the Civil Code requiring just cause in the notice of termination, requiring a relocation payment, and providing an opportunity to cure a curable lease violation prior to issuing a notice to terminate is not applicable if residential real property is subject to a local ordinance requiring just cause for termination if any of the following applies:

- The local ordinance was adopted on or before September 1, 2019.
- The local ordinance was adopted or amended after September 1, 2019 and is more protective than Section 1946.2 of the Civil Code. A local ordinance is considered "more protective" if all of the following applies:
    - The just cause for termination of a residential tenancy under the local ordinance is consistent with Section 1946.2 of the Civil Code.
    - The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation amounts, or provides additional tenant protections that are prohibited by any other provision of law.

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- The local government has made a binding finding with their local ordinance that the ordinance is more protective than the provisions of Section 1946.2 of the Civil Code.

The provisions of Section 1946.2 of the Civil Code requiring just cause in the notice of termination, requiring a relocation payment, and providing an opportunity to cure a curable lease violation prior to issuing a notice to terminate is not applicable if residential real property has been issued a certificate of occupancy within the previous 15 years.

Please refer to Section 1926.2(e) for an inclusive list of all the residential real properties or residential circumstances that are excluded from requiring just cause in the notice of termination, requiring a relocation payment, and providing an opportunity to cure a curable lease violation prior to issuing a notice to terminate.

Most Non-Residential Tenancies will receive a 30-day notice prior to termination. Yet, special attention must be made to the notice period specified in the actual termination clause in the lease. The termination clause will dictate the notice period required for Non-Residential Tenancies.

11.07.25.00 Cancellation - Failure to Pay Rent

RW 11-11, 3-Day Notice to Pay Rent or Quit, shall be used to cancel a rental agreement or lease where the tenant is delinquent in rental payments. Notice shall be served upon the tenant as specified in Manual Section 11.08.04.00.

If the tenant is eligible for relocation benefits, Property Management must notify the RAP Unit of the delinquency.

During the three-day period after service of the 3-day notice, the state must accept full payment of rent due when offered by the tenant/lessee. Acceptance of full rent due nullifies the 3-day notice. After the end of the three-day period, the state may refuse payment and continue with the eviction process. If payment is accepted after the three-day period, however, the notice is nullified. Entering the date of service of 3-day notice in the 3-Day Notice field of the RWPM Delinquent Tenancy Screen will electronically notify Accounting not to accept rent payments after the three-day period.

When a 3-Day Notice to Pay Rent or Quit is served, the Property Manager must pay special attention to the amount of rent payment the tenant is

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attempting to make during the notice period. For Residential Tenancies, an acceptance of a partial payment of rent invalidates the 3-Day Notice to Pay Rent or Quit because of the difference in the amount of rent demanded on the notice and the amount of rent actually owed. If partial rent is accepted from a Residential Tenant, a new 3-Day Notice to Pay Rent or Quit must be served with the new amount due. The Property Manager should provide Accounting the amount due per the 3-Day Notice to Pay Rent or Quit in order to avoid the situation of accepting partial rent.

For Non-Residential Tenancies, per California Code of Civil Procedure Section 1161.1(b), an acceptance of partial rent after the service of the 3-Day Notice to Pay Rent or Quit does not invalidate the 3-Day Notice to Pay Rent or Quit. The Department may proceed with the unlawful detainer action if partial rent is accepted only if this is specified on the 3 Day Notice to Pay Rent or Quit. Consult with Legal regarding correct wording of the 3-day notice for this circumstance.

The amount owed specified on the 3-Day Notice to Pay Rent or Quit must only account for past due rent. The notice must not include other monies the tenant owes, like late fees, utilities, or damages. The amount owed on the notice cannot be for any rent past one (1) year due.

11.07.26.00 Cancellation - Notice to Vacate for Reasons Other Than Failure to Pay Rent

Where a residential tenant is not delinquent in their rent and the state wishes to terminate a rental agreement that contains a termination clause, a 60-Day Notice to Terminate Tenancy shall be used. If the tenant is participating in a government subsidized housing program, the Agent shall submit a 90-Day Notice to Terminate Tenancy which must include just cause; please see Manual Section 11.07.21.00 for further information.

When a non-residential lessee is not delinquent in their rent and the state wishes to terminate a lease agreement that contains a termination clause, a Notice to Terminate Non-Residential Tenancy, shall be used. This notice may be modified to provide for various lease termination requirements such as varying time frames.

The notice shall be served in the manner described in Manual Section 11.08.04.00. Refund policy is described above.

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11.07.27.00 Cancellation - Breach of Covenant

When it is necessary to cancel a lease or rental agreement where the tenant has breached a covenant of the agreement with the state, RW 11-12, 3-Day Notice to Correct Breach of Covenant or Quit (Curable Breach), or RW 11-13, 3-Day Notice to Quit for Breach of Covenant (Incurable Breach), may be used.

Notice shall be served upon the tenant as specified in Manual Section 11.08.04.00.

If the tenant is eligible for relocation benefits, Property Management must notify the RAP Unit of the breach.

Curable breaches include anything that can be cured or corrected by payment of money (e.g., deposits, insurance, and bonds) and may also include, for example, unapproved pets, excessive garbage or debris, and unauthorized use. When the 3-Day Notice to Correct Breach of Covenant or Quit is served, the tenant/lessee must cure the breach or vacate the property within the notice period. If the tenant/lessee fails to comply with the notice, the Department will proceed with an unlawful detainer action.

Incurable breaches cannot be cured once committed and include, for example, nuisance, committing waste, seriously damaging the property, using the property for an illegal purpose, and subleasing or assigning without prior state approval. When the 3-Day Notice to Quit for Breach of Covenant is served, the tenant/lessee must vacate the property within the notice period. If the tenant/lessee fails to comply with the notice, the Department will proceed with an unlawful detainer action.

11.07.28.00 Departmental Use of State-Owned Property

Properties managed by Property Management may be used temporarily by other District/Region functions if such use is within local government requirements. Although no rent will be charged, the user will be responsible for all maintenance costs, remodeling costs, and any costs necessary to return the property to its original condition. There should be a memorandum of understanding between R/W and the other functional Division outlining the terms and conditions of use.

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11.07.29.00 Termination Requirements

California Civil Code Section 1950.5 requires the following process for residential tenancy, which began after January 1, 2003:

- Within a reasonable time after either party gave notice of termination, the landlord shall notify the tenant **in writing** of the tenant's option to request an initial inspection and to be present at that inspection. (, When the Department provides notice, the 60-Day Notice to Terminate Tenancy has language satisfying the written notification requirement. When the tenant provides notice, Exhibit 11-EX-6B, Notice of Right to Inspection, shall be sent to the tenant in order to provide the required written notification. If a tenant is served any type of 3-Day Notice, the Department does not need to provide the tenant an option of an initial inspection.)

- At a reasonable time, but no earlier than two weeks before the termination or the end of the rental agreement, the landlord shall, upon the request of the tenant, make an initial inspection of the premises prior to any final inspection the landlord makes after the tenant has vacated the premises. (Exhibit 11-EX-6D, Initial Vacancy Inspection and Statement of Proposed Security Deductions) (for internal Caltrans use). This will allow the tenant an opportunity to remedy identified deficiencies in order to avoid deductions from the security deposit. The tenant's request does not have to be in writing; thus, it is mandatory to make a diary entry in reference to the tenant's desires.

- If the tenant requests an inspection, the parties shall attempt to schedule the inspection at a mutually acceptable date and time. The landlord shall give at least 48 hours' prior **written** notice of the date and time of the inspection. (Exhibit 11-EX-6C, Waiver of 48-Hour Notice of Initial Inspection.) This applies even if both parties have agreed to an acceptable date and time. The 48-hour prior written notice can be waived if both parties sign a written waiver.

- The landlord shall proceed with the inspection whether the tenant is present or not, unless the tenant previously withdrew his or her request for the inspection.

- Based on the findings of the inspection, the landlord shall give the tenant an itemized statement specifying repairs or cleaning that are proposed to be the basis of any deductions from the security deposit. (Exhibit 11-EX-6D, Initial Vacancy Inspection and Statement of Proposed Security Deductions) (for internal Caltrans use). This statement shall be given to the

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tenant, if the tenant is present for the inspection, or shall be left inside the premises if the tenant is not present for the inspection. (This statement is not to be confused with nor does it replace the requirement to furnish the tenant within three weeks an itemized statement indicating the basis for, and the amount of, any security deposit withheld.)

- The landlord may use the security deposit to remedy any situation that occurs after the initial inspection or was not identified during the initial inspection due to the presence of the tenant's possessions.

- If a tenant chooses not to request an initial inspection, the duties of the landlord are discharged. It is mandatory to make a diary entry indicating the tenant has not opted for an inspection.

The requirements above only pertain to residential tenancies. Security deposits for non-residential tenancies are governed by California Civil Code 1950.7, and there is no right of an initial inspection for non-residential tenancies.

11.07.30.00 Abandonment of Premises

Pursuant to California Civil Code 1951.2, if a tenant/lessee breaches the agreement and abandons the premises before the end of the term, the agreement is terminated. If the tenant/lessee has failed to pay rent and appears to have vacated the premises, there may be an alternative for regaining possession of the premises without going through the unlawful detainer process. The mere act of the appearance of the tenant/lessee vacating the premises and failing to pay rent does not automatically terminate the tenant's/lessee's right of possession of the premises. The Property Manager shall take action to confirm the tenant's/lessee's intention of abandoning the premises prior to terminating any rights that the tenant/lessee has to possess the premises. In order to confirm the tenant's/lessee intention of abandonment, the Property Manager shall serve a Notice of Belief of Abandonment.

For Residential Tenancies, the Notice of Belief of Abandonment requirements are contained in California Civil Code 1951.3. If the rent on the premises has been due and unpaid for fourteen (14) consecutive days and the Property Manager has reasonable belief that the tenant has abandoned the premises, the Property Manager should serve the tenant Exhibit 11-EX-60, Notice of Belief of Abandonment – Residential. Pursuant to Civil Code 1954, the Property Manager may enter the premises if the tenant has abandoned or surrendered the premises. Prior to serving the Notice of Belief of

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Abandonment, the Property Manager should enter the premises to confirm the suspicion that the tenant has abandoned the premises. Signs of abandonment may include spoiled food in the refrigerator, utility services being shut-off, and a significant amount of personal property being removed from the premises. The date of the termination of the agreement shall be specified in the Notice of Belief of Abandonment and depends on how the notice is served. If the notice is served personally, the date of termination shall not be less than fifteen (15) days after the notice is served. If the notice is mailed, the date of termination shall not be less than eighteen (18) days after the notice is deposited in the mail.

For Non-Residential Tenancies, the Notice of Belief of Abandonment requirements are contained in California Civil Code 1951.35. If the rent on the premises has been due and unpaid for at least the number of days required to declare a rent default, but in no case less than three days, and the Property Manager has reasonable belief that the lessee has abandoned the premises, the Property Manager should serve the lessee Exhibit 11-EX-61, Notice of Belief of Abandonment – Non-Residential. Per the Non-Residential Lease Agreement, the Department reserves its right, without notice, to enter the premises in case of an emergency; if the lessee is unresponsive, has not paid rent, and is not at the premises during normal business hours, this can be considered an emergency. Prior to serving the Notice of Belief of Abandonment, the Property Manager should enter the premises to confirm the suspicion that the lessee has vacated the premises. Signs of abandonment may include an accumulation of mail or periodicals, utility services being shut-off, out of business signs posted on the premises, trade fixtures being removed, and a significant amount of personal property being removed from the premises. The date of termination of the agreement shall be specified in the Notice of Belief of Abandonment and shall not be less than fifteen (15) days after the notice is served. The notice may be served personally, sent to the lessee by an overnight courier services, or deposited in the mail. Unlike the Notice of Belief of Abandonment for Residential Tenancies, the method of service does not affect the date of termination.

For both Residential and Non-Residential Tenancies, the premises shall not be deemed to be abandoned if, prior to the termination date specified on the notice, the tenant/lessee provides written notice stating that the tenant/lessee does not intend to abandon the real property and shall provide an address at which the tenant/lessee may be served by certified mail in an action for unlawful detainer of the real property. Also, the premises shall not be deemed abandoned if the tenant/lessee paid all or a portion of rent due prior to the termination date specified on the notice.

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When the Property Manager serves the Notice of Abandonment to the tenant/lessee, the Property Manager should also serve Form RW 11-11. 3-Day Notice to Pay or Quit, concurrently. Both notices terminate the agreement upon their expiration date. So, in the instance that a tenant/lessee provides written notice of an intent to occupy the premises, yet has not submitted payment of rent, the Property Manager may quickly pursue the unlawful detainer action based upon the expiration of the 3-Day Notice to Pay or Quit. Keep in mind that if both notices are served concurrently, the Property Manager shall have a separate Exhibit 11-EX-7A, Proof of Service Notice, for each notice served. If both notices are construed to be combined, it may be confused as a single notice and may invalidate any unlawful detainer action based on the expiration of the 3-Day Notice to Pay or Quit. If the Agent has any questions regarding the manner of service, Region/District Legal should be consulted.

11.07.30.01 Abandonment of Personal Property

Whether the tenant/lessee abandons or vacates the premises, there is the likelihood that personal property will be left on the premises. The Property Manager shall take the proper steps of providing notice to the owner of the abandoned personal property, storing the personal property during the notice period, and disposing of the personal property if it is not reclaimed.

For Residential Tenancies, after the District/Region regains possession of the premises and personal property remains, the Property Manager shall, pursuant to California Civil Code 1983, provide written notice to the former tenant and any other person that the Property Manager reasonably believes to be the owner of such property. The notice requirements for the former tenant are contained in California Civil Code 1984, and the Property Manager should serve Exhibit 11-EX-40, Statutory Notice to Former Tenant of Right to Reclaim Abandoned Property – Residential. The notice requirements for persons other than the former tenant are contained in California Civil Code 1985, and the Property Manager should serve Exhibit 11-EX-41, Statutory Notice to Person Other Than Former Tenant of Right to Reclaim Abandoned Property – Residential. Prior to sending such written notices, the Property Manager shall determine the value of the remaining personal property. If the value of the personal property is worth $700.00 or more, the Property Manager shall sell the personal property via public sale. If the value of the property is worth less than $700.00, the Property Manager may dispose of the personal property in any manner. The Statutory Notice to Former Tenant of Right to Reclaim Abandoned Property shall contain a statement regarding how the personal property will be disposed of based upon the value in accordance with California Civil Code 1988. Prior to disposing the property, the Property

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Manager shall store the personal property for not less than fifteen (15) days if the notice was personally delivered or not less than eighteen (18) days if the notice was deposited in the mail. The reasonable cost of storage may be charged before the personal property is returned, unless the personal property remained in the dwelling and is reclaimed within two days of vacating the dwelling; in which case there shall be no charge for storage. When the Property Manager stores the personal property on the premises, the reasonable cost of storage would be the daily rental rate of the premises.

For Non-Residential Tenancies, after the District/Region regains possession of the premises and personal property remains, the Property Manager shall, pursuant to California Civil Code 1993.03, provide written notice to the former lessee and any other person that the Property Manager reasonably believes to be the owner of such property. The notice requirements for the former lessee are contained in California Civil Code 1993.04, the Property Manager should serve Exhibit 11-EX-62, Statutory Notice to Former Tenant of Right to Reclaim Abandoned Property – Non-Residential. The notice requirements for persons other than the former tenant are contained in California Civil Code 1993.05; the Property Manager should serve Exhibit 11-EX-63, Statutory Notice to Person Other Than Former Tenant of Right to Reclaim Abandoned Property – Non-Residential. Prior to sending such written notices, the Property Manager shall determine the value of the remaining personal property. If the value of the personal property is worth less than either $2,500.00 or an amount equal to one month's rent for the premises, whichever amount is greater, the Property Manager may dispose of the personal property in any manner. For instance, if the monthly rent is $5,000.00 and the value of the personal property is reasonably believed to be worth $4,000.00, then the Property Manager may dispose of the personal property in any manner. If the value of the personal property is worth at least $2,500.00 or one month's rent for the premises, whichever is greater, then the Property Manager shall sell the personal property via a public sale. For instance, if the monthly rent is $1,000.00 and the personal property is reasonably believed to be worth $3,000.00, then the Property Manager shall dispose of the personal property via a public sale. The Statutory Notice to Former Tenant of Right to Reclaim Abandoned Property shall contain a statement regarding how the personal property will be disposed of based upon the value in accordance with California Civil Code 1993.07. Prior to disposing the property, the Property Manager shall store the personal property for not less than fifteen (15) days if the notice was personally delivered or not less than eighteen (18) days if the notice was deposited in the mail. The reasonable cost of storage may be charged before the personal property is returned. The personal property shall either be left on the vacated premises or stored by the Property Manager in a place of safekeeping; the Property Manager shall exercise reasonable care in storing the property. When the Property Manager stores the personal property on

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the premises, the reasonable cost of storage would be the daily rental rate of the premises.

If the personal property, for both residential and non-residential tenancies, is to be sold via public sale, the Property Manager shall provide the following: notice of the time and place of the sale in a newspaper of general circulation published in the county where the sale is to be sold, the manner of publication shall comply with California Government Code 6066; the last publication shall not be less than five (5) days before the sale is to be held; the notice of the sale shall not be published before the last of the dates specified for taking possession of the personal property in any notice given; and the notice of the sale shall describe the property to be sold in the same manner as described in the notice. Additionally, the Property Manager shall hire a licensed and bonded auctioneer to perform the public sale. Any proceeds from the sale can pay the reasonable costs of storage, advertising, and the public sale. The remaining balance of proceeds shall be paid to the treasury of the county in which the sale took place not later than thirty (30) days after the date of sale. The Property Manager cannot retain the remaining proceeds, after paying for the cost of storage and costs associated with the public sale, for unpaid rent unless there is a court judgement for unpaid rent. If the Region/District does have a judgement for unpaid rent, the Property Manager shall provide the judgement and a Writ of Execution, which may be obtained from the court clerk, to the sheriff with written instructions to levy the remaining proceeds in the county's possession.

Motor vehicles left on the premises are treated differently than other types of personal property. If a vehicle is left on the premises, the Property Manager needs to post a notice on the vehicle advising that the vehicle is parked illegally on State property and must be removed immediately. If the vehicle remains on the premises after 72 hours, the Property Manager should contact the California Highway Patrol to arrange for the vehicle to be towed in accordance with California Vehicle Code 21113 and California Vehicle Code 22651.

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11.08.00.00 - DELINQUENT ACCOUNTS

11.08.01.00 General

All rents shall be collected in accordance with the terms and conditions of the lease or rental agreement. Our standard monthly rental and lease agreements provide that rent is due in advance on the 1st of the month. Rent not received by the 1st of the month is delinquent.

The agreement further provides that a late charge may be charged if the rent is not received by the 10th of the month, per the terms outlined in the rental/lease agreement. Since the Department directs tenants/lessees to make payments by mail, a postmark of the 10th or sooner does constitute receipt of payment as of the date of the postmark per California Civil Code 1476.

11.08.02.00 Suggested Methods of Collection

The Agent should notify the tenant/lessee personally by telephone or letter that rent is delinquent and must be paid. In many cases, the tenant/lessee will pay the rent after this contact and will be prompt in paying thereafter. If the tenant/lessee is delinquent again the following month, however, the Agent shall send a strongly worded letter. Any contact with the tenant/lessee shall be documented in the diary. If the Agent elects to enter into a payment plan agreement, the agreement shall be in writing and approved by the Branch Chief (Senior level or above). Payment plans shall not extend delinquent rents beyond one year since the Department may not include delinquent rent over a year on the 3-Day Notice to Pay Rent or Quit. Also, the 3-Day Notice to Pay Rent or Quit shall not include any late fees or other fees, it shall only include the amount of rent due. If the tenant/lessee fails to make a payment plan payment, the Agent shall immediately serve a 3-Day Notice to Pay Rent or Quit for the total amount of rent due. No further payment plans or compromises will be offered if a tenant/lessee fails to adhere to their payment plan. Payment plans are not to be used as a regular way of doing business, but for those exceptional cases where payment plans are warranted.

If a tenant/lessee has been delinquent for three consecutive months, terminating the tenancy may be in order even though the rent is eventually paid each month. If the situation warrants, termination of the tenancy may be requested prior to this time. The Property Management Senior shall have the discretion to make this decision.

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11.08.03.00 3-Day Notice to Pay Rent or Quit

If rent is not paid immediately after the contacts and letter, the Agent shall serve a 3-Day Notice to Pay Rent or Quit demanding that the tenant/lessee pay the total rent delinquency within three days or vacate the property. The 3-Day Notice to Pay Rent or Quit shall cover the current month's rent, plus any previous period of rental delinquency that may still be unpaid. As discussed in Section 11.07.22.00, the amount owed specified on the 3-Day Notice to Pay Rent or Quit shall only account for past due rent not exceeding one year; do not include any late fees, utilities, or damages on this notice. The Agent must enter the date the 3-Day Notice to Pay Rent or Quit was served in RWPM on the "Delinquent Tenancy" screen in order to notify Accounting of the notice being served. The Agent shall also contact Accounting in order to provide the amount specified on the 3-Day Notice to Pay Rent or Quit in order to avoid an acceptance of a partial payment. The Agent shall immediately start eviction proceedings upon expiration of the three days (see Form RW 11-11, 3-Day Notice to Pay Rent or Quit). The Agent shall send copies of eviction notices and other related documents to Headquarters Cashiering to stop acceptance of payment. Partial or total acceptance of payment will forfeit the legal effect of the 3-Day Notice to Pay Rent or Quit. It is imperative that the Agent enter the date that the 3-Day Notice to Pay Rent or Quit was served in RWPM so Accounting will not accept any payments after the notice period.

If a residential tenant is chronically delinquent but not currently delinquent, a 60-day notice terminating the tenancy may be in order (see RW 11-10, 60-Day Notice to Terminate Tenancy). If a non-residential lessee is chronically delinquent, a Notice to Terminate Non-Residential Tenancy, Form RW 11-33, may be in order; the length of time provided in the Notice to Terminate Non-Residential Tenancy is dictated by the Termination Clause in the Lease Agreement. If a notice to terminate a tenancy is served after a 3-day notice has been served, the legal effect of the 3-day notice is lost.

A 3-Day Notice to Pay Rent or Quit and a Notice of Termination of Tenancy and Notice to Quit may be served concurrently. This process may be used when you want to collect some money from the tenant but still wish to proceed with an eviction. Even though money is accepted, thus forfeiting the legal effect of the 3-Day Notice to Pay Rent or Quit, it does not cancel the Notice of Termination of Tenancy and Notice to Quit.

See Section 11.07.22.00, Notices, for additional information and requirements in regard to serving notices to vacate or to terminate the tenancy.

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11.08.04.00 Method of Service of Notices

The landlord's right to serve a 3-Day Notice to Pay Rent or Quit is provided for in Code of Civil Procedures (CCP) Section 1161. The 3-Day Notice to Pay Rent or Quit is served to the delinquent tenant for the total amount of unpaid rent only, within one year, as of the day of service.

Service of a 3-Day Notice or a Notice to Terminate the Tenancy is governed by CCP Section 1162.

Service for Residential Tenancies shall be made as follows:

- By delivering a copy to the tenant personally.

- If he or she is absent from his or her place of residence, and from his or her usual place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his or her place of residence.

- If such place of residence and business cannot be ascertained, or a person of suitable age or discretion there cannot be found, then by affixing a copy in a conspicuous place on the property, and also delivering a copy to a person there residing, if such person can be found; and also sending a copy through the mail addressed to the tenant at the place where the property is situated. Service upon a subtenant may be made in the same manner. The effective start date of the 3-Day Notice is one day following the postmark date.

Service for Non-Residential Tenancies shall be made as follows:

- By delivering a copy to the tenant personally.

- If he or she is absent from the commercial rental property, by leaving a copy with some person of suitable age and discretion at the property and sending a copy through the mail addressed to the tenant at the address where the property is situated.

- If, at the time of attempted service, a person of suitable age or discretion is not found at the rental property through the exercise of reasonable diligence, then by affixing a copy on a conspicuous place on the property, and also sending a copy through the mail addressed to the tenant at the address where the property is situated. Service upon a subtenant may be made in the same manner.

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- Service of a notice on a corporation differs slightly in that the notice must be served on a corporate officer or an authorized agent of the corporation who will accept on behalf of the corporation. Do a business search on the California Secretary of State's website to locate the name and address of the authorized agent.

For practical purposes, "a person of suitable age and discretion" should be over 18 years of age.

When the Agent cannot personally serve a notice and must mail a copy of the notice, it is prudent for the Agent to mail one copy first-class postage prepaid and one copy certified mail return receipt requested. The certified mail receipt shall be placed in the rental file. To substantiate service, the server shall execute a proof of service by posting and shall place a copy in the rental file. No matter the method of service, the Agent should take photographs to document the service in case the tenant/lessee challenges the receipt of the notice and all actions taken shall be notated in the diary.

The Agent shall make a diligent effort to effect personal service since that is the most effective and uncomplicated method of service.

NOTE: If the tenant is eligible for relocation benefits, Property Management must coordinate service with the RAP Unit to ensure the tenant is advised of their continuing rights in regard to relocation assistance. See Manual Section 10.03.12.00.

The Agent shall send copies of a 3-day notice, eviction notice, or any other related documents to Headquarters Cashiering to stop acceptance of payment. Partial or total acceptance of payment will forfeit the legal effect of the notice.

11.08.05.00 Legal Remedies for Collection and Procedures

Various legal procedures are available to Agents for specific purposes. Agents should bear in mind, however, that they are not attorneys and shall obtain all legal advice and interpretations from Legal.

The state shall resort to legal proceedings to effect rent collection and/or eviction of delinquent tenants because of nonperformance of contractual obligations, usually nonpayment of rent. In addition, unlawful detainers are sometimes necessary for property clearance to meet certification dates. General procedures are outlined in Exhibit 11-EX-7, District Right of Way

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Procedure: Vacating Premises - Unlawful Detainer Action. Since procedures may vary from one judicial district to the next, it is incumbent upon Agents to discover the general requirements for their areas of responsibility. Reference Exhibit 11-EX-7a for the standard Proof of Service Notice. Reference Exhibit 11-EX-7b for an example of a memo to legal.

11.08.06.00 Dishonored Checks

If a tenant/lessee has a dishonored check returned to the Department for any reason, payment is considered not received. There will be a $25 fee automatically charged to the account for the first dishonored check and a $35 fee charged for the second dishonored check in a 12-month period. If tenant/lessee fails to submit an acceptable replacement payment by the 10th of the month, the account will be considered delinquent and a late fee may be assessed.

If tenant/lessee has two dishonored checks within any 12-month period, the Department will no longer accept personal checks on that tenancy.

11.08.07.00 Late Charges

A late charge may be assessed if the full amount of rent is not received on or before the 10th of each month. Payment is considered received if the payment is postmarked on or before the 10th of each month. The late charge covers liquidated damages resulting from breach of the lease or rental agreement. The amount is determined by using 6% of the monthly rent as a guideline. The amount is entered in the late payment clause in the rental/lease agreement. Late charges are not mandatory and the use of late charges are at the discretion of the Region/District. Late charges should be waived for government agencies since most government agencies do not pay for rent in advance and usually pay in arrears.

NOTE: The 6% figure is based on the figure relating to mortgages or deeds of trust in the California Civil Code and is generally used by the property management industry.

11.08.08.00 Vacated Delinquencies

When a delinquent tenant vacates and does not leave a forwarding address, the district has 15 calendar days to conduct an investigation to locate the former tenant before further collection efforts proceed. The Region/District does not, however, have to wait until the end of the 15 days to submit the account to the Division of Accounting, R/W Accounts Receivable.

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The following are sources of information that may lead to the former tenant's whereabouts:

- Certified mail with return receipt requested sent to the tenant's last address.
- Utility companies that show transfer of service.
- Banks, places of employment, or other references that may be listed on the tenant's rental application.
- Labor union affiliations, depending upon the tenant's profession.
- Department of Motor Vehicles, using driver's license number, California ID number, or car license number from the application.

As soon as a delinquent tenant vacates, the district should process the vacated tenancy through the RWPM Adjustment Screen. Within 15 days, the district should refer the account to Accounting for write-off or for referral to the collection agency for further collection efforts.

11.08.08.01 Amounts $250 or Less

If the delinquent amount is $250 or less, the district forwards completed Form RW 11-25, Authorization to Write Off or Adjust Accounts Receivable Bill, to Accounting and requests write-off of the account through the RWPM Adjustment Screen. The write-off request should include a brief justification (e.g., collection efforts are not cost effective based on Board of Control guidelines).

Accounting will immediately write off the account. If the delinquent amount is over $100 and the delinquent tenant's Social Security Number is known, Accounting will submit the account to the Franchise Tax Board (FTB) for two successive years only. However, the Intercept Program is for intercepting refunds of Personal Income Tax accounts only and cannot be used for corporations or partnerships.

If all or a portion of the delinquent amount is collected, either through the FTB Intercept Program or from the vacated tenant, Accounting will reestablish the receivable account.

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11.08.08.02 Amounts Greater Than $250

If the delinquent amount is greater than $250, the district prepares an Exhibit 11-EX-39, Collection Agency Transmittal, and forwards it to Accounting with the required documentation listed below. The vacancy date and amount due will be of critical importance if the collection agency pursues legal action against the debtor, and the district is responsible for ensuring the accuracy of this information. In addition, the district must enter the date the collection package is forwarded to Accounting on the Delinquent Tenancy Screen (TPR521M) in RWPM.

- Copy of first and last pages of rental agreement
- Copy of rental application
- New address documentation
- Copies of diary notes regarding efforts to collect
- Copy of judgment
- Copy of driver's license or California identification card

Accounting will verify the amount owed and forward the collection package to the collection agency under contract to the Department. In addition, Accounting will submit accounts with Social Security Numbers to FTB under terms of its Intercept Program.

The collection agency receives 3.5% commission on whatever they collect. If the collection agency collects 100% of the debt, Caltrans receives 96.5%. It is in the contract that the collection agency can settle the debt with the debtor at 80%. Any percentage lower than that needs to be approved by Caltrans Accounts Receivable/management. The collection agency will still receive 3.5% of the amount collected based upon the settlement.

Once an account is referred to the collection agency, Accounting takes on all responsibility for the account and makes all further contact with the collection agency. Any calls or letters from the delinquent tenant should be referred to the collection agency for response. **Under no circumstances should the Region/District enter into a repayment plan with the delinquent tenant once the account has been referred to the collection agency.**

In accordance with terms of the contract, the collection agency will submit a monthly report to Accounting showing the status of all accounts referred to them for collection. Accounting will forward a copy of the report to HQ R/W to be shared with the Regions/Districts.

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Under terms agreed to among the collection agency, Accounting and HQ R/W, Accounting will write off accounts that are deemed to be uncollectable. If all or a portion of the delinquent amount is subsequently collected, Accounting will reestablish the receivable account.

A collection packet should be submitted within 15 days of vacancy. **Do not delay in submitting your collections packet to accounting**. The State only has four years to collect payments.

On rare occasions, a Region/District may engage in a payment plan with a vacating tenant that will prevent a file from going to collections. As long as the tenant is paying according to the plan, this is permissible. However, if the tenant begins to miss payments, immediately send to collections. **Do not keep renegotiating the terms of a payment plan.** Always keep in mind of the statute of limitations to collect funds is 4 years after vacate date.

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11.09.00.00 - RENTAL INTERNAL CONTROLS

11.09.01.00 Policy

To protect the integrity of the Department's rental assets and to protect employees handling those assets from accusations of fraud, the following control activities shall be performed for each acquired property. These activities shall be fully documented in the rental file's diary notes to facilitate audit and management review.

- Information on newly acquired property shall be entered in RWPM as soon as the information is available.
- Improved non-rentable properties shall be inspected at least once a month.
- The rental file shall contain justification for classifying any property as non-rentable.
- Unimproved non-rentable and occupied rentable properties shall be inspected at least once in the twelve months immediately following the prior inspection date.
- Vacated rentable properties shall be inspected within 15 days of any vacancy and at least once a month thereafter. Vacated rentable properties are those having more than a remote chance of being rented for a reasonable time prior to construction.
- Rentable occupied properties shall be subject to a confirming process of tenant interviews and tenant letters.

The sections below contain descriptions of major steps in the internal control process. The Property Management Senior or designee shall perform many of the specified control activities (such as inspections and reviews). The designee must be a R/W Agent at the associate level or above but must not, however, be the Agent assigned rental management duties for the specific property/rental account.

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11.09.02.00 Newly Acquired Property Closure Procedure

11.09.02.01 Office Review

Upon execution of a R/W Contract or recordation of an FOC, the Acquisition Agent (or Condemnation Agent for an FOC) shall send an MOS, RW 8-12, to Property Management with a copy of the R/W Contract or FOC as appropriate. The parcel should be assigned to the Agent responsible for the territory. The Agent shall review and be familiar with the documents and the appraisal involved.

11.09.02.02 Field Review

In the majority of cases where property is acquired under R/W Contract, there will be a period of time, usually 3 to 6 weeks, between receipt of these documents and close of escrow or recordation. Whenever possible, the Agent should contact the occupants prior to close of escrow to discuss the terms of rental occupancy. The Agent should read the R/W Contract carefully to determine any special conditions imposed that might affect, for example, the rental rate, term of occupancy, rental commencement date, or special disposition of acquired property. The Agent should notify the occupants of obligations to comply with all federal, state and local laws and ordinances, including those for storm water, and of the availability of storm water education and outreach guidance materials.

Where property is acquired through an FOC, the Agent shall take immediate action to contact the occupants since rental commences on the day following recordation of the FOC.

11.09.02.03 Diaries

Each file must have a diary, kept in chronological order, documenting the actions taken throughout the life of a property from acquisition to either construction or disposal. Diary entries are mandatory for every inspection, phone call, letter received and sent, accounting actions, and any other communication or activity. Diaries must be able to explain why an agent took a particular action, not just the action itself. Diaries may be used as evidence in court, and therefore must remain property specific, to the point, and absent of any agent commentary. For each inspection, the Agent shall take dated photographs of the condition of property; paying special attention to deficiencies and the remediation of said deficiencies. Diaries may be kept on the computer instead of hand written, however, each page must be printed

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when full and kept in the physical file. The Diary in the file must reference an electronic version. All diaries must be printed when there is a QEJR or Audit. All Diary entries must be signed.

11.09.03.00 Vacated Rentable Property

The Property Management Senior or designee shall inspect all vacated rentable properties within 15 days after vacancies occur or are discovered and not less than once a month thereafter. The inspections shall be documented on the rental file's diary notes. At least once in the twelve months immediately following the prior inspection date, one of the inspections shall be done concurrently with a maintenance inspection and documented as required under Manual Section 11.10.06.00. All property inspections shall include dated photographs.

11.09.03.01 Agent Activities

When a tenant vacates, the Agent shall thoroughly inspect and secure the property the day of vacation or the next business day. Prior arrangements shall be made to obtain the keys from the vacating tenant. Upon receipt of the keys, the Agent shall accomplish the following:

- Inspect the property and, when necessary, prepare a request to have trash removed, improvements boarded up, hazardous conditions abated, or necessary maintenance performed.
- Perform an inventory of all items purchased by the state and place appropriate documentation in the rental file.
- Determine whether the property should be boarded up to provide protection against vandalism and theft.
- Report any lost or stolen property in accordance with procedures in Section 11.03.09.00.
- Note all activities in the rental file's diary notes and include dated photographs of the condition of the property.
- Prepare the necessary accounting documents to close the tenant's file.

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11.09.03.02 Property Management Senior Activities

The Property Management Senior or designee shall complete the first verification of vacancy status within 15 days after vacancy occurs and shall discuss each vacated rentable property not less than once a month with the Agent. Monthly field reviews shall be made to assure that the properties are still vacant. Every effort should be made to rent those properties. Documentation of office and field reviews shall be kept in District rental file's diary notes for auditing purposes.

11.09.04.00 Occupied Rentable Property

Field inspections of occupied properties shall be made at least once in the twelve months immediately following the prior inspection date to ensure the properties are maintained as well as or better than other properties in the neighborhood. Section 1954 of the California Civil Code allows a landlord to enter the residential dwelling unit in the following cases:

- In case of emergency.
- To make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors or to make an inspection pursuant to subdivision (f) of Section 1950.5 of the California Civil Code.
- When the tenant has abandoned or surrendered the premises.
- Pursuant to court order.
- For the purposes set forth in Chapter 2.5 (commencing with Section 1954.201) of Title 5 of Part 4 of Division 3 of the California Civil Code.
- To comply with the provisions of Article 2.2 (commencing with Section 17973) of Chapter 5 of Part 1.5 of Division 13 of the California Health and Safety Code.

Except in cases of emergency or when the tenant has abandoned or surrendered the premises, entry may not be made during other than normal business hours unless the tenant consents to an entry during other than normal business hours at the time of entry. The landlord shall give the tenant "reasonable" notice in writing of his or her intent to enter and enter only during normal business hours. The notice shall include the date, approximate time, and purpose of the entry. The notice may be personally delivered to the tenant, left with someone of a suitable age and discretion at the

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premises, or, left on, near, or under the usual entry door of the premises in a manner in which a reasonable person would discover the notice. Twenty-four (24) hours shall be presumed to be reasonable notice in absence of evidence to the contrary. The notice may be mailed to the tenant. Mailing of the notice at least six days prior to an intended entry is presumed reasonable notice in the absence of evidence to the contrary. See Section 1954 of the California Civil Code for further requirements.

The Department can only enter a residential dwelling for the reasons enumerated in the California Civil Code Section 1954. An Agent cannot force a residential tenant to allow access for a routine inspection. If a residential tenant denies access for a routine inspection, the Agent shall notate the rental file's diary notes of the attempt to gain access to the dwelling and the tenant's denial of such access. The Agent shall make notes in RWPM, either on the Property Screen or Tenancy Screen, notating the residential tenant's refusal for the routine inspection.

For non-residential tenancies, the right of entry is governed by the lease agreement. The Department's standard Right of Entry Clause in the lease agreement allows for the right to enter for a routine inspection during normal business hours subject to a twenty-four-hour notice. Furthermore, the Department's standard Use Clause in the lease agreement states that the lessee shall comply with all Federal, State, and local laws and ordinances concerning the use of the property; the Agent has the right to enter the property to determine if the property is being used lawfully. If the lessee fails to provide access to the property for the purposes of conducting a routine inspection and determining if the property is being used lawfully, the Agent must serve a Three-Day Notice to Correct Breach of Covenant or Quit.

In addition, Right of Way Property Management manages its properties consistent with cities/counties that have municipal separate storm sewer systems (also known as MS4s) and the objectives of the Department's Storm Water Management Plan (SWMP). Properties are inspected to ensure tenants/lessees are maintaining properties in a neat and orderly manner, with no illicit discharges, and with proper storage of materials. Agents should be mindful of potential stormwater issues while conducting stormwater inspections. A few examples of what to look out for include, but are not limited to, the following:

- The tracking of dirt/mud at the points of ingress/egress.
- Containers not having tight fitting lids, that are not enclosed or covered at the storage site, are not raised off the ground by pallets, and do not have a containment system in case of a leak.

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- Vehicle wash areas that are not designated nor paved and are not covered or bermed to collect the wash water.
- Stockpiles of material that are not covered or do not have fiber rolls are around the perimeter of the stockpile.
- Vehicles leaking fluids that do not have drip pans underneath.
- The lack of fiber-rolls around the perimeter of a property in which the property slopes towards a storm drain or waterway.

Leases with certain types of industrial activity must have coverage under the State Water Resources Control Board's (SWRCB) Industrial General Permit, and the tenant is required to provide documentation of such coverage. Observing lease activities during inspection, along with the tenant's Standard Industrial Classification (SIC) Code, will help determine whether such coverage is needed. Any activities conducted on the premises that are listed in Attachment A of the Industrial Industrial Permit Order 2014-0057 DWQ are required to obtain permit coverage per federal regulations. If a lessee's activity is subject with the Industrial General Permit (IGP) and the lessee discharges into a Water of the United States or tributary, the lessee must prepare a Storm Water Pollution Prevention Plan (SWPPP), implement Best Management Practices (BMPs) described in the SWPPP to prevent pollutants from being discharged, and file a Notice of Intent (NOI) with the SWRCB. If a lessee's industrial activity is protected from rain or runoff exposure to a storm drain, the lessee can apply for a No Exposure Certification (NEC) certifying that no industrial pollutants that are exposed to storm water. A Waste Discharger Identification (WDID) number will be assigned to the lessee after the SWRCB receives a complete application package. The lessee must provide the NOI or NEC filed with the SWRCB along with Receipt Letter from the SWRCB showing the WDID. The Agent can verify the status of the lessee's application with the SWRCB by checking the Stormwater Multiple Application and Report Tracking System's (SMARTS) public access site.

The storm water inspection should be conducted at the same time as the regular property inspection. The Agent shall use the property inspection forms and the stormwater inspections forms to document the condition of the property. The Agent shall take photographs of the condition of the property and photograph all deficiencies and stormwater issues found during the inspections. Any property deficiencies that are the tenant/lessee's responsibilities and stormwater issues discovered during the inspection must be discussed with the tenant/lessee during the inspection. The Agent shall advise the tenant/lessee on the required remediation actions and perform a follow up inspection to verify that all deficiencies were addressed. If the property deficiencies are the responsibility of the Department to remediate,

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the Agent shall submit a task order to the contracted vendor. The Agent shall reinspect the property once the contracted vendor has completed all remediation activities. During the reinspection, the Agent shall take photographs of the condition of the property and the remediated deficiencies and complete the property inspection and stormwater forms. The Agent must document all inspection and remediation activities in the rental file's diary notes.

Upon completion of the field inspection, a copy of the completed inspection form will be offered to the tenant/lessee.

The inspection forms for residential and nonresidential leases are as follows:

- Residential Property Inspection sheet and Residential Storm Water Inspection sheet, or
- Non-Residential Property Inspection sheet and Non-Residential Storm Water Inspection sheet.
- Copies of all property inspection sheets may be found on the Property Management website (internal Caltrans link).

11.09.04.01 Tenant Verification

Occupied rentable property shall be subject to a confirming process consisting of tenant interviews and letters to tenants to verify occupancy dates, rental rates, and deposits. The Division of Accounting and District Right of Way shall conduct this process on a sample basis shortly after tenancy commences.

Accounting shall send confirmation letters to newly inherited and re-rental tenants by using the sampling formula below:

- 100% for the first 10 new tenants each month.
- 20% of all new tenants over 10 each month.

Accounting will compare responses against rental records to confirm data and shall retain responses for audit purposes. Accounting will refer any unreconciled accounts and nonresponses to the Property Manager for personal verification.

The Property Management Senior or designee will personally verify the data with each tenant when there is an unreconciled item or nonresponse and shall document verification in the rental file.

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11.09.04.02 Confirming Process

Occupied rentable property shall be subject to a confirming process consisting of tenant interviews and letters to tenants to verify occupancy dates, rental rate, and deposits. The Division of Accounting will conduct this process on a sample basis shortly after a tenancy commences or when any changes are made to an existing tenancy.

Accounting will compare responses against rental records to confirm data and shall retain responses for audit purposes. Accounting will refer any unreconciled accounts and nonresponses to the Senior Right of Way Agent in Property Management (Senior) for personal verification.

The Property Management Senior will personally verify the data with each tenant when there is an unreconciled item or nonresponse and shall document verification in the rental file.

11.09.05.00 Non-Rentable Property

All non-rentable properties must be continuously accounted for and periodically inspected in the field to assure continued vacancy. New agents shall be advised of all non-rentable properties within their areas of responsibility.

Regions/Districts shall conduct field inspections of non-rentable properties to determine their condition and reevaluate their status and shall retain documentation of these inspections in the Region/District files. Unimproved properties shall be inspected at least once every twelve months from the prior inspection date, and improved properties shall be inspected at least once a month from the prior inspection date. These inspections may be combined with required maintenance inspections, the Agent shall utilize 11-EX-59, Unimproved Property Inspection, which combines the property maintenance and stormwater inspections. The Agent shall document the condition of the property and attach photographs of the property to the Unimproved Property Inspection. If the property requires any remediation, such as weed abatement or debris hauling, the Agent shall submit a task order to the contracted vendor and reinspect the property after the remediation work is completed; the Agent shall complete another Unimproved Property Inspection and attach photographs of the property in its condition after remediation of deficiencies. All field inspections, remediation actions, and follow-up field inspections should be documented in the rental file's diary. All field inspections shall be documented as required under Manual Section 11.10.06.00.

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11.09.06.00 Rental Accounting and Cash Handling

11.09.06.01 New Accounts

At the time a new tenancy is created, one month's rent or the prorated amount due for the balance of the month shall be collected. A security deposit shall also be collected prior to commencement of tenancy in accordance with Section 11.07.15.00.

11.09.06.02 Rental Payments

As standard procedure, tenants shall submit rental payments directly to Accounting. Only in unforeseen and emergency situations (e.g., tenant being served a 3-day notice to pay or quit, or having a medical or financial condition that prevents the tenant from paying the rent according to the terms and conditions of the rental agreement) may an Agent accept payment from a tenant in accordance with the following procedures:

- **Check/Money Order** - Endorse and deliver to the District Cashier or mail (by overnight courier if possible) to Accounting at the following address:
  Department of Transportation
  Attention Cashiering Deposits, MS #58
  P. O. Box 168019
  Sacramento, CA 95816-8019

- **Cash** - Convert the currency and coins to a money order or cashier's check. Endorse the money order or cashier's check and immediately deliver to the District Cashier or forward to Accounting at the above address.

All checks/money orders received by the offices via incoming mail, dropped off at the counter by customer, or received by an Agent must be endorsed immediately upon receipt. The endorsement is stamped on the back of the check/money order as close to the top as possible, above the endorsement signature line.

Another option for the tenants/lessees to make rental payments is through debit card and credit card through the Official Payments website. There is a service fee charged for all payments made through the Official Payments website.
Electronic transfers are not an acceptable form of payment. Accounting will not accept attempts to pay by this method.

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If the tenancy account is not set up in RWPM, the check, money order, or cash must be deposited in Account 84 (Suspense Account). The tenancy account shall be created as soon as the information is available. Upon creating the tenancy account, any monies deposited in Account 84 must be transferred to the tenancy account immediately by completing an Adjustment Screen.

11.09.06.03 Receipts

As a good business practice, Cash Receipts (Form FA 285) shall be issued to record receipt of (1) cash or currency or (2) check or money order in all instances. District R/W employees must request cash receipt books from the District Cashier.

Refer to "Cash Handling Policy" memorandum dated January 2, 2015 (Exhibit 11-EX-2) and "Cash Receipt Book Procedures" dated December 1998 (Exhibit 11-EX-2A) for additional information on completing Cash Receipts, Form FA 285.

In general, the tenant's cancelled check is receipt of the payment.

11.09.07.00 Termination of Rental Accounts

The District/Region shall use the RWPM Adjustment Request Screen to terminate accounts, to authorize refunds of rent or security deposits, and to notify Accounting of amounts to be charged for damages.

11.09.08.00 Rental Offsets

Rental offsets are allowed for work done by tenants with prior written approval from the Property Manager Senior or Supervisor, depending on the offset amount. Work done under rental offset must be inspected by the Department to assure it has been completed in a satisfactory manner. A Rental Offset Agreement, 11-EX-F, must be completed and the receipt must be attached to the Rental Offset Agreement. See Section 11.10.15.00 for detailed information.

11.09.09.00 Contracted Maintenance

Contracted vendors are hired by the Department to perform maintenance on properties. Task orders are submitted to the contracted vendors to remediate deficiencies on State properties in which the Department is

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responsible for remediating. After a vendor completes the requested maintenance on the property, the Agent must inspect the property to verify that the maintenance was completed. When the District/Region receives the contracted vendor's invoice, the invoice must be forwarded to the Contract Manager. When the Contract Manager receives the contracted vendor's invoice, the Contract Manager enters the invoice information into the Maintenance Request Screen in RWPM and prepares a Receiver Form, FA-1226A or FA-1226B depending on the number of invoices. The Contract Manager forwards a copy of the RWPM Maintenance Request Screen, the Receiver Form, and a copy of the invoice to the Property Management Senior; the Property Management Senior must approve the Maintenance Request in RWPM and the Receiver Form for the invoice and have the package forwarded to Accounting for processing.

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11.10.00.00 - PROPERTY MAINTENANCE AND REHABILITATION

11.10.01.00 General

All property shall be maintained in a safe and hazard-free condition. Nonresidential property repairs shall be limited to major items such as roofs, structural weaknesses, main sewer lines, electrical deficiencies, and water service pipes to fixtures as delineated in the Lease Agreement. Residential rental properties will be maintained in a manner that reflects credit on the state and enhances local community values. Certain repairs must be performed on residential property to derive appropriate rental income, improve community relations, and conform to existing laws and ordinances.

As a general rule, the tenant shall be required to provide normal yard care (watering, mowing, weeding, and trash and junk removal). Tenant's failure to provide such care is a justifiable reason for terminating tenancy.

Pursuant to the Health and Safety Code, the State has a specific legal obligation to keep the premises in a condition fit for human occupancy.

Pursuant to Health and Safety Code Section 17980.6, if a building is in such a nature that the health and safety of residents or the public is substantially endangered, an enforcement agency may issue a notice to repair or abate the code violations of the substandard building to the State.

Pursuant to Health and Safety Code Section 17980.7, the enforcement agency may sue the State for failure to repair violations in a timely manner. If a court rules that a building is in a condition which substantially endangers the health and safety of residents, the court has the authority to:

- Order the State to pay all reasonable and actual costs of the enforcement agency including, but not limited to, inspection costs, investigation costs, enforcement costs, attorney fees or costs, and all costs of prosecution.
- f necessary repairs require the tenant to relocate, order the State to provide or pay relocation benefits to each lawful tenant. These benefits shall consist of actual reasonable moving and storage costs and relocation compensation. See R/W Manual Section 10.10.03.00 and contact District RAP Unit for assistance.
- Order the State to offer the first right of occupancy to each tenant who received relocation benefits after the rehabilitation.

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Pursuant to Health and Safety Code Section 17980.8, the State is also responsible for the enforcement agency's cost to abate the nuisance if the State does not do so in compliance with the citation and applicable code sections.

11.10.01.01 Storm Water Management

Properties shall be managed to prevent the discharge of pollutants into storm water drainage systems. Property Management will use standardized language in the rental/lease agreements that addresses storm water pollution prevention by the tenant/lessee in new and renewed leases. The standardized language requires the implementation of storm water best management practices (BMPs) that are activity specific and elimination of illicit connections and illegal discharges to the storm drain system. Storm water education and outreach materials that include storm water pollution prevention fact sheets will be provided to the lessee/tenant. The fact sheets contain the BMPs that are applicable to the lessee's activities. Fact sheets should be referenced in the rental/lease agreement and attached to the rental/lease agreement as an exhibit.

BMP Fact sheets can be found on the Right of Way Storm Water website (internal Caltrans link).

Lessees are required to comply with all federal, state and local storm water laws and ordinances. This would include operators of certain industrial activities to obtain coverage under the Industrial General Permit for storm water discharges associated with industrial activity issued by the State Water Resources Control Board (SWRCB). The District will maintain a list of leases with industrial activities that require coverage under the Industrial General Permit. Lessees with coverage under the Industrial General Permit should provide the District with a copy of the following: Notice of Intent or No Exposure Certification filed with the SWRCB; Receipt Letter with Waste Discharge Identification (WDID) number; SWPPP prepared for the Notice of Intent in compliance with the General Industrial Permit.

The Department's Statewide Storm Water Permit and Storm Water Management Plan (SWMP) cover transportation corridors, facilities and activities (including employee housing at maintenance stations) within the Department's municipal separate storm sewer system (MS4). Except for employee housing, Property Management leases are on lands held for future construction or excess lands. Therefore, rather than the Department's MS4, these properties generally discharge to local agency municipal separate storm sewer systems (local MS4) and are subject to their storm water

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requirements. However, Property Management manages its properties consistent with local MS4s by inspecting properties to ensure tenants/lessees comply with the terms of their rental agreements and lease agreements, maintain the property, and use storm water best management practices.

Refer to the Right-of-Way Property Management and Airspace Storm Water Guidance Manual for storm water pollution prevention BMP fact sheets, guidance materials and compliance procedures.

The Right of Way Stormwater Manual can be located on the Right of Way Storm Water website (internal Caltrans link).

11.10.02.00 Asbestos and Lead Paint

Removal, disposal, or disturbance of asbestos and lead-based paint in conjunction with maintenance of property shall be in compliance with all state and federal requirements and shall be performed by a State certified contractor for lead and asbestos. If Property Management suspects the presence of such materials, it shall obtain surveys prior to starting any maintenance that would disturb the materials. Regarding lead-based paint, special attention should be given to residential properties constructed prior to 1978 since lead-based paint was widely used prior to that time. Standard property maintenance contract clauses specify how the contractor should deal with these materials.

11.10.02.01 Staff Training

Property management staff should have an initial 6-hour professional training on lead-based paint training awareness, as facilitated by HQ. Further, property management staff should have annual review training as facilitated by HQ. Copies of certificates of completion should be kept in the supervisor's employee file to document the completion of such training.

11.10.02.02 Rental Agreement

The federal government banned lead-based paint for use in housing in 1978. For dwellings constructed prior to 1978, there is a likelihood the dwelling contains some amount of lead. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X, to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to eliminate and reduce such hazards.

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Section 1018 of Title X mandates certain disclosures of information concerning lead upon renting a dwelling constructed prior to 1978. The Department must provide the tenant with a lead hazard information pamphlet; the tenant shall receive the EPA pamphlet entitled, *Protect Your Family From Lead in Your Home*. Additionally, the Department must disclose to the tenant the presence of any known lead-based paint, or any known lead-based paint hazards, and provide the tenant with any lead hazard evaluation reports available to the Department; the Agent shall utilize 11-EX-48, Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards, to acknowledge that the tenant has been informed of the presence of lead-based paint and/or lead-based paint hazards and the tenant has received all available records and reports pertaining to lead-based paint and/or lead-based paint hazards. The Agent must have the tenant initial the acknowledgement section of 11-EX-48 regarding the receipt of all reports and records pertaining to lead-based paint and/or lead-based paint hazards and the receipt of the EPA pamphlet. The Agent and tenant shall sign the Certification of Accuracy section of 11-EX-48.

For dwellings constructed prior to 1978, the Agent must include the Lead-Based Paint Clause and have the tenant initial the acknowledgement that they received the EPA pamphlet. The EPA pamphlet and 11-EX-48 shall be made as exhibit and attached to the rental agreement.

11.10.03.00 Maintenance Expenditure Guidelines

11.10.03.01 Vacant and Non-Rentable Property

All vacant and non-rentable properties shall be maintained in a manner that will reflect credit on the state and preserve local community values. In essence, this means that all state-owned properties shall be maintained as well as or better than other properties in the neighborhood.

All vacant and non-rentable properties shall be kept free of safety or health risks. This may include fencing of the property, boarding up doors and windows, installing outdoor lighting such as sensor lighting, etc. Where appropriate, the hiring of private security services may be warranted.

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11.10.03.02 Rented State-Owned Property

Maintenance expenditures by the state shall be governed as follows:

- **Commercial or Industrial Lease** - Major repairs only shall be made to the exterior walls, roof, main sewer lines, and water lines to building. Lessees shall do all interior work at their own expense. Deviation from this policy will be allowed only when it would be in the state's best interest with the DD's or authorized delegate's approval prior to start of work.
- **Master Tenancy Agreement** - For "Master Tenant Controlled Units," the state shall make no improvements or repairs of any nature whatsoever. Deviation from this policy will be allowed only when it would be in the state's best interest with the DD's or authorized delegate's approval prior to start of work.
- **Agricultural Lease** - The state shall make no improvements or repairs of any nature whatsoever. Deviation from this policy will be allowed only when it would be in the state's best interest with the DD's or authorized delegate's approval prior to start of work.
- **Advertising Structure Agreement** - The state will make no repairs and perform no maintenance whatsoever on the advertising structure.
- **Rental Agreement, Month-to-Month Tenancy** - Maintenance expenditures will be governed by exercising judgment at the region/district level that is commensurate with good business practices and within the limits set forth in this chapter of the R/W Manual. Some of the more common maintenance and repair services the state should provide include, but should not be limited to, exterior and interior painting, yard maintenance, and repair or replacement of plumbing, electrical facilities, roofs, windows, heaters, and built-in appliances. The state shall make improvements and repairs to residential dwellings to ensure they are fit for human occupancy in accordance with Civil Code Sections 1941.1 and 1941.3, and Health and Safety Code Sections 17920.3 and 17920. 10.

Please refer to the specific agreement templates on the Property Management website (internal Caltrans link).

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11.10.04.00 Health and Safety Requirements

Exterior Areas:

State property shall be maintained in a clean and orderly condition so as not to detract from the general appearance of the neighborhood. If this condition is not met, the Agent shall investigate further and implement one or more of the following corrective measures to improve the property's appearance:

- Perform weed abatement.
- Remove dead and diseased trees.
- Remove litter and post proper signs.
- Eliminate or reduce safety hazards; e.g., by filling or capping wells, filling holes, caves, and ponds; and erecting fences and barricades where necessary.
- Remove attractive nuisances such as abandoned cars, refrigerators, and freezers.
- Post proper signs to reduce trespassing such as illegal parking, dumping, or storage.

If the property is occupied and its appearance does not meet neighborhood standards, the Agent shall immediately notify the tenant verbally and in writing that the unsuitable conditions must be corrected (see Exhibit 11-EX-8, Correction Notice - Unsuitable Conditions).

When it is necessary to clear weeds or diseased trees or to correct an unsafe or unsanitary condition, Property Management may enter into a service contract with a local municipality or private contractor for performance of the necessary work. Please refer to the Division of Procurement and Contract's *Contract Manager's Handbook* (internal Caltrans link) for additional information on service contracts.

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Interior Areas

Any property condition that may affect health and safety of occupants should be investigated immediately. If a tenant notifies Right of Way (R/W) of an adverse condition affecting health and safety, R/W will inspect the property no later than the next business day. Certain situations, such as those involving hazardous materials, structural problems, mold, etc., will require hiring a State certified specialist to inspect and report on the nature and extent of the problem, and provide recommendations to remedy the situation.

If a tenant notifies R/W of a health and safety issue, the Region/District should send the tenant a letter confirming the outcome of the agent's and, if applicable, the professional's inspection and how the problem, if any, will be resolved. If the inspection did not reveal a problem, the Region/District should still send a written response to the tenant confirming the outcome of the inspection. All such investigations, resolutions, if any, and communications with the tenant must be documented in the property file.

11.10.05.00 Exterior and Interior Appearance of Improved Properties

Agents must thoroughly inspect all vacant or occupied properties to ensure the properties are being maintained properly to preserve the neighborhood's appearance. In particular, Agents shall observe conditions outlined in the table entitled "Inspection of Improved Properties." Whenever adverse conditions are found, the Agent shall investigate and take appropriate corrective action.

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INSPECTION OF IMPROVED PROPERTIES

Tenant-Occupied Property – Exterior

Areas of Concern:

- Yard areas should be properly watered, mowed, and weeded and should generally reflect a clean and orderly condition.
- There should be no broken windowpanes or boarded-up windows.
- Painted surfaces shall not be peeling or greatly discolored, and the stucco, wood, or concrete block should not be deteriorating.
- The roof should not be segregating, sagging, or leaking.
- There should be no structural deficiencies such as broken stairs, ceilings, garage doors, or fences.
- Swimming pools should be properly maintained.
- Window and door screens should look presentable.

  TV antennas should be erect and securely fastened.

Tenant-Occupied Property – Interior

Areas of Concern:

- All interior areas shall be maintained in a clean and orderly fashion so that full compliance with health and safety codes is evident.
- There should be no broken electrical or plumbing fixtures or damaged appliances.
- Interior areas should not show signs of water damage, water leaks, excessive moisture or mildew or other similar problems.
- There should be no indications of rodents, pests or other similar problems.
- The walls and ceilings should not be damaged, and the paint, wallpaper, or paneling should not be noticeably deteriorating.

  Floors, floor coverings, doors, cabinets, custom drapes, venetian blinds, heaters, and air conditioners should not be damaged or allowed to noticeably deteriorate.

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Unoccupied Property That Will Be Re-Rented

Areas of Concern:
All the physical conditions outlined above under "Tenant-Occupied Property - Exterior" and "Tenant-Occupied Property - Interior."

Unoccupied Property That Will Not Be Re-Rented

Areas of Concern:
All the physical conditions outlined above under "Tenant-Occupied Property - Exterior" that are pertinent to preserving neighborhood appearance and values.

The Agent should continue to inspect and supervise maintenance of the property until the Clearance and Demolition Unit assumes responsibility for clearance of improvements. Following clearance, Property Management is still responsible for inspection and maintenance of the unimproved property until it is turned over to Construction or sold as excess.

If there is a known vandalism problem in the neighborhood, it may be advisable to board up the improvements if such action does not demote the general neighborhood appearance, does not create unfavorable public opinion, and has proven to deter vandalism.

11.10.06.00 Field Inspections

Since nearly all state-owned property purchased for future highway use or related purposes is acquired considerably in advance of scheduled clearance requirements, sound management practices dictate that the state perform some replacement, rehabilitation, and maintenance to meet acceptable neighborhood standards. Additionally, the properties are to be managed in a manner that prevents the discharge of pollutants to storm water drainage systems and waterways. Consequently, field inspections by state personnel provide the method to achieve and maintain a desirable community relationship and identify needs for property maintenance. Inspections also identify lessee activities that have potential to discharge pollutants into storm drainage systems. All Property Management Agents shall be responsible for inspecting and documenting every rental account under their control. If a property is occupied, it shall be inspected at least once every twelve months. If a property is unoccupied and unimproved, the property shall be inspected at least once every twelve months. If a property

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is improved and unoccupied, the property shall be inspected at least once a month. The Agent may inspect more frequently if the situation calls for such; yet, the Agent must inspect the property per the minimum frequencies described within this section. Documentation must occur on corresponding inspection forms as noted in the below table, with dated photographs documenting the condition of the property in the before condition.

If any deficiencies are noted in the inspection report, the deficiencies must be remediated. The Agent shall make a diary entry notating the remediation action necessary, the party responsible for remediating the deficiencies, and a date when the Agent will follow up to verify that the deficiencies have been remediated. If the responsible party is the State, the Agent shall have a task order submitted to the contracted vendor for remediation. If the responsible party is the tenant/lessee, the Agent shall provide a deadline for the tenant/lessee to remediate the deficiencies; if the tenant/lessee fails to remediate the deficiencies, the Agent shall serve a 3-Day Notice to Correct Breach of Covenant or Quit, unless the tenancy is subject to Section 1946.2 of the Civil Code in which case a notice with an opportunity to cure must be provided prior to serving a 3-Day Notice to Quit for Breach of Covenant (Please refer to Section 1946.2(c) of the Civil Code and Manual Section 11.07.23.00). If the tenant/lessee is responsible to remediate deficiencies that pose an immediate threat to any person or the environment, the Agent shall immediately serve a 3-Day Notice to Correct Breach of Covenant or Quit or potentially a 3-Day Notice to Quit for Breach of Covenant, please contact Legal for tenancies subject to Civil Code Section 1946.2 regarding noticing requirements. Each time the Agent re-inspects the property to verify the progress of the remediation the Agent shall complete an inspection form, take photographs of the property, and document the diary as to the condition of the property.

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DOCUMENTING INSPECTIONS

Residential Properties

Form:
Residential Property Inspection sheet and Residential Storm Water Inspection sheet

Explanation:
If the property is occupied, an inspection shall take place at least once every twelve months. If the property is unoccupied, an inspection shall take place at least once a month. A checklist for interior and exterior inspections that is used for viewing the property, recording observations about its condition, and documenting any storm water concerns. All blanks are to be filled in and comments are to be made when deficiencies are noted. Tenants' comments and concerns are to be solicited and noted on the back of the form. Date of inspection must be entered into RWPM. Copies of the inspection forms are to be signed by the supervisor and maintained in the file. The supervisor shall provide direction on necessary actions to remediate any deficiencies noted on the inspection forms. The Agent shall notate the diary with the inspection date, the condition of the property, and any actions required to remediate any deficiencies. The Agent must attach dated photographs to the inspection report.

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DOCUMENTING INSPECTIONS (Continued)

Improved Nonresidential Properties

Form:
Non-Residential Property Inspection sheet and Non-Residential Storm Water Inspection sheet

Explanation:
If the property is occupied, an inspection shall take place at least once every twelve months. If the property is unoccupied, an inspection shall take place at least once a month. Used to document inspections of rental properties on a periodic basis as part of the state's maintenance control program, record pertinent observations about the exterior and interior appearances of the properties, and document any storm water concerns. In addition to observations, the Agent shall record the rental account number, address of the property inspected, date of inspection, possible recommended maintenance, and date work completed. Date of inspection must be entered into RWPM. Copies of the inspection forms are to be signed by the supervisor and maintained in the file. The supervisor shall provide direction on necessary actions to remediate any deficiencies noted on the inspection forms. The Agent shall notate the diary with the inspection date, the condition of the property, and any actions required to remediate any deficiencies. The Agent must attach dated photographs to the inspection report.

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Unimproved Properties

Form:
Unimproved Property Inspection sheet

Explanation:
Inspections shall be conducted at least once every twelve months. This inspection form will document the condition of vacant land properties, including issues pertaining to debris dumping, weed abatement, fencing, homeless activity, encroachments, and illegal parking. This form also documents stormwater concerns for vacant properties. The Agent shall document any deficiencies noted during the inspection. Date of inspection must be entered into RWPM. Copies of the inspection forms are to be signed by the supervisor and maintained in the file. The Agent's supervisor shall review the form. The Agent shall notate the diary with the inspection date, the condition of the property, and any actions required to remediate any deficiencies. The Agent must attach dated photographs to the inspection report.

Note: If a tenant notifies R/W of a health and safety issue, the District/Region must send the tenant a letter confirming the outcome of the inspection and how the problem, if any, will be resolved. If the inspection did not reveal a problem, the District/Region must still send a written response to the tenant confirming the outcome of the inspection. Copies of all correspondences must be placed in the file. All such investigations, resolution, if any, and communications with the tenant must be documented, and noted as diary entries, in the property file.

11.10.07.00 Rodent and Pest Control

Property maintenance inspections shall include a determination on whether rodent and pest control is necessary and shall be documented on:

- Residential Property Inspection sheet.
- Non-Residential Property Inspection sheet.
- Residential Property Occupancy and Vacancy Inspections.
- Property Occupancy and Vacancy Inspections sheet (used for all non-residential move-in and move-out inspections).

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Copies of all property inspection sheets may be found on the Property Management website (internal Caltrans link).

Local health authorities or other qualified persons may make the inspections. Rodent and pest control measures shall be documented in the file.

If it is determined that extermination services are needed, assistance may be obtained from local health authorities or from licensed exterminators.

Contracts for exterminator services are subject to approval by Headquarters Maintenance to assure that no unauthorized chemicals are used on state property. (See the Division of Procurement and Contracts' *Contract Manager's Handbook* (internal Caltrans link) for further details.

Property Management will prepare a Receiving Record when bills/invoices are received from the contractor and forward to Accounting for payment.

11.10.07.01 Bed Bugs

Section 1954.603 of the Civil Code requires all residential tenants to be given written notice regarding the general information about bed bug identification, behavior and biology, the importance of cooperation for prevention and treatment, the importance of and for prompt written reporting of suspected infestations to landlords, and the procedure to report suspected infestations to the landlord.

Pursuant to Section 1954.604 of the Civil Code, tenants must cooperate with pest control operators with the inspection to facilitate the detection and treatment of bed bugs, including providing requested information to the operator that is necessary to facilitate the detection and treatment of bed bugs. Entry to inspect dwellings must still comply with Section 1954 of the Civil Code, yet Section 1954 of the Civil Code acknowledges that entry to inspect by a pest control operator for the purposes of eliminating bed bugs is a necessary service for the purpose of Section 1954 of the Civil Code.

Pursuant to Section 1954.605 of the Civil Code, the Department shall notify tenants whose units were inspected of the findings of the pest control operator. The notification shall be in writing and shall be made within two business days of the pest control operator's findings. For confirmed infestations in common areas, all tenants shall be provided notice of the pest control operator's findings.

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For all residential tenancies, the Agent shall provide the 11-EX-64, Bed Bug Information Sheet, to all residential tenants. The Bed Bug Information Sheet shall be made as an exhibit and attached to the rental agreement. The Agent shall also have the tenant initial the Bed Bug Information Sheet Clause in the rental agreement acknowledging the receipt of the Bed Bug Information Sheet.

11.10.08.00 Smoke Alarm Devices

Smoke alarms are required to be installed, maintained, and tested in every residential rental unit in accordance with Section 13113.7 of the Health and Safety Code. Additionally, all smoke alarms must be approved and listed by the State Fire Marshal pursuant to Section 13114 of the Health and Safety Code.

11.10.08.01 Installation and Type of Smoke Alarm

All smoke alarms in residential dwellings shall:

- Be operable. The Agent shall test all smoke alarms during any inspections. When the tenancy is created the Department shall ensure that the smoke alarm is operable. The tenant shall be responsible for notifying the Department if the tenant is aware that a smoke alarm is inoperable. It is the responsibility of the Department to remedy any deficiency associated with a smoke alarm. The Agent shall submit a task order to a qualified contracted vendor to remedy any deficiencies.
- Receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.
- Display the date of manufacture on the device, provide a place on the device where the date of installation can be written, and incorporate a hush feature.
- Be interconnected where one or more smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarm shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Exceptions to this include the following: Interconnection is not required in buildings that are not undergoing alterations, repairs, or construction of any kind; Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or

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basement available which could provide access for interconnection without the removal of interior finishes; Smoke alarms are not required to be interconnected where repairs or alterations are limited to the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck; and, Smoke alarms are not required to be interconnected when work is limited to the installation, alteration or repairs of plumbing or mechanical systems or the installation, alteration or repair of electrical systems which do not result in the removal of interior wall or ceiling finishes exposing the structure.

- Be installed in accordance with manufacturer's instructions, State Fire Marshal regulations, and applicable local codes and ordinances.
- Be installed by a properly licensed person or company. The installer must obtain the required permits and have the work inspected by the proper local authority.
- Be installed in the following locations: Each sleeping room; Outside each separate sleeping area in the immediate vicinity of the bedrooms; On each additional story of the dwelling, including basements and habitable attics and not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
- Be inspected by the Agent or a qualified contractor at least once every twelve months to ensure proper operation.

To ensure access to the rental unit, written notice will be given to the tenant at least 24 hours prior to installation and inspection.

All present rental agreements will contain or be amended to contain the Smoke Detection Clause when installation is completed.

11.10.08.02 Battery-Operated Smoke Alarms

A battery-operated smoke alarm may be substituted for a hard-wired alarm in residential dwellings where:

- In existing buildings where no construction is taking place.
- On buildings that are not served from a commercial power source.
- In existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available

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which could provide access for building wiring without the removal of interior finishes.

- Repairs or alterations are limited to the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.
- Work is limited to the installation, alteration or repairs of plumbing or mechanical systems or the installation, alteration or repair of electrical systems which do not result in the removal of interior wall or ceiling finishes exposing the structure.

Commencing July 1, 2014, in order for a smoke alarm to be approved and listed by the State Fire Marshal, a smoke alarm that is only operated by a battery shall contain a nonreplaceable, nonremovable battery that is capable of powering the smoke alarm for at least 10 years. If any existing battery-operated smoke alarm, which does not meet these requirements, becomes inoperable or, if a dwelling unit intended for human occupancy has a building permit issued for alterations, repairs, or additions exceeding one thousand dollars ($1,000), then the Department must replace the smoke alarm with a nonreplaceable, nonremovable battery operated smoke alarm.

For smoke alarms with any other type of battery, batteries shall be changed at least once every twelve months at the time of the annual field inspection. The Agent should note the date the battery was changed on the Residential Property Inspection sheet.

11.10.09.00 Carbon Monoxide Alarm

All residential units with a fossil fuel burning heater or appliance, fireplace, or an attached garage is required to install, test, and maintain a carbon monoxide device in accordance with Health and Safety Code Sections 17926 and 17926.1. Additionally, all carbon monoxide alarms must be approved and listed by the State Fire Marshal pursuant to Section 13263 of the Health and Safety Code. Combination carbon monoxide and smoke alarms are permitted in lieu of carbon monoxide alarms.

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11.10.09.01 Installation and Type of Alarm

All carbon monoxide detectors in residential dwellings shall:

- Be operable. The Agent shall test all carbon monoxide alarms during any inspections. When the tenancy is created the Department shall ensure that the carbon monoxide alarm is operable. The tenant shall be responsible for notifying the Department if the tenant is aware that a carbon monoxide alarm is inoperable. It is the responsibility of the Department to remedy any deficiency associated with a carbon monoxide alarm. The Agent shall submit a task order to a qualified contracted vendor to remedy any deficiencies.
- Receive their primary power source from the building's wiring provided that such wiring is served from a commercial source, and where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
- Be interconnected where more than one carbon monoxide alarm is required to be installed within a dwelling unit or within a sleeping unit, the carbon monoxide alarm shall be interconnected in a manner that activation of one alarm shall activate all of the alarms in the individual unit. Interconnection of carbon monoxide alarms are not required in existing buildings built prior to January 1, 2011, under any of the following conditions: Physical interconnection is not required where listed wireless alarms are installed and all alarms sound upon activation of one alarm; No construction is taking place; Repairs or alterations do not result in the removal of interior wall or ceiling finishes exposing the structure in areas/spaces where carbon monoxide alarms are required; Repairs or alterations are limited to the exterior surfaces of dwelling, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck; and, Work is limited to the installation, alteration or repair of plumbing, mechanical, or electrical systems, which do not result in the removal of interior wall or ceiling finishes exposing the structure in areas/spaces where carbon monoxide alarms are required.
- Be installed in the following locations: Outside of each separate sleeping area in the immediate vicinity of the bedrooms; on every occupiable level of a dwelling unit, including basements; and, where a fuel burning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.

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11.10.09.02 Carbon Monoxide Alarms with Alternative Power Sources

A carbon monoxide alarm may receive power from another power source, other than the building's wiring, in residential dwellings where:

- Installed in buildings without commercial power, a battery-operated carbon monoxide alarm shall be permitted.
- An addition is made to an existing dwelling, or a fuel-burning heater, appliance, or fireplace is added to an existing dwelling, not previously required to be provided with carbon monoxide alarms, a battery-operated carbon monoxide alarm shall be permitted.
- In Residential occupancies, a carbon monoxide alarm shall be permitted to receive their primary power from other power sources recognized for use by the National Fire Protection Association (NFPA) Standard 720.
- In Residential occupancies, a carbon monoxide alarm shall be permitted to be battery-powered or plug-in with a battery backup in existing buildings built prior to January 1, 2011, under any of the following conditions: No construction is taking place; Repairs or alteration do not result in the removal of interior wall and ceiling finishes exposing the structure in areas/spaces where carbon monoxide alarms are required; Repairs or alterations are limited to the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck; and, Work is limited to the installation, alteration or repair of plumbing, mechanical or electrical systems, which do not result in the removal of interior wall or ceiling finishes exposing the structure in areas/spaces where carbon monoxide alarms are required.

11.10.10.00 Rehabilitation of Residential Property

The Department's policy is to upgrade and maintain housing at standards that meet the most recent edition of the California Building Standards Code (Title 24 of the California Code of Regulations). Rehabilitation standards shall include safety and energy saving devices such as smoke alarms, carbon monoxide alarms, ceiling insulation, and weather stripping. This rehabilitation policy shall apply to residential rental property on routes where construction is not imminent.

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11.10.10.01 Inspections

The first step in the rehabilitation process is a code inspection to determine whether housing units are in compliance with the California Building Standards Code. The Agent must contact their local State Fire Marshal representative to schedule an inspection. Agents may ask the local city or county building services department for a building inspection, yet the city or county may refuse to inspect since State-owned property is not within their jurisdiction. The Agent shall attend the building inspection to document the deficiencies discovered by the pertinent inspector. Each inspection will be documented in writing with a clear description of the property's condition and recommendations for work required to bring the property up to code.

The State Fire Marshal inspector or local building inspector should also be used to monitor the contractor's work while it is being done and upon completion.

11.10.10.02 Specifications and Estimates

Qualified District/Region personnel or licensed contractors shall prepare a description of work with specifications and cost estimates. Certain restrictions may prohibit a contractor who is hired as a consultant from bidding on a subsequent contract that the contractor recommended, suggested, required, etc., in the consulting contract. When requesting a consulting service contract, inform DPAC of any follow-up contract that will be based on the recommendations or other end product of the consulting contract. (Note that general information gathering on commonly accepted industry practices is allowed. See Manual Section 11.10.13.00.)

11.10.10.03 Public Works Contracts

Depending on scope of work, a project may require a public works contract. Per Section 1101 of the Public Contract Code, a public works contract is an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind. Any vendor performing a public works job of $500.00 or more is required to have a current California Contractors State License Board license to legally provide this service. Vendors must carry or obtain various types of insurance, licenses, permits, and performance or payment bonds, depending on the amount of the contract. These contracts are processed as a Service Contract through the Division of Procurement and Contracts (DPAC). Whole roof replacements, initial (first time) painting, replacement of heating/air conditioning systems, parking lot resurfacing, sidewalk repair, etc., are

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covered by public works contracts. Contact an analyst in DPAC for more information if you are not sure if your project qualifies as a public works contract. (Also, see Section 11.10.12.00 for a description of service contracts.) Any work which would require a city/county permit will require a permit from the State Fire Marshal.

Prior to requesting a public works contract, the Contract Manager shall prepare a package for approval by the DDD or their authorized designee. The package should include the following information:

- Description of work.
- Plans and specifications.
- Written estimate of cost.
- Economic justification. At a minimum, the economic justification should contain estimates of the property's value in its present condition and its value after rehabilitation.
- Reasons why the work is necessary.
- Verification that funds are available.
- Status of the project for which the property was acquired, e.g., being held for construction or being considered for rescission with dates.

11.10.10.04 Public Works Contracts Under State Contract Act

Public Works projects that exceed a certain total cost as determined by the Department of Finance are subject to the State Contract Act (Public Contract Code Section 10100, et seq.) and will be handled as major contracts. The Department of Finance adjusts this cost limit every two years. Contact DPAC to find out whether your project will fall under the State Contract Act. Requests for contracts subject to the State Contract Act should be submitted to DPAC, who will determine if they or another office should process the request. Occasionally, Department of General Services might be involved, but DPAC will determine when this is necessary.

The package described in Manual Section 11.10.10.03 and specifically the plans, specifications, and written estimate of cost must be approved by the DD or authorized delegate prior to requesting a contract that is covered under the State Contract Act.

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11.10.10.05 Occupied Housing

Rehabilitation of occupied housing should be done only under the following circumstances:

- For minor interior work.
- With the tenant's prior consent.
- After an asbestos and lead survey indicates there are no health and safety concerns due to the presence of asbestos or lead.
- There are no other health and safety concerns that may arise while the rehabilitation work is being done.

If health and safety factors are involved or if extensive interior rehabilitation is needed, temporary or permanent relocation of tenants to other accommodations, preferably to other state rental property, should be considered. Pursuant to Government Code Section 7265.3, a public entity may make payments in the amounts it deems appropriate, and may provide advisory assistance under this chapter, to a person who moves from a dwelling, or who moves or discontinues his business, as a result of impending rehabilitation or demolition of a residential or commercial structure, or enforcement of building, housing, or health codes by a public entity, or because of systematic enforcement pursuant to Section 37924.5 of the Health and Safety Code, or who moves from a dwelling or who moves or discontinues a business as a result of a rehabilitation or demolition program or enforcement of building codes by the public entity, or because of increased rents to result from such rehabilitation or code enforcement. Property Management should contact the District RAP Unit for assistance.

- If the repair requires a short-term displacement, the Department should offer a rental offset for the cost of a hotel. The Department must provide a maximum cap to the daily rate of the hotel accommodations. All agreed to expenses must be memorialized in writing. The amount of the rental offset will be the actual cost of the hotel accommodations. The tenant must provide the receipt, and the Agent must complete a Rental Offset Agreement. The Agent must process an Adjustment Screen in RWPM for the rental offset.
- If the repair requires a long-term displacement, the Department should move the tenant into another Department housing unit. There should be a rental offset for moving costs into the other Department housing unit and there should be a rental offset for the moving cost back into the rehabilitated unit. The District/Region must agree to the amount of the rental offset for moving costs and memorialize the agreement in writing.

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The Agent must complete a Rental Offset Agreement and process an Adjustment Screen in RWPM for the offset.

- If the building becomes uninhabitable and it is not cost effective for the District/Region to rehabilitate the housing unit, the Department should move the tenant into another Department owned housing unit. The Agent should try to find another unit that is the same market rental rate of the previous unit. If this is not feasible, the rental rate should be the same rate as the previous unit for a term of 60 days. At the same time as moving the tenant into the alternate Department owned housing unit the tenant should be offered a new month-to-month rental agreement at the increased market rental rate, which will be effective at the end of the 60-day grace period. If the tenant refuses to accept the increased rental rate, the Agent should serve a 60-Day Notice to Terminate the Tenancy. Regardless of the acceptance of the new rental rate, there should be a rental offset for the cost of moving. The District/Region must agree to the amount of the rental offset for moving costs and memorialize the agreement in writing. The Agent must complete a Rental Offset Agreement and process an Adjustment Screen in RWPM for the offset.
- If the building becomes uninhabitable and it is not cost effective for the District/Region to rehabilitate the housing unit and the Department doesn't have another unit, the Department may, at its option, serve a 60-Day Notice to Terminate the Tenancy and relocate the tenant to a temporary lodging. The Department should offset the rent and provide a maximum cap to the daily/weekly/monthly rate not to exceed the per diem allowances afforded to Department employees. All agreed to expenses must be memorialized in writing. The amount of the rental offset will be the actual cost of the temporary lodging. The tenant must provide the receipt, and the Agent must complete a Rental Offset Agreement. The Agent must process an Adjustment Screen in RWPM for the rental offset.

11.10.11.00 Rehabilitation and Maintenance on Historic Structures

Public Resources Code Section 5024 requires all state agencies to inventory all agency-owned structures listed in or potentially eligible for inclusion in the National Register of Historic Places or registered or eligible for registration as a state historical landmark. Typically, this would include structures that are 50 years of age or older; however, some structures may have achieved historical significance within the past 50 years if the structures meet the criteria for exceptional significance. Property Management is responsible to ensure that all structures subject to provisions of Section 5024 are adequately and appropriately maintained.

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All maintenance and rehabilitation work on Department-owned historic structures shall be performed in a manner to protect and preserve the characteristics that qualified the structures for listing. Plans and specifications for maintenance and rehabilitation activities shall be submitted to the District's Division of Environmental Analysis for processing to the State Historic Preservation Officer (SHPO) for review and approval prior to undertaking any such work. The District's Division of Environmental Analysis shall submit these plans and specifications to the Chief, Architectural and Historic Studies Section, Headquarters Environmental Analysis, for processing to SHPO.

For all structures that are 50 years of age or older, the Agent shall confirm with the Division of Environmental Analysis to verify that the structure isn't considered historic.

11.10.12.00 Reasonable Accommodations and Reasonable Modifications

Multiple federal and state laws protect people with disabilities from discrimination from landlords. Federal laws include the Fair Housing Amendments Act (42 U.S.C. Sections 3601-3631), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), and Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131-12165). California laws include the Fair Employment and Housing Act (Government Code Sections 12955-12956.2), the Unruh Civil Rights Act (Civil Code Section 51), the Disabled Persons Act (Civil Code Sections 54.1 and 54.2), and Government Code Section 11135. Refusing or failing to provide reasonable accommodations and reasonable modifications for individuals with disabilities is considered a form of discrimination.

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. It is considered discriminatory for the Department to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford a person with an equal opportunity to use and enjoy a dwelling.

A reasonable modification is a structural change made to the existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. It is unlawful for the Department to refuse to permit a reasonable modification of existing premises if such modifications may be necessary to afford such person full enjoyment of the premises.

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Since the Department is a State Agency that receives federal funding, pursuant to Section 504 of the Rehabilitation Act of 1973, all costs associated with a reasonable accommodation and/or modification are borne by the Department. The Department may not require persons with disabilities to pay extra fees or deposits or place any other special conditions or requirements as a condition of receiving a reasonable accommodation and/or modification.

To prove that a requested accommodation and/or modification may be necessary, there must be an identifiable relationship between the requested accommodation and/or modification and the individual's disability. The Department may not inquire as to the nature and severity of an individual's disability. However, the Department may request reliable disability-related information that is necessary to verify that the requester meets the definition of disability, describes the needed accommodation and/or modification, and shows the relationship between the requester's disability and the need for the requested accommodation and/or modification.

The Department can deny a request for reasonable accommodation and/or modification if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation and/or modification. A request for a reasonable accommodation and/or modification may be denied if the providing the accommodation and/or modification is unreasonable. An unreasonable request is a request that would impose an undue financial and administrative burden on the Department or it would fundamentally alter the nature of the Department's operations. Factors to consider include the cost of the requested accommodation and/or modification, the benefits that the accommodation and/or modification would provide to the requester, and the availability of the alternative accommodations and/or modifications that would adequately meet the requester's needs. If the request is cost prohibitive or fundamentally alters the Department's operations, the Department and the requester should engage in an interactive process to reach an acceptable compromise.

If the Department receives a reasonable accommodation and/or modification request, the Property Management Senior should consult with Region's/District's Legal to discuss the situation on a case by case basis.

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11.10.13.00 Maintenance Performed by Service Contract

It is important to distinguish between work that can be done under a service contract and work that requires a public works contract (Manual Section 11.10.10.03). Legal has determined that minor on-call repair and maintenance services (required on an as-needed basis to provide a practical means of maintaining state-owned rental housing or state facilities in a safe and habitable condition) are not defined as public works and may be obtained using service contracts. Such services include electrical, plumbing, minor carpentry to replace broken stairs or windows, repainting, heating and air conditioning repairs, roof repair, etc. The specific repairs do not lend themselves to the preparation of plans and specifications, nor is it known at the time the contract is advertised and awarded when the services will be performed. Contact an analyst in the Division of Procurement and Contracts (DPAC) for more information if you are not sure what type of contract would be appropriate for your needs.

DPAC prepares and processes all service contracts upon receipt of a completed Service Contract Request (Form ADM-0360) from R/W. Except for emergency work, all maintenance contracts are subject to competitive bidding. Since considerable time is required to prepare, advertise and award the contract, it is recommended that the completed ADM-0360 be sent well in advance of the date the services will be needed. Contact DPAC for more information on the length of time required to process a service contract.

General information gathering from companies regarding common industry practices, rate structures, general costs, billing methods, etc., in order to create a scope of work is acceptable. However, care should be given to not influence a company representative's opinion for the preparation of a scope of work, or to give a representative privileged information (and not make it available to all potential bidders) which could then be used by that company when it tenders a bid on the contract. It is neither legal nor ethical to tailor a scope of work or contract to a specific party. Any contact with a company representative requesting information on cost estimates, billing methods, etc., offers the possibility that the company or other bidder may at some point in the future protest a decision not in their favor.

It is recommended that if a company representative is contacted for the purpose of learning what the commonly accepted standards or practices in that industry are, the representative is advised that: 1) the Department is soliciting publicly available (i.e., not proprietary) information to prepare a statement of work on a potential contract, and 2) the representative, by

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providing such information, will not preclude the company from bidding on future contracts. It is also recommended that more than one company be contacted for this information. (Note that certain restrictions may apply if a contractor is hired under a consulting service contract. See Manual Section 11.10.10.02.)

Property maintenance contractors can be obtained using the types of contracts and methods described elsewhere in this section.

11.10.13.01 Inspection of Repairs

Type of Inspections:

Small repairs with an estimated cost of less than $500.00: An Agent shall inspect all maintenance issues before submitting a task order with the contracted vendor. After the work has been completed, Agent shall inspect the completed repair. If the repair is to remedy a health and safety issue, an Agent must inspect the completed repair. The Agent shall document all findings of the deficiency and repair in the rental file. Meeting with the contracted vendor prior to the start of any work is highly recommended. This will allow the Agent to ask any questions and communicate Department policy. Payment to the contracted vendor cannot be made until the work has been completed satisfactorily and has either been inspected or confirmed to be completed.

Medium repairs with an estimated cost of less than $1,000.00: An Agent shall inspect all maintenance issues before submitting a task order with the contracted vendor. The Agent shall inspect the repair during and after the work has been completed and document all findings in the rental file. Meeting with the contracted vendor prior to the start of any work is highly recommended. This will allow the Agent to ask any questions and communicate Department policy. Payment to the contracted vendor cannot be made until the work has been inspected and completed satisfactorily.

Large repairs with an estimated cost over $1,000.00: An Agent other than the assigned Agent, preferably the Contract Manager, shall inspect all maintenance issues prior to the submission of a task order to the contracted vendor. The inspecting Agent shall inspect the repair during and after the work has been completed and document all findings in the rental file. Meeting with the contracted vendor prior to the start of any work is highly recommended. This will allow the inspecting Agent to ask any questions and communicate Department policy. If the repairs must be completed in stages

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and the service contract specifies approval of each stage, the Agent inspecting the repair shall approve each stage of the repair prior to the contracted vendor proceeding to the next stage. Payment to the contractor cannot be made until the work has been inspected and completed satisfactorily.

Inspections for work requested and work in progress or completed should be accomplished in accordance with the guidelines in the following guide entitled "Inspection Guidelines for Service Contracts."

INSPECTION GUIDELINES FOR SERVICE CONTRACTS

(These guidelines also apply to services obtained by other methods discussed elsewhere in this section (e.g., CAL-Card, etc.). However, rental offsets will require on-site inspection of all jobs regardless of size.)

Small Repairs – Estimated Cost Less Than $500

Examples:

- Change a faucet
- Mow a lawn
- Fix a window

Type of Inspection:
Agent shall inspect all maintenance repairs. Managers should order random inspections to assure small repairs are done satisfactorily. However, any repair to remedy a health and safety issue must be inspected by an Agent regardless of cost.

Medium Repairs – Estimated Cost Less than $1,000

Examples:

- Paint partially
- Install flooring
- Repair cabinet
- Repair roof

Type of Inspection:
An Agent shall inspect the work before and after the job is done.

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Large Repairs – Estimated Cost Over $1,000

Examples:

- Repaint entire interior or exterior of house
- Install new flooring and carpeting
- Repair roof

Type of Inspection:
An Agent other than the Agent assigned shall inspect work before, during, and after the job is done. It may not be possible to detect bad workmanship after the job has been completed when much of the work is no longer visible. Where certain stages of work require inspection before the next stage commences, the contract must state this condition of approval and payment upon full inspection. Payment to the contractor cannot be made until the work has been inspected and completed satisfactorily.

11.10.13.02 Requesting Work

When the Agent is made aware of a deficiency on the property, which requires a remediation by the contracted vendor, the Agent should discuss the deficiency with their supervisor for direction on how to proceed. Once a plan for remediation is developed, the Agent must arrange for the submission of a task order to the contracted vendor.

The Agent must contact the Contract Manager for the specific contract that will be utilized for the remediation. The Agent and the Contract Manager shall develop an estimate of the cost of remediation. The Contract Manager shall verify that the estimated cost of remediation is within the remaining contract budget. The Contract Manager shall submit a task order which will include the following:

- The task order number, the contract agreement number, the parcel number, and date issued.
- The contractor's information.
- The date that the repair work will begin and the date that the repair work should be completed.
- The location of the repair work.
- The scope of services (Task Order scope of work, expected results, and deliverables).

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- A dollar cap amount of the repair work. The task order shall state that if the cost of remediation, once the work begins, will be above the cap amount specified in the task order, then the contractor shall contact the Contract Manager for approval to proceed with the remediation.

11.10.13.03 Multi-provider and Single Provider Service Contracts

Contracts can be written for on-call services as needed over the duration of the contract or for a single, specific job. An on-call service contract can have multi-providers (if approved by DPAC) or a single provider. A contract for a single, specific job will only have a single provider. Right of Way Contract Managers are urged to use single providers rather than multi-providers. If a multi-provider contract is absolutely needed, check with DPAC to see if multi-providers will be allowed before submitting a contract request (FormADM-360). When a contractor's bill is received on a multi-provider or single provider contract, the Contract Manager shall update the Maintenance Request Screen in RWPM itemizing the work done and indicating the appropriate charges. The Contract Manager shall complete a Receiver (FA-1226A or1226B, depending on the number of invoices) and forward the updated Maintenance Request Screen, the Receiver, and the invoice to the supervisor for approval. The supervisor shall review the invoice and ensure that the Receiver and the Maintenance Request Screen are accurately completed, sign the Receiver, and enter the date approved on the Maintenance Request Screen in RWPM. Where services are provided on an hourly rate basis, the contractor shall submit a copy of the Contractor's Time Reporting Sheet (RW 11-23) with the employee's information, classification, and hours reported. This form will be attached to the final invoice to process payment. It is vital to keep a copy of the invoice and RW 11-23 in the Contract Manager's contract file for purposes of verifying compliance with prevailing wages (for more information on prevailing wages, please refer to Manual Section 12.04.04.00). The payment package will consist of the approved Maintenance Request Screen, the signed Receiver, and the invoice. Two copies of the payment package must be submitted to Accounting for payment in accordance with Manual Section 11.10.12.06.

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11.10.13.04 CAL-Card Small Purchase Program

Through the DGS CAL-Card Small Purchase Program, Department authorizes cardholders to make approved small purchases of goods and services with VISA bankcards within certain limits. Cardholders must comply with all existing procurement and contract statutes, laws, rules, accounting guidelines, regulations, policies, and procedures. See the Department CAL-Card Handbook for limitations and detailed instructions, available on the DPAC Intranet. Information on general liability insurance requirements, Worker's Compensation, and verification of Trades Contractor License is also explained in the CAL-Card Handbook.

Property Management uses the CAL-Card primarily for procurement of services, and such usage must be in compliance with the Public Contract Code. The CAL-Card limits for services or like services are $9,999.99 in a 12-month period for the same type of service with the same vendor. Pursuant to Public Contract Code Section 10329, a series of related services that would normally be combined and bid as one job cannot be split into separate tasks, steps, phases, locations, or delivery times to circumvent to avoid the need to advertise or obtain competitive bids. The duration of the service cannot exceed two (2) years. The Contract Manager shall utilize the CAL-Card Service Agreement Under $10,000 (ADM-4028) when utilizing CAL-Card as the method of payment for services. Although bids are not required, it is recommended that more than one contractor be contacted in order to find the best value. If multiple quotes are not obtained, then the CAL-Card cardholder must provide documentation of fair and reasonable pricing as specified in Section 8.2 of DPAC's *Acquisitions Manual for Non-Information Technology and Information Technology Goods and Services*.

When using the CAL-Card for property maintenance, it is very important to distinguish between procurement of merchandise and procurement of services, particularly if the procurement is a combination of parts and labor. If labor exceeds 50% of the total cost, the procurement is considered a service. If, on the other hand, parts are 50% or more of the total cost, the procurement is considered merchandise.

Prior to procuring maintenance services using CAL-Card, the Agent shall complete a Purchasing Authority Purchase Order (STD. 65) and submit it for budgetary control and approval to the Senior in charge of R/W Property Management. The completed Purchase Request is submitted to the CAL-Card cardholder so charges can be made and services obtained. The cardholder retains a copy of the Purchasing Authority Purchase Order, credit card receipts, and any other backup documentation for verification and post

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audit by Department or DGS. To process payment under CAL-Card, a complete package must be received in Accounting by the 10th of each month. The package consists of:

- Purchasing Authority Purchase Order (STD. 65)
- Original Charge Slips and/or Sales Invoices
- Original Cardholder Statement of Account (SOA) signed on the back by the Cardholder and approving official.
- Original STD. 204, Payee Data Record (unless already on file)
- Drug-free Workplace Certification, STD. 21 form (unless already on file)
- Two copies of the Maintenance Request Screen. (Accounting will return one copy with schedule information.)

11.10.13.05 Non-Credit Card Process (Under $10,000)

The non-credit card process (Form ADM-3015, Service Agreement Under $10,000) may be used for maintenance services where the CAL-Card is not accepted or where employees do not have access to a credit card. The aggregate amount of the Service Agreement cannot exceed $9,999.99, and the term over which services are to be provided cannot extend beyond three years in length. See instructions on Form ADM-3015. The Contract Manager shall obtain a minimum of two quotes. If the Contract Manager only obtains one quote, the Contract Manager shall provide justification that the quote is fair and reasonable.

The following package must be submitted to Accounting to pay the contractor's invoice:

- Original Invoice
- Original Receiving Record (FA-1226A) or two copies of the Maintenance Request Screen
- Original STD. 204, Payee Data Record (unless already on file)
- Drug-free Workplace Certification, STD. 21 form (unless already on file)

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11.10.13.06 Submitting for Payment

Maintenance Requests, Contracts, Travel Expense Claims, Draft Purchase Orders, Statements of Account, Purchase Requests, and other coded documents must be properly coded (Object 058) so Accounting can accurately charge the property maintenance expenditures to the appropriate project EA. Upon completion of any of these documents, Property Management will sign, date, and forward the document to Accounting for processing.

On rare occasions, the Division of Maintenance will perform work on a rental account and will complete the appropriate document, in which case Maintenance shall contact Property Management for proper coding information. Maintenance shall forward the document to Property Management for review to ensure proper coding.

To keep track of Maintenance Requests and other documents sent to Accounting for processing, an Agent or inspector shall enter the maintenance data into RWPM in a timely manner and file a copy of the document in the appropriate contract agreement file. If for any reason Accounting fails to return a copy of the Maintenance Request or other document to Property Management within two weeks, the Property Manager must follow up with Accounting to determine the cause of the delay.

After Accounting processes the Maintenance Request or other coded document, the reviewer shall use a copy of the Maintenance Request, Receiver, TRAMS Multipurpose Posting Tag, or other document showing the coding information to ensure the coding provided to Accounting was not changed during processing. The Accounting information should be entered on the Maintenance Request Screen and then filed.

Government Code Section 927-927.13 is known as the Prompt Payment Act (Act). The intent of the Act is to have state agencies pay properly submitted, undisputed invoices within 45 days of receipt, or automatically calculate and pay the appropriate late payment penalties as specified in the Act. To avoid late payment penalties, the state agency has 30 calendar days to submit a correct claim schedule to the Controller, and not more than 15 calendar days for the Controller to issue the warrant. If the state agency does not submit the claim schedule to the Controller within 30 days, the state agency will be responsible for the late payment penalties. If the state agency submits the claim schedule to the Controller within 30 days and the Controller does not issue a warrant within 15 days, the Controller is responsible for the late payment penalties.

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In order to meet the timelines described above, the Region/District shall submit the payment package to Accounting within 15 days of receiving the invoice.

11.10.13.07 Summary of Various Contract Processes

A brief summary of the various contract processes discussed above is included in Exhibit 11-EX-10, Summary of Contract Processes.

11.10.14.00 Draft Purchase Order (DPO)

A Draft Purchase Order (DPO) (Form ADM-1024) is a method of procurement and payment which cannot be met by the standard purchase order or CAL-Card. A DPO may be used for minor purchases of supplies and materials needed for maintenance of state-owned properties. Generally, the state's tenant or state personnel will use or install the items purchased.

A DPO may be used subject to the following limitations:

- To pay for goods or services of $10.00 to $500.00 (including tax and freight). Consult with Accounting for further details.
- Transaction must be "face-to-face" (do not mail).

A DPO shall **NOT** be used when any of the following conditions apply:

- In other than "face-to-face" transactions.
- To purchase items available in either Department warehouses or DGS warehouses.
- To purchase items covered by existing contracts.
- To purchase items costing less than $10.00, except in rare emergency situations.
- To pay for hazardous services, such as pest or weed control involving chemicals.
- To pay for future services, such as advance rent.
- To circumvent proper service contract procedures, such as splitting purchases of service.
- To pay for items in violation of current departmental directives, such as eye examinations when safety glasses are required.

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Maintenance personnel may use a DPO, subject to the above limitations, to purchase materials needed to repair employee housing. The Maintenance Superintendent for each territory should have access to the draft forms. If RW is performing maintenance activities on behalf of maintenance, upon completion of repairs, Maintenance will contact Property Management for proper coding information and send the DPO to Property Management to review coding. Maintenance for employee houses are not 058 funds, but rather a fund that Maintenance provides. If RW is performing maintenance activities on behalf of maintenance, Property Management will place a copy of the DPO in the proper account file and forward the document to Accounting for processing.

To track DPOs sent to Accounting for processing, the Property Manager shall maintain either a log of such documents in process or a copy of the document in a separate file or binder. If Accounting fails to return the DPO or other document to Property Management within two weeks, the Property Manager must follow up with Accounting to determine the cause of the delay.

11.10.15.00 Travel Expense Claim (TEC)

The TEC, Form FA0302, may be used for "after-the-fact" reimbursement for purchase of supplies or materials needed to maintain state-owned properties. Property Management personnel should use the TEC when they are in the field and discover a maintenance problem that requires immediate attention. Under no circumstances should the TEC reimbursement process be used instead of purchasing goods and services through methods described by DPAC.

Material needed for repairs can be purchased with employees' own funds for which they will be reimbursed by check by presenting a TEC to Accounting. All expenses must be explained on the TEC, and expenses over $25.00 requires approval by the Office Chief or Deputy. The TEC should be filled out and given to Accounting along with applicable receipts.

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11.10.16.00 Emergency Repairs

When the Agent determines that an emergency condition exists, the pre-inspection may be dispensed with in the interest of expediting emergency repairs. The Agent shall take whatever steps necessary to have the corrective work performed as soon as possible.

It is the Agent's responsibility to determine if the extent of a maintenance deficiency classifies as an emergency situation. This will be accomplished by physically inspecting the property, during normal business hours, and evaluating the conditions for health and safety concerns. If an emergency happens after normal business hours, the Region/District shall have a process in place for tenants to contact the Department to either have an on call contracted vendor address the situation or to authorize the tenant to arrange for immediate repair. When the Agent determines that an emergency condition exists, corrective measures will be scheduled as soon as possible and not to exceed 24 hours.

If the emergency condition is an immediate threat to the health or safety of any tenant, the Region/District may move the tenant to alternative housing. Alternate housing includes other Department owned housing or commercial lodging. If commercial lodging is used, the tenant must submit receipts for reimbursement. The maximum amount of reimbursement to the tenant will be restricted to the State per diem guidelines for lodging. If Department owned housing is used as a temporary residence for any tenant, under no circumstances will the tenant be allowed to remain in the replacement residence without going through the qualification process.

11.10.17.00 Rental Offsets

Occasionally, rental offsets may be appropriate for certain repairs or maintenance. However, such offsets should only be used as an exception and not routinely. There are other alternatives to using a rental offset that are discussed elsewhere in this section [e.g., service contracts, CAL-Card and non-credit card (Form ADM-3015) processes, etc.] and those should be considered first. Work done by rental offset should not be in conflict with existing maintenance contracts.

Rental offsets should be limited to minor repairs and maintenance, or emergency repairs for health and safety reasons. Examples of situations where offsets are not appropriate include remodeling a kitchen/bathroom, re-roofing, installing new flooring and carpeting, painting the entire house,

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and other major repairs or rehabilitation. Also inappropriate for rental offsets would be any work that may involve contact with hazardous materials.

When the tenant is performing a repair, the Department does not pay the tenant for their labor or for purchase of tools. The tenant will only be reimbursed for the actual cost of the materials.

Generally, a tenant cannot hire a contractor to do the work and receive an offset. This violates our contracting policy. However, on occasion, a tenant may need to hire a licensed contractor for emergency repair. Any contractor performing a job in which the total cost of the project, including labor and materials, is $500.00 or more, must be licensed by the Contractors State License Board in the specialty for which he or she is contracting. Even if work is less than $500.00, a licensed contractor should be used for any electrical, gas, plumbing, or other work that must be done according to code.

Rental offsets of $1,000.00 or less may be approved by the Property Management Senior. Rental offsets more than $1,000.00 must be approved by the Property Management Supervising R/W Agent or above. The reason for using a rental offset must be documented in the file. Rental offsets are subtracted from the Region/District's 058 Account for property maintenance, so sufficient funding should be available before using a rental offset.

The general procedures below apply when a rental offset is used to provide maintenance for new or existing residential tenants.

When a need for minor maintenance work is indicated, the Agent shall inspect the property and complete a cost estimate. The Agent will determine the amount of the rental offset based on prevailing prices in the area and local rental management practices. The Agent shall prepare the appropriate document as follows:

- **New Tenants** - Insert completed clause into rental agreement and obtain prospective tenant's signature(s).
- **Existing Tenants** - Prepare letter of understanding and obtain tenant's signature(s).

The Agent shall submit the signed document, along with the maintenance cost estimate and the reason a rental offset is being used, to the person authorized to approve such expenditures. Before any work commences, the Property Manager Senior or Supervising R/W Agent, depending on amount of the offset, shall approve the amount of the allowance. Upon approval, the Agent shall file the document in the rental folder, log the proposed work, and inform the tenant to proceed with the work.

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When the tenant has completed the work, a Property Management Agent shall inspect the property to verify and document satisfactory completion of the work. The Agent shall complete the proper inspection forms, take photographs of the repair, and enter diary notes concerning the repair. The tenant must provide the Agent the receipts for the materials before the tenant's account is finally credited with the amount of the rental offset. Inspection standards for maintenance work accomplished through the contract process shall also apply to work performed with offsets, except that all offset work must be inspected by the Department, no matter how small.

Regardless if the repair was completed by a vendor or the tenant, after inspection and acceptance of the work, the Agent shall procure from the tenant all receipts or vendor's itemized statements. The Agent shall complete an RWPM Adjustment Request Screen, which results in a credit to the tenant's account and posts the amount against the 058 Property Maintenance Account. Total amount spent on offsets is shown on the RWPM Contract Screen for contract number "Offsets." A copy of the rental offset paperwork, along with the receipts for materials or vendor's itemized statements, needs to be sent to Accounting before Accounting will make the Adjustment.

An offset shall be credited only to a tenant in occupancy of the property on which the maintenance work is performed. In other words, tenant "A" living in property "A" **cannot** receive an offset for work performed on property "B."

11.10.17.01 New Residential Tenants

Where a property has become run-down and certain minor repairs are required to secure a new tenant, it may be appropriate to grant a rental offset by inserting a clause in the rental agreement for materials necessary to accomplish specified work.

The clause inserted in the initial rental agreement shall be written as follows:

> *It is understood and agreed that in consideration of a rental offset of an amount not to exceed $_____, Tenant agrees to: (Describe Work to Be Done).*
>
> *Tenant shall secure paid itemized bills covering materials used for the authorized work and forward them to the Department of Transportation at _____ _____. Credit will only be allowed for the actual amount of the paid bills not to exceed the amount above. Tenant will be paid for materials only and will not be paid for his/her labor or for the purchase of tools. Tenant may not hire*

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a third party contractor to perform the authorized work unless prior written permission from the Department is obtained.

It is further agreed that said work will be completed and paid bills received by the Department of Transportation prior to _____, and that the rental credit will only be granted after inspection, by the State, of the completed work.

11.10.17.02 Existing Residential Tenants

In some instances, sound management practices dictate granting a rental offset to the tenant to achieve a degree of efficiency and economy, as well as to expedite performance of certain emergency repairs and repairs of a minor nature. The tenant and the state shall sign a letter of understanding before the tenant performs any repair work. The letter of understanding should specify that the tenant will be paid for materials only (based on paid itemized bills) and will not be paid for his/her labor or the purchase of tools. The letter shall also state that the tenant may not hire a third-party contractor to perform the authorized work unless prior written permission from the Department is obtained.

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11.11.00.00 - INSURANCE REQUIREMENTS FOR TENANTS

11.11.01.00 Policy

Tenants and lessees shall be required to obtain Commercial General Liability insurance in most leases and rental agreements where extraordinary liability features are present. Insurance shall be in an amount of at least $1,000,000 per occurrence for Bodily Injury and Property Damage Liability combined. Personal liability coverage for single-family residential properties with swimming pools may be limited to combined coverage of $500,000. These amounts may be increased for high-risk uses.

11.11.02.00 When Insurance Is Required

Refer to the table entitled "Guidelines for Personal Injury, Liability, and Property Damage Insurance" Exhibit 11-EX-11 to determine the need for insurance.

Although not required by the guidelines, insurance should also be required for specific situations with high-risk uses. For example:

- Large agricultural operations involving heavy equipment.
- Properties fronting on rivers or lakes.

In such cases, the district determines the necessity for insurance. Insurance is generally required when the property is used for purposes that involve employees, visitors, or customers who could be subject to accidents and injuries.

11.11.03.00 Family Day Care Facilities

Use of a state-owned residential unit as a family day care home, as opposed to a school, does not fall under the commercial/business lease category requiring high insurance coverage. Under Section 1597.40 of the Health and Safety Code any provision in a rental agreement forbidding or restricting the use or occupancy of the property as a family day care is void. The Department may not stop the tenant from using the property as a family day care home. The tenant must provide 30 days' written notice of their intention to use the property as a family day care home prior to commencing such use.

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A family day care home can either be considered a small family day care home or a large family day care home. For a small family day care home, the maximum number of children allowed are eight (8) children; the tenant must get the Department's approval when the number of children exceeds six (6) children. For a large family day care home, the maximum number of children allowed are fourteen (14) children; the tenant must get the Department's approval when the number of children exceeds twelve (12) children.

Section 1597.531 of the Health and Safety Code, however, does set minimum levels of mandatory liability insurance for injuries or bond coverage for family day care homes. The minimum amount of liability insurance is $100,000 per occurrence and $300,000 aggregate or a bond in the aggregate amount of $300,000. In lieu of liability insurance or bond, a day care provider may maintain a file of signed affidavits informing parents the day care home does not carry the liability insurance or bond. If the day care provider does carry liability insurance or a bond, the Agent should request that the Department is named as an additional insured as long as it does not result in the cancellation, non-renewal, or increase in the premium of the insurance or bond.

In addition, if the provider does not own the premises, the affidavits shall state that parents have been informed the property owner's liability insurance, if any, may not provide coverage for losses arising out of, or in connection with, the day care operation. In these instances, the Region/District should request the tenant to provide copies of the affidavits.

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GUIDELINES FOR PERSONAL INJURY, LIABILITY, AND PROPERTY DAMAGE INSURANCE

PUBLIC AGENCIES:

- Self-insured – Not Required (with self-insurance clause in lease)
- Not Self-insured – Required

PUBLIC UTILITIES:

- Self-insured – Not Required (with self-insurance clause in lease)
- Not Self-insured – Required

RESIDENTIAL:

- SFR – Not required
- SFR with Pool – Required
- Multi-residential – Not Required
- Multi-residential with Pool – Required
- Master Tenancy Residential Apartments and Mobile Home Park – Required

COMMERCIAL/INDUSTRIAL:

- Large Corporations with Self-insurance (Ralston Purina, etc.) – Not Required (with self-insurance clause in lease)
- Parking – Private (For Lessee employees) – Required
- Parking – Public – Required
- Sales (Retail, Wholesale) – Required
- Restaurants, Bars – Required
- Offices – All Types – Required
- Warehouses/Storage-Inside – Required
- Storage-Outside – Equipment, RVs, Boats, etc. – Required
- Service Stations – Required
- Manufacturing – Required
- Oil and Gas Subsurface Rights – Not Required
- Oil Well with Surface Rights – Required
- Drainage Ponds – Required
- Access Rights for Cafes, etc. – Not Required
- Motels – Master Tenancy – Required
- Services (Barbershops, Beauty Parlors, Cleaners, etc.) – Required
- Repairs – Auto, Appliances, etc. – Required

AGRICULTURAL:

- Grazing – Cows, Horses, Sheep, Llamas, Goats – Not Required
- Crops – Row Crops, Orchards, Vineyards, Dry Farming – Not Required
- Sales – Fruits, Vegetables, Christmas Trees, etc. – Required
- Community Gardens – Not Required

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GUIDELINES FOR PERSONAL INJURY, LIABILITY, AND PROPERTY DAMAGE INSURANCE (Continued)

SIGNBOARDS:

- On Premise – Not Required
- Off Premise – Not Required

OTHER:

- Recreational (Golf Driving Range, Tennis Clubs, Skateboard Parks, Bike Paths) – Required
- Road Approach – Not Required
- Landscaping – Not Required
- Parks – Required
- Park and Ride Lots – Required
- Porter Bill Parks – Required
- Churches – Required

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11.11.04.00 How the State Is Protected

When the Region/District determines that commercial general liability insurance protection is required for the state's benefit, the liability and property damage insurance clause (found in the Lease Agreement template, Liability and Property Damage Insurance Clause) shall be inserted in the rental or lease agreement making it mandatory for the tenant or lessee to provide the state with the specified amounts of commercial general liability insurance and naming the state as an additional insured. When the rental or lease agreement is signed, the Region/District shall give the tenant RW 11-18, Certificate of Insurance with Endorsement for Lease of State-Owned Property, for documentation of required insurance coverage. The tenant's or lessee's insurance carrier shall complete this form and return it to the state as soon as possible. It need not be returned prior to or accompany the signed rental or lease agreement, but the insurance policy **shall be in force before occupancy**. In lieu of RW 11-18, the tenant/lessee may provide the actual certificate of insurance. The Agent shall verify that the proper coverages are obtained and that the Department is named as an additional insured.

The Certificate of Liability Insurance form (naming the State of California as an additional insured) from the tenant's or lessee's insurance carrier shall be kept in the rental file with the rental agreement or lease. The Agent must keep the current policy in the file and ensure that it is renewed yearly.

11.11.05.00 Fire Insurance on State-Owned Properties

Although the Department does not normally secure fire insurance on properties acquired for future freeway use, fire insurance may be appropriate for high value, high-risk properties purchased far in advance of highway construction. Examples of high-risk properties include bars, motels, hotels, and restaurants. The amount of fire insurance placed on a property should take into account the value of the improvements only and should not be based on the appraised value of the entire property.

In addition, Government Code Section 11007.1 subdivision (a) permits the Department to authorize insurance against damage or destruction by fire when it has acquired title to the realty and leases the property to the former owner. The Government Code section, which is quoted below, requires the former owner to request this coverage, to lease back the property for more than a six-month period, and to pay the premium.

"The Department of Transportation, when it has acquired title to any real property for highway purposes and leases that property for commercial

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or business uses to the former owner for a term exceeding six months, may secure insurance against the risk of damage or destruction by fire where the former owner requests this coverage and the premium therefor is included in the rental agreed to be paid."

The loss payee of the fire insurance policy shall be the State of California. The lessee shall be responsible for furnishing the state with a certified copy of each and every policy within not more than ten days after the effective date of the policy. Exhibit 11-EX-12, Liability, Property Damage and Fire Insurance (for internal Caltrans use), shows approved clauses requiring the lessee to provide the state with fire insurance on the property.

11.11.06.00 Self-Insurance by Tenant or Lessee

Some large corporations and public entities regularly self-insure. If the lessee decides to provide the required insurance by self-insuring, the Property Manager should request documentation from the lessee showing that the lessee regularly self-insures and has adequate assets. In addition, the clause below must be included in the lease in place of the standard liability insurance clause in the Lease Agreement template (Liability and Property Damage Insurance Clause) and in the Agricultural Lease Agreement template (Liability and Property Damage Clause).

LIABILITY AND PROPERTY DAMAGE INSURANCE:

Lessee will self-insure during the entire term of the within tenancy and will defend, indemnify and hold harmless the Lessor, its officers, agents, and employees from all claims, suits or actions of every name, kind and description, brought forth, or on account of, injuries to or death of any person or damage to property, including any claims, suits or actions for damage to vehicles on the property which is the subject of this lease, occurring in, or about, said property.

With respect to third-party claims against the Lessee, the Lessee waives any and all rights to any type of expressed or implied indemnity against the Lessor, its officers or employees.

It is the intent of the parties that the Lessee will defend, indemnify and hold harmless the Lessor, its officers and employees from any and all claims, suits or actions as set forth above regardless of the existence or degree of fault or negligence on the part of the Lessor, the Lessee, the officers or employees of either of these, other than its officers and employees.

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Nothing in this lease is intended to make the public or any member thereof a third-party beneficiary hereunder, nor is any term or condition or other provision of the lease intended to establish a standard of care owed to the public or any member thereof.

11.11.07.00 Certificate of Insurance

The State's Standard Certificate of Insurance, RW 11-18, Certificate of Insurance with Endorsement for Lease of State-Owned Property, may be used in lieu of a certified copy of the original policy; no other form of Certificate of Insurance is acceptable.

11.11.08.00 Fire and Explosion in State-Owned Buildings

Section 13107 of the Health and Safety Code requires that all fires or explosions in or on all State-owned properties be investigated by the State Fire Marshal. All fires and explosions must be reported to the State Fire Marshal immediately following the knowledge of a fire. The number to contact the State Fire Marshal Duty Officer is (916) 323-7390. The Duty Officer will answer this number on a 24/7 basis. You need to have the following information:

1. Type of incident (fire or explosion, etc.)
2. Location of incident
3. Time of incident
4. Was Fire/Police Department dispatched
5. Information on any injury or fatality
6. Name and phone number for a call back.

Rebuilding or repairing damage caused by the fire may begin without delay whether or not an investigation is made.

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11.12.00.00 - LEASING STATE-OWNED PROPERTY

11.12.01.00 General

The following types of properties shall normally be leased:

- Commercial
- Industrial
- Agricultural
- Income residential where the state is seeking a master tenant

11.12.02.00 State Lease Forms

The state's standard lease should be used for leasing all commercial and industrial properties. For income residential properties where the state is seeking a master tenant, a Master Tenancy Lease Agreement should be used. For agricultural property use an Agricultural Lease Agreement. Please refer to the specific agreement templates on the Property Management website (internal Caltrans link).

11.12.03.00 Lease Rates

With few exceptions, lease rates shall be at Fair Market Value.

For any lease rate less than Fair Market Value, the rental file shall be fully documented as to why it is in the Department's best interest to charge a rate below Fair Market Value. For properties obtained with title 23, United States Code, funding, the PIF and written approval from FHWA shall be in the file, please refer to Manual Section 11.01.08.00. For all other properties, the justification and approval from the Property Management Office Chief or above shall be in the file

11.12.04.00 Lease Preparation

The Region/District shall prepare at least three copies of the lease. The Agent shall forward or deliver to the lessee two originals for signature. The lessee must return both originals to the Department for execution. Once the Department has executed both originals, one fully executed original will be forwarded or delivered to lessee and one will remain in the rental file.

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11.12.05.00 Lease Approval by Lessee

The lease shall be approved by the individual(s) or, if appropriate, the authorized officer(s) of the company or corporation. The lessee's title or capacity to approve the lease shall appear beneath the lessee's signature. If the lessee is a corporation that has a seal, the seal may be affixed to the lease near the signature(s) of the corporate officer(s) approving the lease.

11.12.06.00 Lease Approval by State

The DD or authorized delegate is authorized to execute all residential rental agreements and nonresidential lease agreements. Legal must approve rental agreements and leases on nonstandard forms prior to execution on the Department's behalf.

11.12.07.00 Title VI Guidelines

The Agent will inform the State's tenants about the Department's policy and procedures under Title VI of the 1964 Civil Rights Act and will deliver a "Your Rights Under Title VI & Related Laws" brochure at the time the lease is executed.

11.12.08.00 Lease Renewals

The Agent shall maintain a Region/District wide system of knowing when leases are due to expire. The Agent shall:

- Inspect the property.
- Request a new Fair Market Value to determine the new lease rate. If the Appraisals Branch is unable to return the request in a timely fashion and the market has been stable since the execution of the prior lease, the Agent may use a Consumer Price Index increase to determine the new lease rate.
- Verify if the present lessee is interested in renewing the lease at current Fair Market Value.
- Update the last inspection date, market rent, and date of value on the Property Screen in RWPM.

If the lessee does not want to renew the lease, the lead time will give Property Management an opportunity to re-rent the property with minimal loss of rental income.

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If the lessee wants to continue leasing, the lease may be renewed or modified using a Lease Renewal form. A template of the form may be found on the Property Management website (internal Caltrans link). Confirm that the most current standard language has been incorporated into the lease renewal agreement, including storm water and other provisions. Lessee's signature on the renewal shall be identical to the signature format on the original lease, and the state shall execute in the same manner as a new lease. If the original lease is older than 7 years, a new lease agreement shall be drafted to ensure that all the updated standard clauses are incorporated into the lease.

11.12.09.00 Assignment of Lease

Circumstances may occur when a lessee wishes to sell their business and the state finds it beneficial to permit the assignment of the lease. The state has the option to refuse or accept (but cannot unreasonably withhold approval) of the proposed assignee as a responsible party who is able to fulfill the lease obligations for the balance of the lease period. The Region/District shall require the proposed assignee to complete a rental application and shall investigate thoroughly to determine if the proposed assignee is acceptable.

If the proposed assignee is acceptable, the lessee and assignor shall sign the "Assignment of Lease" section of the Assignment of Lease, as Lessee and Assignor. The assignee shall sign the "Assumption of Lease" section of the form as Assignee of Lease. The state shall execute "Consent to Assignment of Lease" section of the form in the same manner as the original lease and shall process the "Assignment of Lease" in the same manner as the original lease. (See 11-EX-H, Assignment of Lease [Where State is Lessor]).

11.12.10.00 Public Notice to Bidders

It may be advantageous for the Region/District to use the public bidding process to accomplish leasing of certain types of property. The suggested format presented in the Sample Notice to Bidders template may be modified to fit any type of property being offered for lease. The property must be advertised publicly utilizing either newspaper advertisements or internet websites (such as Craigslist and LoopNet). The Agent should inform all interested parties of the advertisement. The Sample Notice to Bidders template may be found on the Property Management website (internal Caltrans link).

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11.12.11.00 Construction of Improvements to Realty by Lessee

The Region/District may consider leasing future right of way for development of improvements to the realty where such development will not result in a relocation assistance situation or obligation to the state, but will result in a net profit to the state or other public benefit.

Such leases shall include many of the clauses contained in a standard airspace development lease. (Refer to Airspace Chapter 15.) In particular, clauses for condemnation, insurance requirements, design and location controls, ownership of improvements and personal property, and rental rate adjustments based on the Consumer Price Index should be considered for inclusion in development leases. Such leases shall also include a termination clause, a performance bond and/or other provisions to ensure timely removal of improvements at no expense to the state. The security deposit shall be an amount that incorporates the potential removal cost of the improvement that may be incurred by the Department.

The lessee shall be responsible for developing complete plans and specifications and submitting all plans and specifications to the Department for conceptual approval of any proposed improvements. Additionally, the lessee shall be responsible for obtaining all required building permits from the State Fire Marshal. Furthermore, if the improvement is a building, the lessee shall obtain a certificate of occupancy from the State Fire Marshal. Prior to the Department allowing the use of a building, the lessee shall provide the Agent with a copy of the certificate of occupancy or a copy of the temporary certificate of occupancy. If a temporary certificate of occupancy is issued, the lessee must obtain the certificate of occupancy prior to the expiration of the temporary certificate of occupancy in order to continue using the building.

Prior to beginning construction, the lessee shall provide evidence of coverage to the Department that sufficient monies will be available to complete the proposed construction. The amount of coverage shall be at least equal to the total estimated construction cost. Such coverage can be in the form:

- A completion bond issued to the Department as the obligee.
- A performance bond and labor and material bond or performance bond containing the provisions of the labor and material bond supplied by the lessee's contractor, provided said bonds are issued jointly to the lessee and the Department as obligees.
- Any combination of the above.

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All bonds shall be issued by a company qualified to do business in the State of California and acceptable to the Department. All bonds shall be in a form acceptable to the Department. All work shall be completed by a contractor who is appropriately licensed and bonded.

Property Management shall submit all such leases involving construction of aboveground structures to the DD or authorized delegate for **prior** approval.

11.12.12.00 Construction of Tenant Improvements and Fixtures by Lessee

Health and Safety Code Section 13108 specifies that the State Fire Marshal shall prepare and adopt building standards, not inconsistent with existing laws or ordinances, relating to fire protection in the design and construction of the means of egress and the adequacy of exits from, and the installation and maintenance of fire alarm and fire extinguishment equipment or systems in any state-owned building and submit those building standards to the State Building Standards Commission for approval. Additionally, the State Fire Marshal shall prepare and adopt regulations other than building standards for installation and maintenance of equipment and furnishings that present unusual fire hazards in any state-owned building. Furthermore, the State Fire Marshal shall enforce the adopted regulations and building standards relating to fire and panic safety published in the California Building Standards Codes in all state-owned buildings.

When a lessee proposes to construct tenant improvements and fixtures within an existing building, the lessee must obtain written approval from the Department. The lessee shall provide the plans and specification to the Department for conceptual approval. The minimum requirements of the plans and specifications can be found in RW 11-27. If the proposed tenant improvements and fixtures are acceptable to the Department, the plans and specifications shall be submitted to the State Fire Marshal for review and approval. If the proposed tenant improvements and fixtures requires a revised Certificate of Occupancy, the lessee shall obtain the Certificate of Occupancy at their sole cost and expense. Once written approval is obtained by the State Fire Marshal, then the Department can provide written approval for the installation of the tenant improvements. The lessee shall provide copies of the written approval from the State Fire Marshal and the revised Certificate of Occupancy, if required, to the Agent for the tenancy file.

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The lease shall include, or be amended to include, clauses specifying the ownership of the tenant improvements and fixtures at the expiration, or any sooner termination, of the lease agreement. Also, the security deposit shall be an amount that incorporates the potential removal cost of the tenant improvements and fixtures that may be incurred by the Department.

11.12.13.00 Leasing Excess Land

Property Management shall obtain approval from the Excess Land Section before any excess land is committed to a lease. This is important because a lease affecting excess land may or may not be complimentary to the sale of the parcel. When excess land is leased, Property Management should forward a copy of the lease to the Excess Land Section for its files.

11.12.14.00 Leasing to Highway Contractor

Where excess vacant or improved parcels are available in the vicinity of a highway project, the district may enter into a lease with the highway contractor during the period of the project. The lease should be on the standard Lease Agreement which usually covers uses such as construction yards and haul roads. The lease rate will be the fair market rent as in other lease agreements. Absolutely no advance commitment shall be made to any bidding highway contractor, as this would tend to give that contractor an advantage over other contractors competing for the project.

To avoid violations of any necessary access control lines and to ensure safe access to and from leased property, the lease must contain provisions specifying exactly where the contractor may gain access to and from the leased property and where the contractor may **NOT** gain access to and from the leased property. Before finalizing the lease, Region/District Right of Way will obtain written approval from the Region's/District's Encroachment Permits Department. The written approval shall be placed in the rental file and should be incorporated as an exhibit in the lease agreement.

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11.12.15.00 Leasing to a City, County, or Special District Under S&H Code 104.7

S&H Code Section 104.7 requires the Department, when requested by a city, county, or special district, to provide information regarding, and shall lease the property, if the following conditions exist. The property must be:

- Unoccupied and unimproved.
- Held for future highway purposes (does not include rescinded routes or excess land held for study).
- Located within the boundaries of the city, county, or special district.

Property determined by the Department to have commercial, industrial, or residential use, as the most feasible or best use is not eligible for lease under S&H Code 104.7.

The city, county, or special district may use the leased property first for agricultural and community garden purposes, and second for recreational purposes, on terms and conditions not unreasonably inhibiting the use of the property, including, but not limited to, assumption of liability and installation and removal of improvements.

The lease shall be for one dollar ($1) per year for not less than one year and shall be renewable.

The city, county, or special district may sublease the property for agricultural or recreational purposes subject to the following constraints:

- Upon prior written notification to the Department.
- May proceed with the sublease unless disapproved by the Department within ten (10) working days after the notice is sent to the Department.
- First priority for a sublease shall be given to the owner of property contiguous to the leased land.
- The city, county, or special district may charge rental fees at least sufficient to pay its administrative costs.
- All money received under a sublease, less administrative costs, shall be transmitted to the Department for deposit in the State Highway Account.

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The City, County, or Special District Lease template shall be used for all these types of transactions. The template may be found on the Property Management website (internal Caltrans link).

11.12.16.00 Lease Recordation

Under most circumstances, leases where the state is lessor shall not be recorded. Recordation would serve to cloud title of the property and could require a quitclaim deed to clear title at a later date.

11.12.17.00 Lease Cancellation

All leases shall contain provisions that the Department shall have the right to cancel the lease upon giving specific notice without other qualifications or reasons. The standard language in the lease agreements allow either party to terminate the lease provided a certain number of days' notice, specified in the lease agreement, is provided to the other party.

11.12.17.01 Mutual Consent

Occasions may arise when it is to the mutual benefit of the Department and lessee to cancel a lease that is in force without requiring either party to provide the specified number of days' notice to the other party or if the standard termination clause has been altered to only allow the Department to terminate the lease agreement. This shall be accomplished by using Cancellation of Lease template (11-EX-I, Cancellation of Lease Agreement). The lease cancellation shall be signed by both parties and shall be processed in the same manner as the lease.

11.12.17.02 Lessee's Failure to Pay Rent

When the lessee is delinquent in rental payments, RW 11-11, 3-day Notice to Pay Rent or Quit, shall be used by the Department. Such notice shall be served upon the lessee in the manner specified in Section 11.08.04.00.

Procedures set forth in Chapter 10, Relocation Assistance, Manual Section 10.03.12.00 apply when canceling tenancy of a lessee who is eligible for relocation payments.

Money that the lessee has on deposit with the Department may be retained and applied toward the delinquency that exists. The deposit shall not be credited toward the delinquency, however, until after the lessee has vacated

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the property, leaving it in a satisfactory condition acceptable to the Department.

11.12.17.03 Based on Right of Termination

The standard lease provides for cancellation and termination of the lease by either party. When the lessee is not delinquent in rent and the Department wishes to cancel the lease, RW 11-33, Notice to Terminate Non-Residential Tenancy, shall be used.

11.12.18.00 Materials Agreement for Removal of Materials

Occasionally, the Department may find it desirable to have materials removed from state property for use as fill on a state highway project. When materials can be removed without decreasing the property value more than the estimated value of the material to be obtained, the Region/District may enter into a Materials Agreement with a contractor.

The material removed shall not create a hazard or an eyesore in the area. The finished elevations after removal of material shall blend with the remainder of the state property. To ensure desirable results are achieved, the Region's/District's Division of Environmental Analysis shall be contacted for advice and recommendation regarding the potential presence of any hazardous waste in the material prior to negotiating a Materials Agreement. Additionally, the Region's/District's Division of Engineering Services Geotechnical Services shall be contacted for advice and recommendation on how to stabilize the property in the after condition.

No Materials Agreement shall be made or proposed with any contractor until after award of the highway construction contract. An alternative would be to indicate in the contract specifications that a specified amount of material is available at a certain location so all prospective bidders have knowledge of it.

Please refer to the two sample formats of the Materials Agreement which may be found on the Property Management website (internal Caltrans link).

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11.12.19.00 Available Office Space

Right of Way should notify the District Facilities Manager when office space is available for lease. The District Facilities Manager will notify DGS, through the Departmental Facilities Manager in the Administrative Service Center, that office space is available. If DGS has other state tenants who might be interested in the space, they will notify the Department. It is not necessary to hold the property off the market for DGS during the notification period.

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11.13.00.00 - MASTER TENANCIES

11.13.01.00 General

Right of Way staff shall manage all rental properties that do not require special consideration. Use of a master tenancy lease is appropriate for managing properties under the conditions listed below:

- Motels, hotels, and rooming houses where a high level of service to tenants is required. California Code of Regulations, Section 42 of Title 25, states a manager, janitor, housekeeper, or other responsible person shall reside on the premises when there are 12 or more guest rooms.

- Certain residential, commercial, or industrial properties located in areas where management by local residents is the only effective way to obtain cooperation of individual tenants in upkeep of the property.

- Residential apartment properties (containing 16 or more apartments). California Code of Regulations, Section 42 of Title 25, states a manager, janitor, housekeeper, or other responsible person shall reside on the premises when there are 16 or more apartments.

11.13.02.00 Lease Form

The Master Tenancy Lease Agreement template will be utilized for all master tenancy leases. Please refer to the specific template on the Property Management website (internal Caltrans link). This is a standard lease template and not all clauses will apply to all situations. The Agent shall formulate a lease that will be in the best interest of the Department using all of, some of, or any additional clauses. Keep in mind any additions, deletions, revisions, and/or changes should be approved by Legal prior to use.

11.13.03.00 The Master Tenant

A master tenant is the Department's lessee of income producing residential, commercial, or industrial property capable of being sublet into two or more rental units. Master tenants are obtained through direct negotiations or by successful bids on an advertised lease for a particular property. As the lessee, the master tenant assumes complete responsibility for management, control, and maintenance of the leased property, subject to all the terms and conditions of the lease.

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11.13.04.00 Factors to Consider

The major benefit derived from a master tenancy is that the master tenant theoretically assumes all problems associated with the rental property while providing the Department with appropriate rental income from the leased property.

The determination on whether a parcel will be leased to a master tenant should be based on several factors including, but not limited to:

- Difficulty in managing a large furnished apartment, motel, or rooming house where the state does not purchase the furniture and various utilities are supplied to the units from a single meter.
- Long distance between the Region/District office and the property.
- Potential loss of income to the state due to high vacancy factors.
- Management problems such as handling of trash service, night-lights, and swimming pools.

11.13.05.00 Approval

The DD or authorized delegate is authorized to approve all master tenancy leases.

11.13.06.00 Documentation

The Agent preparing the proposed master tenancy agreement shall provide the following documentation to the DD or authorized delegate approving the lease:

- Brief description of the property, condition, and number of units.
- Reasons why a master tenancy is the best form of property management.
- A statement specifying that an interior and exterior inspection of the property has been performed, what conditions require correction, and who will perform the work.
- A statement that notices signed by individual tenants will be obtained to confirm the non-RAP eligibility of the tenancy and a statement that the building will be posted with such a notice. A system for monthly review of

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changes in tenancy and receipt of signed non-RAP eligibility statements for all new tenants must be established.

- A statement that Region/District staff will perform interior and exterior inspections semiannually and that the master tenant will correct all conditions of disrepair or the master tenancy will be terminated.

Master tenancy agreements may be written for varying lengths of time at the Region's/District's discretion. The agreements should be written for time periods that are commensurate with Region's/District's clearance schedules, which are generally controlled by Right of Way Certification dates. Property Management should consult with Right of Way Project Coordination to determine the clearance schedule dictated by the project. On occasion, the normal length of a lease (one-year) may be extended to encourage a master tenant to take over certain property. For example, extension is appropriate when the master tenant needs a longer time to recover anticipated costly expenses incurred in rehabilitating property at the lease's onset.

11.13.07.00 Minimum Acceptable Lease Rate

The Region/District should establish a minimum acceptable lease rate prior to advertising for bids for a master tenancy or prior to negotiating a master tenancy directly with a prospective master tenant. In determining the lease rate, consideration should be given to the following:

- Physical condition of the property.
- Location within the community.
- Type of tenants.
- Present or future market demands within the area for the type of rental property.

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11.13.08.00 Advertising Availability of Master Tenancy

The Region/District should maintain a list of prospective master tenants, including referrals, interested persons who have made inquiries, and past master tenants who have performed satisfactorily.

The availability of a specific master tenancy agreement should be advertised on the internet and in metropolitan newspapers, as well as local newspapers, serving the area where the property is located. The advertisement should announce:

- Availability of the lease.
- Type and number of units.
- Expected length of tenancy.
- Date the property will be available for inspection.

The advertisement should request interested parties to phone or write the Region/District for a brochure or flyer with the particulars as well as bidding requirements and procedures, if the lease will be put up for bid.

11.13.09.00 Bid Proposal Package

Bid proposal packages that are mailed to interested parties or advertised shall contain items that are compatible with the proposed lease. See the table entitled "Items Included in Bid Proposal Package" on the following page and Exhibits 11-EX-18 through 11-EX-22, along with sample template located on the intranet, for a complete bid proposal package.

11.13.10.00 Bid Opening and Award

Bid proposals shall be opened and read publicly at the time and date specified in Exhibit 11-EX-18. the "Notice to Bidders and Interested Parties."

Although the lease will normally be awarded to the highest responsible bidder, the Department reserves the right to refuse any and all bids. The Region/District shall retain the bids and deposits of the highest responsible bidder and the second highest responsible bidder until the successful high bidder has complied with all the terms and conditions contained in Exhibit 11-EX-19, the "Terms of Auction" notice. When these terms and conditions have been met to the Region's/District's satisfaction, the Region/District shall return

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the second highest bidder's deposit along with the Bid Results – Unsuccessful Bidders letter, reporting the bid results to all unsuccessful bidders. A template of the Bid-Results – Unsuccessful Bidders letter may be found on the Property Management website.

11.13.11.00 Commencement of Standard Lease Procedures

Processing and handling of the master tenancy agreement is identical to the standard leasing procedures for other state-owned property. Refer to Section 11.12.00.00 for details.

11.13.12.00 Posting of Public Notice

After final approval of the lease, the Region/District shall post Exhibit 11-EX-27, Public Notice (Sign for Master Tenancy) on all residential properties under a master tenancy agreement. The sign shall be readily visible to prospective tenants and shall advise that all persons commencing tenancy on the premises after the date indicated shall not be eligible for relocation assistance payments as provided in Government Code Sections 7260 through 7277. The date to be inserted on the sign shall be the date the state obtains legal possession of the premises. Posting of this public notice sign is mandatory and is in addition to the requirement that the lessee furnish each new tenant with a written notice with the same information.

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ITEMS INCLUDED IN BID PROPOSAL PACKAGE

- **Notice to Bidders and Interested Parties (Exhibit 11-EX-18)**
  This notice sets forth the address of the property for which the lease is being auctioned, the address of the lessor in which to send the sealed bid; the date, time, and location that all sealed bids shall be opened and read publicly; the deadline to submit a sealed bid, and makes specific remarks about allowing only one bid from any one person, corporation, or firm.

- **Terms of Auction (Exhibit 11-EX-19)**
  This details the required deposit to be submitted with the bid, the manner in which payment is to be made, where payments are to be received, the disposition of the deposit in the event that the high bidder fails to pay the balance due, the disposition of the deposit in the event the Department cancels the lease, the maintenance that is required on the property, and the amount of security deposit required as a guarantee that the required maintenance shall be performed. It also sets forth the maintenance requirements that shall be met by the successful bidder and the time limit allowed for work to be accomplished.

- **List of Tenants in Possession (Exhibit 11-EX-20)**
  This sheet lists, by address, the tenants in possession with their corresponding rental rates and bedroom count. This sheet also specifies when rents are due and the utilities for which the Master Tenant is responsible. The list of tenants in possession is actually incorporated into the lease as an Exhibit.

- **Inventory (Exhibit 11-EX-21)**
  This inventory shows by apartment or rental unit certain features or improvements for which the master tenant shall be held accountable. Such items as drapes, garbage disposals, wall-to-wall carpeting and built-in range and oven are included. The inventory should be incorporated into the lease as an Exhibit.

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ITEMS INCLUDED IN BID PROPOSAL PACKAGE (Continued)

- **Bid Proposal (Exhibit 11-EX-22)**
  The proposal form shall be fully executed by the bidder, who is responsible for completing the following:
  - Use and address of the property.
  - Monthly lease rate willing to pay.
  - Signature with printed name and date. The "Important Notice" portion sets forth how the bid is to be signed in the event the bidder is a corporation, partnership, or firm.
  - Bidder's telephone number, business address, or home address for refunding deposit to unsuccessful bidders.
  - The bid proposal shall be accompanied by the required bid deposit amount and it shall be paid in the manner set forth in Exhibit 11-EX-19, Terms of Auction. Failure to do so in the manner described is a basis for rejection of the bid.

  For a bid proposal package to be considered, the bid proposal, in proper order, shall be received at the District Office by the time specified in Exhibit 11-EX-18, Notice to Bidders and Interested Parties.

- **Rental Application (Form RW 11-5)**
  The completed rental application shall be submitted at the time the bid proposal package is submitted. The rental application is used by Property Management to determine the bidder's financial responsibility.

- **Sample Lease Agreement (Template found on the intranet)**
  This is a sample master tenancy agreement that may be modified as needed and approved by Legal.

- **Bid Proposal Mailing Envelope (Template found on the intranet)**
  This envelope shall be marked for return to Property Management and identified as a sealed bid for a particular property. The date and time of the bid opening shall also be clearly marked.

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11.14.00.00 - OUTDOOR ADVERTISING SIGNS

11.14.01.00 General

The California Outdoor Advertising Act sets forth how the State governs and regulates outdoor advertising. The statutes are contained in the California Business and Professions Code, Division 3 Chapter 2. Section 5403 of the California Business and Professions Code prohibits outdoor advertising signs within the right of way of any highway. Existing advertising structures may remain on the properties managed by Property Management since those properties do not constitute a portion of the right of way. Rental of existing outdoor advertising signs shall be handled like any other new rental account. Property Management shall receive the MOS and the R/W Contract for the sign interest on the acquired parcel.

11.14.02.00 Prohibition Against New Signs

New outdoor advertising signs shall not be permitted on state-owned properties under any circumstances, regardless of whether the properties are considered excess or are being held for future highway use.

11.14.03.00 Sign Site Rental Procedures and Rates

The R/W Contract will state whether the State is assuming the grantor's existing lease or if a new lease will be entered into. The Agent shall ensure the sign is compliant and permitted by Caltrans Traffic Operations – Outdoor Advertising office. All sign site rentals shall be prorated as of the day following the date the deed to the state is recorded or the day following the date the state secures legal possession, whichever occurs first. The R/W Contract shall also provide that the sign company prorates rental payments to both the state and to the state's grantor, if State is assuming grantor's existing lease. Should the sign be located partially within the right of way and partially on the remainder, and being allowed to remain until a notice to remove or relocate is given, the state's rental agreement shall reflect the portion of prorated rent payable to the state.

The billboard site rental shall be based off of the annual net revenue generated by the advertising signs for advertising and any other use of the advertising sign structure. The rent shall be paid annually, in arrears, and shall be accompanied by a financial statement certified by the billboard operator's accountant.

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The annual rental rate charged shall be a rate thirty percent (30%) of the annual net income generated by the advertising sign, which is consistent with industry standards for ground leases for billboard sites. The annual net revenue shall be the difference between the gross revenue that the tenant actually receives in a lease year and any commissions or fees that the tenant actually pays to a bona fide independent advertising agency. The amount of such a commission or fee shall not exceed sixteen and two-thirds percent (16 2/3%) of the revenue to which it relates.

In order to bill the correct amount, the Agent shall make the base rental rate in RWPM at $0.00. The Agent shall make a note that the tenancy is being billed annually in arrears. When the Agent receives the certified financial statement, the Agent shall bill the tenancy for the percentage of gross income specified in the Advertising Structure Agreement by submitting an Adjustment screen in RWPM.

11.14.04.00 Advertising Structure Agreement

The sign owner shall be required to sign an Advertising Structure Agreement, in duplicate. The agreement shall be executed on the state's behalf in accordance with Section 11.12.06.00. Please refer to the specific agreement template on the Property Management website (internal Caltrans link).

New advertising structure agreements shall not extend for more than five-year periods without prior DD or authorized delegate approval.

11.14.05.00 Sign Rent Delinquencies

Delinquencies that occur on sign rentals shall be treated the same as any other type of rental delinquency.

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11.15.00.00 - STATE AS LESSEE LEASES

11.15.01.00 General

Property Management may receive requests to rent or lease privately owned properties or facilities for state highway purposes. Properties or facilities may include, but not be limited to, real property, trailers, or portable buildings.

Streets and Highways Code Section 104, Subdivision (d), allows the Department to acquire, either in fee or in any lesser estate or interest, any real property including offices, shops, or storage yards, which it considers necessary for state highway purposes. Government Code, Section 11005, limits this authority by stating, "this section does not apply to the acquisition or hiring by the Department of Transportation of real property in fee or in any lesser estate or interest for highway purposes, **but does apply to the hiring by that department of office space in any office building**."

Should Property Management receive a request for office space located in an office building, the Agent should research the existing use in the office building. The Department's interpretation of Government Code 11005 is that if the predominate use of the office building, over 50%, is for office space then the Department cannot enter into a lease for the use of that space. If a requested building has a predominate use of office space, the request should be returned to the sender with a memorandum stating that Right of Way has no legal authority to enter into such leases and the request should be submitted to the Region/District Facilities personnel.

Any building that the Department leases office space within must adhere to the rule of having office space use being less than or equal to 50% of the building. When initially entering into a lease for office space within the building, do not include the Department's use of office space when calculating the existing percentage of office space use. Although, the Department's office space use will be incorporated into the percentage of the building's office space use at renewal.

The majority of requests for these types of facilities will come from Construction to be utilized by resident engineers and their staffs for field facilities.

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11.15.02.00 Procedures Upon Receiving Request

All requests for "state highway purpose" facilities shall be in writing and shall be signed by the Deputy District Director of the office requesting the facility. All requests shall be sent to the DDD-R/W at least 120 days prior to the required occupancy date.

Property Management's first responsibility, upon receipt of a written request for field facilities, is to verify that there are no State-owned properties that can be utilized for said purpose. State-owned property may include vacant land and/or properties with improvements. State-owned property includes all properties owned by the Department and any other State agency.

The final decision whether or not the requestor occupies state-owned facilities will be made by Property Management. If utilizing State-owned property is deemed appropriate, a Memorandum of Understanding, 11-EX-57, will need to be signed and acknowledged by the District Division. The District Division should notify Right of Way immediately when they no longer need to utilize the property. However, it is also Right of Way's responsibility to follow up with the Division annually to make sure they are still utilizing property. The project Expenditure Authorization (under which the property is being utilized) should not be closed out until the property has been returned to Right of Way. Region/District Property Management is still responsible to inspect the property annually.

If no suitable state-owned property is available, Property Management will canvass privately owned properties and/or facilities for acceptable accommodations. When rental market data on available space in the desired area has been gathered and the requesting District Division accepts Property Management's recommendation, the Agent shall begin the negotiations for lease or rental of the selected property.

11.15.03.00 Procedural Guidelines

Only Right of Way Staff shall negotiate with the owners for the lease of field facilities, provided they are for state highway purposes.

Only field employees, e.g., Construction and Surveys, assigned to the specific project will occupy the space.

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When the District enters into a rental agreement or lease for field facilities, the following guidelines must be adhered to:

- Americans with Disabilities Act
- State Fire Marshal Approval of Plans and Inspections
- Seismic Performance Requirements
- State Administrative Manual Standards for State-Occupied Space
- Facility Plans and/or Drawings
- Energy Conservation
- Hazardous Materials Certification

11.15.03.01 Americans with Disabilities

The Americans with Disabilities Act (ADA) guarantees equal opportunity for individuals with disabilities in public and private sector services and employment. Title II of ADA specifies that a public agency may not, directly or through contractual arrangements, make selections, in determining the location of facilities, that have the effect of excluding or discriminating against persons with disabilities.

Department policy is that all facilities that are occupied by State employees, whether the facility is owned, rented or leased by the State, shall be in compliance with all ADA requirements. This includes full access for disabled employees, consultants, contractor employees and the public. Field facilities shall be such, as no one will be denied the opportunity to perform work or do business at the facility. **There are no exemptions or exceptions to this policy.**

ADA standards generally include requirements pertaining to functioning of wheelchairs in relation to site grading, parking lots, walks, ramps, entrances width of doors, floors, toilet facilities, signs, and other miscellaneous requirements.

The Department has adopted the Department of General Services' *Accessibility Checklist for State-Leased Buildings and Facilities,* as the document for determining compliance with ADA. Agents are to utilize this Guide when determining if a facility is in compliance with ADA requirements.

Current regulations are found in the California Code of Regulations, Title 24, California Building Code, Volume 1 of Part 2, Chapter 11B.

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11.15.03.02 State Fire Marshal Approval of Plans and Inspections

Health and Safety Code, Section 13108, specifies that the State Fire Marshal (SFM) prepare and adopt building standards, not inconsistent with existing laws or ordinances, relating to fire protection in the design and construction of the means of egress and the adequacy of exits from, and the installation and maintenance of fire alarm and fire extinguishment equipment or systems in, any state institution or other state-owned building or in any state-occupied building and submit those building standards to the State Building Standards Commission for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code.

Right of Way's policy is that the SFM is required to review and approve plans, prior to the execution of any lease, when the Department of Transportation (the Department) is locating into an existing building and there **will be tenant improvements** prior to occupation. District Property Managers are responsible for ensuring that appropriate SFM review of plans and/or inspections are accomplished prior to execution of all leases and that such information is contained in Form RW 11-27, State Fire Marshal Checklist. All plan applications must be submitted through the GovMotus website for the SFM to review. Hardcopy plans must be submitted to the SFM at the following address: CAL FIRE, Office of the State Fire Marshal, Fire & Life Safety Division, 2251 Harvard Street, Suite 130, Sacramento, CA 95815. The plan review may take up to eight (8) weeks to be completed, so it is essential to get the plans uploaded into GovMotus as soon as possible. See Exhibit 11-EX-31, Memorandum from California State Fire Marshal to the Department, dated August 10, 2001, outlining the requirements for the submittal of plans to the SFM.

If tenant improvements or any type of construction are not necessary, SFM plan review is not required. However, when a plan review is not required, a field inspection will be performed by the SFM to review, among other items, the exiting systems and possible hazardous conditions.

Trailers or portable buildings, that are attached with wheels and will be used for less than 180 days, do not require the submittal of plans or an inspection. The Region/District must determine that applicable exiting requirements are met (for example, no padlocks or hasp-type fasteners are used on exit doors). Storage buildings or covered parking structures do not require a review or inspection by the SFM.

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Trailers or portable buildings that will be used for 180 days or more or do not have wheels attached are considered B Occupancies. These trailers and portable buildings will require an SFM plan review and a field inspection similar to other facilities.

11.15.03.03 Seismic Performance Requirements

Right of Way's policy is that all facilities considered for state lease must be evaluated for the ability to meet a reasonable level of seismic performance, prior to the execution of any lease.

In order to determine if a building has met a reasonable level of seismic performance, the agent must complete Form RW 11-29, Seismic Screening Checklist. If the Seismic Screening Checklist results in a score of 20 or above, a Certification of Structural Evaluation, Form RW 11-30, must be completed. An independent licensed structural engineer must complete the Certification. The prospective lessor will be responsible for hiring the independent licensed structural engineer, having the Certification of Structural Evaluation form completed, and paying for the structural evaluation at their sole cost and expense. (See Form RW 11-31, Letter to Landlord.)

11.15.03.04 Standards for State Space

Prior to initiating negotiations for field facilities, Right of Way must verify the number of State employees who are going to occupy the facility and their respective job categories. Once the number of occupants is verified, the standards for state space set forth in State Administrative Manual (SAM), Section 1321.14 (Exhibit 11-EX-42), must be adhered to.

Examples of space allocations are:

- Supervisors 96-125 sq ft
- Engineers 80-100 sq ft
- Clerical 40-75 sq ft

The allowances indicate net square feet and do not include space for circulation and special requirements outside the office/workstation space. These standards delineate the maximum space allowances and space types for each job category. These standards are general guidelines that can be modified as necessary to meet specific job requirements. Detailed documentation is required when allowance modifications are made.

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Right of Way should always avoid leasing more space than is necessary, but it should lease sufficient space to accommodate field staff, equipment, laboratory facilities, and meeting/conference rooms.

11.15.03.05 Facility Plans and/or Drawings

Facility site plans are required for all State as Lessee (SAL) leases. See Memorandum from California State Fire Marshal to the Department, dated August 10, 2001, 11-EX-31, for the specific requirements. The site plans must be attached to the lease and kept in the file.

11.15.03.06 Energy Conservation

Executive Order D-16-00 established a state sustainable building goal for all state buildings, including all leased property. The goal is "to site, design, deconstruct, construct, renovate, operate, and maintain state buildings that are models of energy, water, and materials efficiency; while providing healthy, productive and comfortable indoor environments and long-term benefits to Californians."

For specific guidelines, recommendations, and information, refer to Green Building Basics.

11.15.03.07 Hazardous Materials Certification

Asbestos material in buildings can either be friable or non-friable. Friable asbestos is defined as any material containing greater than 1% asbestos by weight that, when dry, can be crushed, pulverized or reduced to powder by hand pressure. Friable asbestos is typically found in pipe wrapping, insulation, or fireproofing.

Non-friable asbestos is defined as any material containing greater than 1% asbestos by weight that, when dry, cannot be crushed, pulverized, or reduced to powder by hand pressure. Non-friable asbestos is divided into two categories. Category 1 includes asbestos gaskets, gaskets, resilient flooring products (such as vinyl asbestos tiles) and asphalt roofing products. Category 2 are any materials that cannot be crushed with hand-strength that are not covered under Category 1.

Current state policy dictates that all buildings built before 1979 must be certified in writing to be free from hazards from Asbestos Containing Material (ACM). The certification must be provided by an Industrial Hygienist certified by the American Board of Industrial Hygiene (ABIH) or an

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Environmental Protection Agency (EPA) Asbestos Hazard Emergency Response Act (AHERA) Certified Inspector.

When referring to leased space in regard to asbestos, leased space includes common public areas, building maintenance and equipment areas, and plenums in the same heating, ventilating, and air conditioning zone and telephone closets.

Leased space with asbestos present may be considered. The lessor, however, must comply with the requirements stated above. The lease agreement must hold the lessor responsible for control of nonfriable ACM and ACM that has been enclosed or encapsulated, including an appropriate operations and maintenance program.
Current state policy dictates that all buildings built before 1979 must be certified as free of hazard from Lead Containing Materials (LCM). Paint chip samples, and samples of other suspect LCM's, must be collected by a California Department of Health Services (DHS) Lead Certified Project Designer for laboratory analysis to determine lead content. Please visit the Environmental Protection Agency's website for additional information.

If the building was constructed subsequent to 1979, a photocopy of the Occupancy Certificate issued by the city or county building department is all that is required prior to the execution of the lease.

These requirements are to be completed by the lessor prior to the lease execution by the State.

11.15.04.00 Lease Form

The renting or leasing of field facilities for the Department's use shall be accomplished as follows:

Permanent Buildings and Trailer Pads - The State as Lessee Lease Agreement template, shall be used. Please refer to the specific agreement template on the Property Management website (internal Caltrans link). Significant modifications shall be approved by Legal prior to the execution of said lease.

Relocatable Buildings or Trailers - The standard lease or rental agreement used by the relocatable building or trailer company may be used with additional clauses from the State as Lessee Lease Agreement template, when appropriate. The lease/rental agreement shall include provisions for initial setup, maintenance during the lease term, and removal at the end of the lease. If utilized, the company's lease should be reviewed by Legal prior to

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the execution of said lease. Additionally, the Modular Lease Agreement template can be utilized for these types of leases. (See 11-EX-50, Modular Lease Agreement).

A clear and complete description of the property should be included on the lease form under Description, including physical address, square footage, and type of facility (e.g., light industrial, strip mall, residential, etc.).

11.15.04.01 Lease Execution

The DD or authorized delegate is authorized to execute all SAL agreements. There will be two original copies of the lease executed by all parties. The recommendation for approval of the DDD of the requesting function shall be shown on the lease.

11.15.04.02 Lease Extension

If the building's use of office space, including the Department's use, is less than or equal to 50% at the end of the lease term, the Region/District may extend the term of the existing lease. The lease term shall not be extended past Milestone 600, Contract Acceptance, for the specific project.

If the Department's use of office space within the building results in the building having a total use of office space over 50% at the end of the lease term, then the Department may not extend the term of the lease; the requesting Division would need to contact the Department's Division of Building Operations in order to involve DGS in the leasing process.

11.15.04.03 Triple Net Leases

Triple net leases that require the State to pay for the lessor's expenses, in addition to base rent, for the leased property, such as taxes, insurance, utilities, maintenance, and debt service, shall be avoided. Prospective lessors should be advised to include such items in their proposed flat rental rate.

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11.15.05.00 Insurance

In obtaining a lease for field facilities, the Region/District may be faced with the lessor's demand that the State provide insurance coverage, either by paying a monthly fee to the lessor's insurance carrier or by purchasing its own policy. There are two types of insurance to be considered: (1) fire and hazard, and (2) liability.

The State is self-insured for all liability (including bodily injury and property damage) as well as any tort (such as fire and physical damage caused by one of our employees) affecting private property. The state's ability to insure itself is provided in Government Code, Section 11007.1-11007.8. If the owner would like written confirmation, contact Department of General Services (DGS), Office of Insurance and Risk Management, and request a letter of "Public Liability and Workers Compensation Insurance" on their letterhead. You can send an email request to the following email address, RiskManagement@dgs.ca.gov.

Although there is no need to furnish insurance policy coverage on SAL leases, there may be instances when a lessor will not accept our self-insurance status and will insist on coverage provided by an insurance policy. In those cases, the Department has the flexibility to obtain such policy coverage if it is the only way to secure the field facility. If purchase of an insurance policy is required, it may be prudent to renegotiate rental terms to account for the additional costs that will be borne by the Department.

DGS can obtain quotes for required fire and hazard coverage and secure a policy if requested. The cost of securing a policy is usually much less than paying the lessor's insurance carrier for the required coverage and may be available through a single policy. DGS' Office of Insurance and Risk Management has provided a form, Exhibit 11-EX-32, to assist in obtaining fire and hazard coverage. The form should be completed and sent to DGS for cost quotations and purchase of appropriate policy coverage.

11.15.06.00 Park and Ride Facility Leases

S&H Code, Section 147, authorizes the Department, more specifically, District 7, to enter into agreements and leases with private owners for use of existing parking facilities or to develop parking facilities for the Park and Ride program. Typical examples are shopping centers and church parking lots.

The District's Park and Ride Coordinator is responsible for the Program. Since *no rent is paid* for use of the facilities, the coordinator usually handles the

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entire transaction with a standard use agreement with no Right of Way involvement.

Legal recommends that the Department use a lease rather than an agreement if the State agrees to provide improvements such as paving, fencing, and lighting. In this case, the coordinator will request Property Management to prepare a lease. (See Lease Agreement – Park and Ride Lot on the Property Management website) (internal Caltrans link). Since the State is the lessee, the lessor may require changes in the typical lease. Region's/District's Legal must approve any changes to the standard lease agreement template.

Since there is no rent, the lease is executed at the Region/District level. Note that the Region/District Ridesharing Coordinator's approval is required on the Archive copy. The procedures in the following table should be followed when acquiring Park and Ride leases for System Operations.

PARK & RIDE PROCEDURES

Acquisition Function

- Receive an appraisal of the fair market rent.
- Prepare a Lease Agreement. Property Management should review and approve the lease, and Region's/District's Legal must approve any changes in the standard lease agreement template.
- Pay the fair market rent for the entire lease term in advance in a lump sum by R/W Contract.
- Send a short-form MOS and Claim Schedule to HQ R/W, Acquisition Branch.
- Enter parcels in ROWMIS.

Property Management Function

- Review the lease prepared by Acquisition prior to presenting it to the lessor.
- Forward a copy of the executed lease to HQ R/W, Property Management Branch.

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11.15.07.00 Documentation for File

Right of Way's file should contain the following documentation:

- A copy of the written request for field facilities.
- Right of Way's determination on the suitability of the facilities for proposed use.
- For permanent buildings or trailer pads, include comparability of the rental rate to rates for similar facilities in the immediate area. List comparables, briefly discuss the investigation, and compare major characteristics to the subject property.
- For relocatable buildings or trailers, document informal bids and the reasons the successful bidder was chosen. Documentation shall consist of such items as rental rate, company name and location, and setup, maintenance, and removal costs. The successful bidder should be chosen based on a combination of factors such as low bid, past performance, services provided, and location of the company in relation to the site.
- Parking, services, and utilities available, if any.
- Statement that no suitable state-owned facilities are available.
- The following certification by the Agent securing the lease:

  It is hereby certified that this lease is in accordance with Government Code, Section 11005, and does not constitute hiring of office space in an office building within the meaning of the code.

The procedures in this section also apply to lease amendments and renewals.

11.15.08.00 Employee Time Charging

Time spent by Right of Way sourced personnel to provide services to other district functions must be properly coded to ensure the charges are billed correctly. Specifically, when Right of Way personnel are requested to secure leases for field facilities for interdivisional use, the appropriate division must supply appropriate charging information.

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11.16.00.00 - TRANSFERRING PROPERTIES TO CLEARANCE STATUS

11.16.01.00 Scheduling Rental Termination

After determining a practical and orderly clearance schedule, Property Management shall coordinate the following activities with the RAP Unit:

- Inform the RAP Branch Senior in writing within twenty-four hours of the first knowledge of a RAP eligible tenant vacating state-owned property.
- Provide a courtesy 90-Day Information Notice for inherited occupants who are eligible and noneligible RAP tenants, in accordance with provisions of Section 11.07.19.00 and Section 10.03.10.03. Coordinate requests for a 30-Day or 60-Day notice to vacate and 3-Day notices to ensure orderly relocation of eligible occupants.
- Ensure that all noneligible RAP tenants occupying premises leased under a master tenancy are informed they are not eligible for relocation assistance payments.
- Coordinate sale of excess land or building improvements with the RAP Branch Senior to ensure that occupants are provided with required RAP notices and receive any relocation payments due.

Property Management shall request the following services from the RAP Unit as necessary:

- Service of a Letter of Intent to Vacate on each tenant eligible for relocation assistance payments. Property Management will supply the names, addresses, and other information for the affected tenants and type of notice to be served (see Exhibit 11-EX-34, Service of a Letter of Intent to Vacate). This notice will be served in accordance with RAP instructions and the status of the tenant's RAP eligibility (see Exhibit 11-EX-35, Letter of Intent to Vacate-90). A copy of the Letter of Intent to Vacate that was served shall be returned to Property Management to confirm the effective date of the notice.

- Service of a Notice to Vacate on the above tenants. A copy of the notice showing the date service was made shall be returned to Property Management as verification of service and notification of the effective date of termination (see Exhibit 11-EX-44, Notice of Termination of Tenancy and Notice to Quit).

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Depending on Region/District policy, either Property Management personnel or RAP personnel may serve the Letter of Intent to Vacate and the Notice to Vacate when tenants ineligible for relocation assistance payments are involved.

In most cases where State-owned property is voluntarily vacated and the length of time remaining before regular scheduled clearance is too short to provide a reasonable period for re-renting, the parcel shall be immediately transferred to clearance status for disposal.

11.16.02.00 Transferring Properties to Clearance Status

The Agent is responsible for thoroughly inspecting and securing the State's property as soon as it becomes vacant and shall make prior arrangements to obtain keys from the vacating tenant. If the vacant property shall not be re-rented, the Agent shall follow the procedures below after receiving the keys:

- Inspect the property, noting possible hazards, vandalism, trash, or personal property left on the premises.
- If personal property is found on the property, the Agent is directed to follow the statutory procedures that are set forth in California Code of Civil Procedure Section 1174 and Civil Code Sections 1980-1991. See Section 11.07.27.01 for further information on handling abandoned personal property. Should the Agent need further assistance in interpreting these provisions of California law, the Agent may consult with Region's/District's Legal for additional advice.
- Inventory all items purchased by the State and document the rental file.
- Determine whether or not the property should be boarded up to protect against vandalism and theft. If other properties in the area have had issues with vandalism, theft, and unlawful occupancy, the Agent should board up the property. Additionally, the Agent should post a no trespassing notice on the property and provide the local law enforcement with a trespass letter of consent providing permission to law enforcement to access the property to enforce trespassing laws.
- When necessary, submit a task order to the contracted vendor to have trash removed, improvements boarded up, or hazardous conditions abated.
- Arrange for termination or transfer of utility services into State's name. Notify Division of Accounting, Accounts Payable, Utility Section, of changes in utility billing as necessary.

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11.16.03.00 Property Management Senior Review

The Property Management shall review all improved rental properties that are transferred to clearance status and shall perform the following functions:

- Verify that entries made in RWPM are correct and complete.
- Check the parcel rental folder for accuracy of dates and type of activity from close of escrow to date of transfer to clearance status.
- Verify that improvement inventory documentation has been properly maintained and all State-owned items are accounted for.
- When fully satisfied that the improvements should be transferred to clearance status for disposition, affix initials or signature to the vacancy report to approve the transfer.
- Route the parcel rental folder to clerical staff to prepare the utility removal letter for the Agent's signature (see Exhibit 11-EX-36, Utility Removal Letter), ensuring that a copy is sent to Division of Accounting, Accounts Payable, Utility Section. After the utility removal letter has been prepared and mailed, place the parcel rental folder in a "Hold for Clearance" file.
- Route a copy of the vacancy report found in the parcel rental folder to Clearance staff to serve notice that certain improvements are now available for immediate clearance.

11.16.04.00 Advanced Transfers to Clearance Status

Occasionally, it is necessary to remove improvements prior to normal clearance scheduling because one or more of the following conditions exist:

- Retention of substandard improvements that cannot be economically rehabilitated would constitute a health or safety hazard.
- Improvements have been damaged to the point that it is no longer economically feasible to restore them to rentable standards.
- A local government agency has condemned the improvements.

In most cases, the above criteria are equally applicable to removal of improvements from rescinded routes or excess land.

A financial analysis prepared by a qualified person and approved by the DDD-R/W shall be attached to the improvement disposal report for disposal of any residential improvements. Comments and recommendations must

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indicate that the project is environmentally cleared or contain a documented statement about the emergency nature of the removal.

11.16.05.00 Direct Sale Pursuant to S&H Code Section 118.1

In accordance with S&H Code Section 118.1, under certain conditions commercial property made excess because it is on a rescinded route or downscoped project must be offered for sale first to the State's tenant at fair market value. The tenant must be leasing or renting the real property from the Department, the tenant must have used and occupied the real property, and the tenant must have made improvements of a value in excess of $5,000.00 on the real property during that time at the tenant's own expense consistent with the terms of the rental or lease agreement with the Department. Upon Excess Land's request, Property Management will identify all eligible properties. For further details, see Excess Land Chapter 16.

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11.17.00.00 - HAZARDOUS WASTE AND HAZARDOUS MATERIALS

11.17.01.00 Policy

The Department's policy is to consider fully all aspects of potential hazardous waste sites ensuring that adequate protection is afforded to employees, workers, and the community prior to, during, and after construction. Property Management must be aware of all potential and confirmed sites and any use of hazardous materials on future rights of way. The District must monitor these sites, terminate leases where required, and consider potential clearance of wastes when planning for right of way certification dates.

11.17.02.00 Definition

A material is hazardous if it poses a threat to human health or the environment. Hazardous materials may be any of a large group of the products listed below. (A partial list is contained in the California Code of Regulations, Title 22, Section 66261.126, Appendix X.)

- Ignitable
- Reactive (subject to spontaneous explosion or flammability)
- Corrosive
- Toxic
- Radioactive

The term "hazardous waste" applies to the storage, deposit, contamination, etc., of a hazardous material that has escaped or been discarded or abandoned and that may be defined in general terms as being any of the above.

11.17.03.00 General

The Department strives to identify, investigate, and cleanup sites at the earliest opportunity during the project development process. Occasionally, these activities may not be accomplished prior to Property Management involvement. Under a *normal* project development sequence, the entire process is completed in accordance with governmental hazardous waste requirements. The Division of Environmental Analysis (DEA) in coordination with Project Management is the lead unit for the identification, investigation,

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and cleanup process. Right of Way assists by obtaining necessary rights to enter for testing purposes and by negotiating cleanup agreements prior to acquisition.

On projects where the normal sequence cannot be followed, Right of Way requests DEA to review and identify potential hazardous waste sites and initiates the cleanup process for all **MINOR** hazardous waste problems not requiring a Hazardous Waste Management Plan, such as underground tanks or hazardous material businesses.

All investigative work performed by the Agent should be done in consultation with the District's Hazardous Waste Coordinator (HWC) of the Department's Hazardous Waste Management Branch of DEA. If at any time a formal Hazardous Waste Management Plan is required, the District Hazardous Waste Management Branch of DEA shall assume the lead role.

11.17.04.00 Inventory

Property Management must inventory all properties under its control that have been identified as potential hazardous waste sites, including those with underground tanks. The District HWC should maintain a tracking system for all District sites. Until the properties are cleared and the projects are certified for construction, Property Management must monitor all acquired properties, specifically any that have a potential for becoming hazardous waste sites.

11.17.05.00 Underground Storage Tanks

An underground storage tank is any one or combination of tanks, including pipes connected thereto, that is used for the storage of hazardous substances and that is substantially or totally beneath the surface of the ground. A tank is considered underground if at least ten percent of the volume of the tank is below the ground surface.

The State Underground Storage Tank Law is contained in Chapter 6.7, Division 20, Health and Safety Code, and Underground Tank Regulations, Chapter 16, Division 3, Title 23, California Code of Regulations. These sections include Health and Safety Code Sections 25286, 25294, 25295, 25298 and 25299.

All underground storage tanks must be covered by permits issued by the local regulatory agency, and the owner of the property is responsible for obtaining the permit. Examples of such permits are "permit to store a hazardous material" and "permit to operate a hazardous material storage tank." The

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status of underground storage tanks is also tracked at the State level. Underground Storage Tanks are registered in a State Water Resources Control Board managed database known as GeoTracker. GeoTracker monitors operational underground storage tanks and provides information related to leaking and removed underground storage tanks.

Underground storage tanks on State property should be removed as soon as possible. All inactive tanks shall be removed immediately. Active tanks shall be removed as soon as the property can be vacated. An alternative, in some cases, is to obtain a right to enter and remove the tanks and then consider continuance of the lease.

The DD or authorized delegate must approve any exceptions to the above as current regulations for monitoring underground storage tanks require a substantial expenditure by the Department to comply with installation and operation of leak detection equipment. Only new tanks, or those constructed since January 1984 and that meet all current requirements and regulations, will be considered for possible retention or installation. The lessee is responsible for permits and all costs for monitoring the system. If a new tank is allowed, a provision for removal and cleanup by lessee at expiration of lease must be included.

11.17.06.00 Tank Removal Procedures

The HWC will obtain the name of the local agency official responsible for underground storage tanks. Since the contractor must obtain the required permits for operating or closure of all existing tanks from the local permitting agency, this information must be included in the removal contract. Also, any contract for tank removal **MUST** include provisions for barricades and cleanup.

Prior to any tank removal, Right of Way must initiate an agreement with the tenant in occupancy and the owner of the property. While Project Development and the project manager have basic responsibility for removal of all tanks, those which have no or only minor leakage can be removed under contracts initiated by Right of Way. These contracts must be approved by the HWC and must contain all the clauses approved by the Division of Procurement and Contracts. Nonleaking tanks may have a minor deposit of product under the tank that can be cleaned up during a tank removal contract. If the leak is major, a Hazardous Waste Management Plan may be required and will be prepared under the direction of Project Development.

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11.17.07.00 Potential Surface Contamination

Many properties have the potential for hazardous waste contamination. Examples include service stations and bulk plants, paint companies, machine shops, plating companies, light and heavy industrial manufacturing, dry cleaning establishments, fertilizer companies, junkyards, auto wrecking yards, and muffler shops. Right of Way must notify the HWC in writing when a property may contain either hazardous waste or asbestos containing materials (ACM). Right of Way should request from the HWC:

- An opinion on whether or not hazardous materials are being used or are present on the site.
- An assessment of the risk involved if hazardous materials are present or are being used by the tenant, given the tenant's activities, equipment, handling and storage methods.
- A recommendation as to what storm water best management practices (BMPs) should be implemented to eliminate potential pollutants in storm water discharges from the property.
- A recommendation regarding what periodic inspections, if any, are necessary to ensure that use of any hazardous material does not result in a future hazardous waste problem.

The HWC will inspect each site and determine that:

- No testing is necessary and will make a statement that no hazardous waste is present; or
- Further investigation is necessary and proceed to hire a consultant to determine if hazardous waste actually exists; or
- There is no hazardous waste present, but hazardous materials are present and being used. The HWC will include recommendation on what future inspections, BMPs, and/or other controls, if any, may be required.

If no hazardous waste or material exists, the Region/District should continue tenancy with an amendment of the lease to include the hazardous waste clause.

If hazardous waste exists and the lessee's operation is causing the waste, the Region/District should notify the lessee to cease such action and terminate the lease. The Region/District should initiate further steps to determine who is responsible for cleanup and when cleanup will take place. Cooperation with the HWC, Legal, and Project Development may be required. The DD or

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authorized delegate must approve any new lease or lease renewal for a parcel confirmed to contain any hazardous waste.

If no hazardous waste exists but hazardous materials are being used, the risk of allowing the operation to continue with possible cleanup costs and project delays must be weighed against net rent, community impact, and any positive factors. Justification for continuing the lease must be documented and retained in the file.

Where there is a potential for hazardous waste and project certification date is within a three-year period, Right of Way must request the HWC to give a priority review so that any site confirmed to have a hazardous waste will not cause a delay in clearance and subsequent R/W Certification.

Removal of improvements that contain asbestos containing material (e.g., siding and insulation) and lead based paint should be coordinated with the HWC. See R/W Manual Section 12.03.03.00 for additional information.

11.17.08.00 Lease Clause for Nonresidential Properties and Information for Tenants

The standard Lease Agreement template contains a clause covering hazardous materials. This clause shall be included in all existing and future nonresidential leases and rental agreements except signboard sites and oil and gas leases, and where in the Region's/District's judgment of hazardous waste problems are extremely unlikely. This exception may include vacant land uses, agricultural uses where chemicals such as fertilizers, herbicides and insecticides are used but not stored or mixed on the property, grazing uses, recreational uses such as parks and ball fields, and some commercial uses. The Districts should take a conservative approach to these exceptions and should watch for any changes in use that could involve hazardous materials.

The hazardous waste clause should be included in revising all nonresidential leases, without waiting for renewal, for any accounts that are not excluded; i.e., properties where hazardous waste problems are extremely unlikely.

A list of hazardous materials from the California Code of Regulations, Title 22, Section 66261.126, Appendix X, is extensive and useful, but it should not be considered all inclusive. Agents may obtain a copy of this list and should refer all questions relating to classification of substances to the District HWC.

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Additional information contained in California Health and Safety Code Sections 25286, 25294, 25295, 25298, and 25299 may also be obtained from the HWC. Lessees of properties with underground storage tanks shall be provided with a copy of these sections.

Use of the hazardous waste clause and the lessee's listing of hazardous materials asked to be permitted should give the Property Manager notice of potential problems. Before any lease is entered into with a new lessee, however, the Property Manager must inquire into the specific type of use proposed and consider the risk, with advice as needed.

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11.18.00.00 - DEPARTMENT-OWNED EMPLOYEE HOUSING

11.18.01.00 Definition

California Code of Regulations (CCR), Title 2, Division 1, Chapter 3, Subchapter 1, Article 3, Section 599.644 describes state-owned housing as houses, apartments, dormitories, mobile homes, trailers, mobile home pads and trailer spaces. *Employee housing* refers to those facilities that are located at maintenance stations and are owned and maintained by the California Department of Transportation (Department).

11.18.02.00 Policy

Employee housing is considered at maintenance stations only when it is necessary for the direct support of the station. Occupancy of employee housing is limited to permanent employees, assigned to the station where the housing is located, and their immediate family.

See Deputy Directive DD-18-R1, Employee-Occupied Caltrans-Owned Housing for complete policy and procedures.

11.18.03.00 Responsibilities

DDs and Program Managers for HQ R/W and Maintenance share responsibility for employee housing in accordance with DD-18-R1.

11.18.04.00 Rental Rates

It is the policy to set rental rates and increase annual rental rates of Department-owned employee housing units to Fair Market Value (FMV) consistent with the Memorandum of Understanding between the State and its employee unions. The Department's employee housing units are occupied by the maintenance workers who work at remotely located maintenance stations. The Memorandum of Understanding that should be referred to for policies related to employee housing is Bargaining Unit 12.
Any newly created tenancy shall be charged a FMV rental rate. Any employee-tenant who is currently paying less than FMV rent will have the difference between the FMV rent and their actual rent included in their gross income. This difference in rent is reportable taxable income, which is

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reported to the IRS, as a taxable fringe benefit. This reporting is completed by HQ on a monthly basis.

11.18.04.01 Rental Rate Determinations

Rental rates must be based on a rent determination appraisal, as performed by the appraisal department. All employee housing rent determinations must be reviewed by HQ Appraisal Division. A rent survey has to be completed annually. A full rent determination appraisal must be completed every 5th year.

11.18.04.02 Rental Rate Increases

Prior to increasing the rent on an employee housing unit, certain conditions must be met. The conditions include the following:

- A FMV rent determination appraisal must be completed.
- The FMV rent determination appraisal must be submitted to the California Department of Human Resources (CalHR).
- The employee housing unit must be deemed habitable meeting the general requirements specified in California Civil Code Section 1941-1941.1. The Agent shall inspect the employee housing unit and complete CalHR Form 165, State-Owned Housing Habitability Inspector Review. CalHR Form 165 must be returned to HQ in order to forward the form to CalHR for their approval.
- CalHR must approve the proposed rental rate increase.

For any employee-tenant paying less than FMV, the Department shall increase the rent up to 25% each year up to FMV in accordance with Section 2301 of the CalHR Human Resources Manual and Article 20.7 of the Memorandum of Understanding with Bargaining Unit 12,

Once CalHR approves the rental rate increase, the Agent must provide the employee-tenant with written notice of the increase, either by delivering a copy to the employee-tenant personally or by serving a copy by mail. If the rental increase is 10% or less, the employee-tenant must be provided a 30-day notice. If the rent increase is over 10%, the employee-tenant must be provided a 90-day notice in accordance with Section 827 of the Civil Code.

The Agent must then notify Maintenance of the new rental rate and the effective date of the increase for completion and submission of Form 650 to the State Controller's Office in accordance with 11.18.07.00.

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11.18.05.00 Utilities

It is the Department's policy ***not to*** furnish utilities for employee housing. Exceptions to this policy may be considered on an individual basis and require approval of the Maintenance Program Manager.

All employee housing units should be equipped with separate tanks and/or meters for fuel and electricity. If the units are not equipped with separate tanks and/or meters, the Agent should make a recommendation to Maintenance to arrange for separate tanking/metering for each employee housing unit.

At locations where the Department is supplying utilities and the Department can substantiate the costs attributable to the specific employee housing unit, such as the costs to fill a propane tank for an individual unit, the Department shall impose such charges consistent with its costs. If separate meters have been installed, the Maintenance Supervisor will read the meters monthly and Accounting will bill the employee-tenants.

If an employee housing unit is on a common utility system, a flat monthly rate shall be charged to the employee in accordance with the California Code of Regulations, Title 2, Division 1, Chapter 3, Subchapter 1, Article 3, Section 599.642 as shown below:

Location		Water	Fuel	Electricity
Class 1	Housekeeping	$3.50	$9.00	$9.00
	Non-Housekeeping	$1.75	$4.50	$4.50
Class 2	Housekeeping	$5.50	$15.00	$15.00
	Non-Housekeeping	$2.75	$7.50	$7.50

Housekeeping *- units of 501 square feet or more that contain regular cooking facilities.*

Non-Housekeeping *- units that do not contain regular cooking facilities and all units of 500 square feet or less.*

Class 1 *- within 25 miles of and not more than 40 minutes travel time, one way, from a community with a year-round population of 2,500 or more.*

Class 2 *- all other areas.*

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The rental agreement for each unit shall specify utilities to be paid directly by the employee-tenant to commercial suppliers. If the maintenance station supplies utilities, the rental agreement shall specify the method of reimbursement by the employee-tenant.

11.18.05.01 Utility Expenses Increase

The District cannot raise utility expenses on a tenant until after:

1) The FMV has been determined for utility expenses.
2) The appraisal has been submitted to CalHR.
3) A habitability checkoff list has been completed after all habitability repairs have been made and inspected and submitted to CalHR.
4) CalHR has approved the FMV for utility expenses.

Per Article 20.7 of the Memorandum of Understanding with Bargaining Unit 12, utility charges for State-owned employee housing may be increased by the State as follows:

- Where employees are currently paying utility rates to the State, the State may raise such rates up to 8 percent of the rates effective as of July 1, 1999. CalHR has clarified this statement and has advised that the utilities may be raised up to 8 percent annually.
- Where no utilities are being charged, the State may impose such charges consistent with its costs.
- Where utilities are individually metered to State-owned housing units, the employee shall assume all responsibility for payment of such utility rates, and any increases imposed by the utility company.

Prior to increasing the utility rate on an employee housing unit, certain conditions must be met. The conditions include the following:

- The employee housing unit must be deemed habitable meeting the general requirements specified in California Civil Code Section 1941-1941.1. The Agent shall inspect the employee housing unit and complete CalHR Form 165, State-Owned Housing Habitability Inspector Review. CalHR Form 165 must be returned to HQ in order to forward the form to CalHR for their approval.
- CalHR must approve the proposed rental rate increase.

Once CalHR approves the utility rate increase, the Agent must provide the employee-tenant with a 30-day written notice of the increase, either by

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delivering a copy to the employee-tenant personally or by serving a copy by mail.
The Agent must then notify Maintenance of the new utility rate for completion and submission of Form 650 to the State Controller's Office in accordance with 11.18.07.00.

Note: Rental increase and utility increases can be appraised together in the same document. The unified document then can be reviewed, approved, and adjusted accordingly together.

11.18.06.00 Employee Housing Rental Agreement

Use of the Employee Housing Rental Agreement template is mandatory for occupancy of employee housing units. Rental agreements are not required for dormitory occupants. Please refer to the specific agreement template on the Property Management website (internal Caltrans link).

11.18.07.00 Dormitory Accommodations

California Code of Regulations, Title 2, Division 1 Chapter 3, Subchapter 1, Article 3, Section 599.643 governs dormitory accommodations for employees.

A dormitory is a housing unit which meets one of the following:

- Occupied by two or more unrelated employees.
- Which must be vacated monthly to accommodate a relief employee.
- Unsuitable for housing dependents of employees.
- Which provides sleeping accommodations for more than one employee in a single room.

The monthly rate for each available accommodation shall be:

- $18.00 per month in a Class 1 location.
- $12.00 per month in a Class 2 location.

If an employee occupies a dormitory accommodation for less than a complete pay period, then the employee shall pay $0.75 per day up to a maximum of $18.00 per month in a Class 1 location or $0.50 per day up to a maximum of $12.00 per month in a Class 2 location.

If an employee occupies a dormitory accommodation for any day, or any portion thereof, because the occupancy is a requirement of the job, then the employee shall not be required to pay any rent for that day. These

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circumstances will occur when it is necessary for the employee to be available and/or to reduce response time to maintain public safety.

11.18.08.00 Payment of Rent

Rent is payable monthly in arrears by payroll deduction in accordance with DPA rules. District Maintenance initiates Miscellaneous Deduction Change Report (Controller's Form 650) to establish a payroll deduction for a new account or to change a rental. The original is sent to the State Controller's Office with copies to Accounting, Personnel, and Right of Way. Deduction Code 011 is used for rent, and a monthly report for Deduction Code 011 is available by District from the State Controller's Office. Accounting and District Right of Way should use this report to monitor rental rates and income for employee housing.

Accounting is responsible for maintaining a list with employee's name, amount deducted for rent, and amount for utilities for each employee housing unit.

District Maintenance is responsible for notifying Accounting, Personnel, and Right of Way if there is a new occupant or an employee is leaving.

11.18.09.00 Possessory Interest Tax

Since there is a private, beneficial use of publicly-owned, non-taxable real property to the employee-tenant, a taxable possessory interest exists. The employee-tenant is responsible for any possessory interest tax that the County may impose and is responsible to the County Tax Assessor. The lien holder for the possessory interest is the employee-tenant renting the employee housing unit on January1. If the employee-tenant vacates the employee-housing unit after January 1, the employee-tenant is still responsible for the preceding 12 months.

Per the California Code of Regulations, Title 2, Division 1, Chapter 3, Subchapter 1, Article 3. Section 599.648, since employees occupying state-owned housing are not reimbursed for possessory interest taxes paid by them, the Department should consider the effect of such taxes in its periodic reviews and adjustments of rental rates with the objective of maintaining equality between state employees renting state-owned housing and individuals renting privately-owned housing. The rental rates are determined by a fair market rental rate from private rentals; private landlords customarily incorporate taxes as a component of the market rate; if the possessory interest taxes are not accounted for in the rental determinations, the

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employees are essentially being overcharged for rent since they pay the possessory interest taxes themselves.

11.18.10.00 Maintenance and Repairs

Employee housing units shall be maintained in a safe and habitable condition. The maintenance standards for Department's rental properties contained in this chapter shall apply to employee housing and procedures for inspections and maintenance contracting shall be followed. The Agent is responsible for conducting all necessary inspections (move-in, move-out, and an inspection once-every 12 months) and advising Maintenance of the deficiencies that must be remediated.

Because of the distance of some employee housing units from urban areas, it may be difficult to have repairs done by contractors. In these cases, maintenance station personnel may be able to purchase materials and perform the repair work. Rental offsets shall not be used for employee housing. Costs of work done in this manner shall be documented in the rental file.

It is the responsibility of the Division of Maintenance to obtain, authorize, and allocate funds necessary for the maintenance and repair of employee housing facilities. Maintenance is also responsible for remediating the deficiencies of employee housing units by purchasing materials and performing the repair work or hiring contractors to perform the repair work by the means of a service contract or use of a Cal-Card. It is at the District's discretion to allow the Agent to assist Maintenance in requesting and managing service contracts for repair work. The funds expended for such repair work shall not come out of Right of Way Property Management's 058 funds. Additionally, all hours spent by the Agent for all work involved to inspect and assist in repairs of employee housing shall be charged to a Maintenance project identification number. Right of Way shall contact Maintenance to obtain the correct project identification number and arrange for the Agent to be added to the Project Resource and Schedule Management (PRSM) database to allow for charging.

11.18.11.00 Carpeting for Employee Housing

The purchase of rugs or carpeting for employee housing shall be in accordance with DGS' Environmentally Preferable Purchasing Best Practices Manual. All carpet is required to be independently certified to meet the criteria of the California Gold Sustainable Carpet Standard. This applies to all carpet purchased unless it is for patching and repair of carpet within an

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existing field of carpet. In addition, purchase must be in compliance with existing procurement statutes, regulations, policies, and procedures.

11.18.12.00 Surplus Property

When employee housing is no longer required for maintenance station staff due to a change in the station's mission or availability of private housing, the housing shall be eliminated by transferring the property to District Right of Way for disposal. These houses should be vacant when they are transferred to Right of Way. If occupied, however, Maintenance shall request Right of Way to terminate tenancies. Additionally, if a housing unit is vacant for more than one year, it will be presumed that it is not needed and will be subject to disposal, unless an exception is requested and granted.

11.18.13.00 Reporting Requirements

California Code of Regulations, Title 2, Division 1, Chapter 3, Subchapter 1, Article 3, Sections 599.640-648 requires Departments with state-owned properties to 1) establish processes and procedures to annually assess the FMV of their properties and 2) report the employees' taxable income associated with employer-provided housing to the State Controller's Office.

California Code of Regulations, Title 2, Division 1, Chapter 3, Subchapter 1, Article 3, Section 599.644(c) of Title 2 states, "At the direction of the Department, and pursuant to its delegation of such statutory authority, the appointing powers shall review the monthly rental and utility rates every year and report the rates to the Department." The Department referenced to in the California Code of Regulations is CalHR. The Department of Transportation has the responsibility to submit the following information to CalHR annually:

- County Code
- Street Address
- Current Rents Name
- Occupancy Date
- Fair Market Value
- Percent of Increase from Last Survey
- If Utilities Are Included in Rent
- Property Name
- Residence Type and Residence Number
- Renters Classification
- Monthly Rent
- Date of Fair Market Value Appraisal
- Monthly Utility Rate

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HQ RWLS shall maintain a current list of all information and report to CalHR on an ongoing basis.

11.18.14.00 Storm Water Requirements

Because employee housing is located at maintenance stations, it is covered by the Department's Statewide Storm Water Permit and Storm Water Management Plan (SWMP). Storm water guidance discussed elsewhere in this chapter is applicable to employee housing.

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11.19.00.00 – STATUTE AUTHORIZED USE – HOMELESS SUPPORT

11.19.01.00 State Statutes

Occasionally the State Legislature will pass legislation authorizing certain uses, either at or below fair market rent, for Department-owned property. The State Legislature, in response to the housing crisis in California, has passed numerous pieces of legislation authorizing the use of Department-owned property for the purpose of conducting a temporary emergency shelters or feeding programs. Although the use is authorized, the Department is not mandated to allow such uses on Department-owned property. Regions/Districts must become familiar with the different statutes since some statutes specifically exclude the use of properties deemed as excess. Currently, the various statutes authorizing the use of Department-owned property for conducting a temporary emergency shelter or feeding program includes the following:

- Streets and Highways Code 104.16: San Francisco
- Streets and Highways Code 104.17: Stockton and Santa Barbara
- Streets and Highways Code 104.18: San Diego
- Streets and Highways Code 104.21: Stockton
- Streets and Highways Code 104.24: Oakland
- Streets and Highways Code 104.25: San Diego
- Streets and Highways Code 104.26: Los Angeles and San Jose
- Streets and Highways Code 104.30: Statewide

Streets and Highways Code 104.30 (SHC 104.30) was added by the passage of Senate Bill 211 in the 2019-2020 Legislative Session. SHC 104.30 makes available the Department's airspace or real property for the purpose of conducting a temporary emergency shelter or feeding program. This statute essentially makes available any real property owned by the Department as a potential temporary emergency shelter or feeding program site. Please note that SHC 104.30 remains in effect until January 1, 2029 and is repealed as of that date.

If any Local Public Agency, who implements their own transportation projects, is subject to similar legislation authorizing similar uses on property owned by the Local Public Agency, the Local Public Agency should follow guidelines outlined in this section of the Manual.

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11.19.02.00 Site Identification

Due to the complexities and potential environmental impacts of developing a temporary emergency shelter or feeding program, site suitability and allowable uses of the site shall be determined through a Region/District "Round Robin" review process, which shall include, at a minimum, the Region's/District's Legislative Affairs Division and Division of Environmental Analysis. On sites that are being held for future right of way, the Division of Transportation Planning must be included in the "Round Robin" review process.

Any improvements constructed or modified on the site pursuant to SHC 104.30 do not require approval from the State Fire Marshal since the local authority in which the property is located has jurisdiction over the enforcement of building code standards. Additionally, subdivision (d) of SHC authorizes the local authority that has jurisdiction over the enforcement of building code standards to enforce the building codes for temporary emergency shelters or feeding programs for any lease executed for the purpose of a temporary emergency shelter or feeding program by statute. Subdivision (d) of SHC 104.30 essentially removes the State Fire Marshal from enforcing building standards, issuing building permits, and issuing certificates of occupancy from January 1, 2020, until January 1, 2029.

Considerations of a suitable site must include access, geography, seismic activity, traffic patterns, etc. Local agencies must be encouraged to engage the community for possible solutions, needs, and wants.

When developing a site, the Department shall approve any improvements or construction on the site; said improvements or construction shall be erected or modified in compliance with the minimum standards adopted pursuant to Chapter 7.8 (commencing with Section 8698) of Division 1 of Title 2 of the Government Code, if the local agency has such authority, or the minimum standards provided in the 2019 California Building Code Appendix O, the 2019 California Residential Code Appendix X, and any future standards adopted by the Department of Housing and Community Development related to emergency housing or emergency housing facilities.

Pursuant to Chapter 7.8 (commencing with Section 8698) of Division 1 of Title 2 of the Government Code, some political subdivisions have the authority to adopt by ordinance reasonable local standards and procedures for the design, site development, and operation of shelters and the structures and facilities therein in lieu of compliance with local building approval procedures or state housing, health, habitability, planning and zoning, or safety standards,

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procedures, and law. In order to do so, there must be a declaration of a shelter crisis by the political subdivision and the political subdivision's draft ordinance must be approved by the Department of Housing and Community Development to ensure it addresses minimum health and safety standards.

11.19.03.00 Rental Rates

The rental rates for the use of Department-owned property is specified in the various statutes. At this time, all of the aforementioned Streets and Highways Codes called out in Section 11.19.01.00 have a specified rental rate of $1.00 per month.

In addition to the rental rates, the various statutes also specify the administrative fees that the Department may charge local agencies to cover the support costs expended by the Department in developing and administering the lease.

The administrative fee specified in the various statutes range from $500.00 per year to $5,000.00 per year, unless the Department determines that a higher administrative fee is necessary to cover the Department's costs. Of all the Streets and Highways Codes called out in Section 11.19.01.00, only SHC 104.30 caps the annual administrative fee, irrespective of the Department's determination of the administrative fee necessary to cover the Department's costs, not to exceed $15,000.00. At this time, the Department's policy is to charge the local agency $500.00 for administrative fees, unless the lease is allowed pursuant to SHC 104.30 in which case the administrative fee will be $5,000.00, while tracking time with a special designation in order to more accurately estimate what the actual support costs are for these leases. This information may be considered for future administrative fees charged for lease developments.

In order to closely monitor and track the Department's actual expenses associated with developing and maintaining these types of leases, all work associated with these leases must be charged to a specific "Special Designation" as instructed below.

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Requesting a Special Designation: Complete form FA-1036 (REV 06/2018) and email the completed form. Reporting Codes must be assigned for **each** separate homeless lease account. For the following three sections, please complete the form in the following manner:

- **Reporting (10 characters maximum):** The reporting code should be constructed as "HOMEL", followed by the two-digit District number, followed by a unique 3-digit number the District assigns (it is imperative that this number does not conflict with any Airspace tenancy numbers). For example – "HOMEL04001" would be a potential reporting code for a District 4 homeless lease.
- **Short name (15 characters maximum):** Short name should be the complete tenancy number.
- **Reporting Code Name (60 characters maximum):** This name should be "Homeless Lease", including the space between the two words, and the full tenancy number including the pertinent dashes. For example – "HOMELESS LEASE 04-123456-0001-01" would be a potential reporting code for a District 4 homeless lease.

11.19.04.00 FHWA Approval

If the site identified was acquired with title 23, United States Code, funding, FHWA approval must be obtained for leasing the site at less than fair market value. As discussed in Manual Section 11.01.10.00, the Region/District shall submit a written Public Interest Finding (PIF) to HQ R/W for submission to FHWA for the approval of the statutory less than fair market rental rate.

11.19.05.00 Rental Agreement

Please refer to the specific lease template on the Property Management website (internal Caltrans link). If any Local Public Agency, who implements their own transportation projects and may be subject to be a lessor for any such homeless support use, requires access to the lease template on the Division of Right of Way and Land Surveys, Real Property Services intranet website may contact an HQ R/W liaison for further assistance. The HQ R/W liaison contact information may be found on the Property Management website (internal Caltrans link). The lease template will, for consistency, closely mirror the Airspace Right of Way Use Agreement templates specifically designed homeless uses. Any changes to the templates, excluding information pertaining to site specific developments, must be approved by HQ and the District's legal office. Please send all proposed changes to your H/Q liaison.

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11.19.06.00 Term

Temporary homeless support leases shall be for a maximum of three years, unless the lease is pursuant to a statute that specifically dictates the term of the lease agreement. Additionally, the Region/District shall not execute any leases after the sunset date specified in the specific statute. Furthermore, the Region/District shall not allow the term of any lease to extend beyond the sunset date specified in the specific statute. The intent of such statutes authorizing the use of Department-owned properties for homeless support sites is not to permanently shelter people but to erect these facilities as an emergency measure. Should a local agency wish to extend a lease term beyond three years, or renew the lease after three years, the Region/District shall obtain approval by HQ R/W. Please send all requests for extended terms or renewals to your HQ R/W liaison.

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11.20.00.00 – DELEGATIONS

11.20.01.00 Delegations of Authority

As referenced in Section 2.05.01.00, the delegation matrix for Property Management is noted below. The delegation matrix reflects the associated policy and RW Manual reference for each delegated item. The matrix also distinguishes whether an item is delegated to the District or Headquarters (HQ) level, along with the lowest level of sub-delegation authorized.

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
	11.01.04.00	No Re-Rent Policy on Residential Units: • Exception to Establishment of a No Re-Rent Policy, if Project is in the STIP or SHOPP and has Programmed Funds For R/W Activities, Requires a Rental and Clearance Plan Approved by the DD or Authorized Delegate • Separate Written Approval from the DD Is Required to Institute No Re-Rent Policy in the R/W Stage RAP Study • Separate Written Approvals from the DD and R/W Are Required to Institute No Re-Rent Policy Submitted Separately From R/W Stage RAP Study	District	RW Manager
	11.01.04.01	No Re-Rent Policy on Nonresidential Units: • Justification and Approval Required are the Same as For Residential Units (Section 11.01.04.00)	District	RW Manager
	11.02.06.00	Establishing New Accounts Upon Approval of Rental Agreement	District	Associated Governmental Program Analyst (AGPA)

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Reference (Statutory, WBS, Director's Policy Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
	11.02.06.00	Modify Standard Forms to Comply with Actual Conditions or When Special Situations Arise. Legal Must Approve Any Rental Agreements or Leases on Nonstandard Forms Prior to Execution by the Department (11.12.06.00)	District	Supervising RW Agent
	11.03.03.00	Approval to Dispose of a Property at Variance with the IDA Previously Approved by the DD or Authorized Delegate (12.01.08.00)	District	Supervising RW Agent
	11.03.08.00	Approval to Pay Mutual Water Company Stock Assessment. If the State Holds Water Stock, it is Subject to Assessments by the Mutual Water Company. Prior approval From the DD or Authorized Delegate Must be Obtained Before Such Assessments Can be Paid.	District	Senior RW Agent
	11.04.01.00	Granting Grantors and Inherited Tenants Longer Free-Occupancy Period	District	RW Manager
	11.04.03.00	Approval for a Flat Rate for Commercial and Industrial Leases in a Stable Market	District	Supervising RW Agent
	11.07.10.00	Approval of All Residential and Nonresidential Rental Agreements Per Appraisal or R/W Contract and Standard Form	District	Senior RW Agent

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
	11.12.06.00	Modification of Standard Clauses of Rental Agreement for Vacant Land or Land with Improvements Retained by Grantor. Legal Must Approve Rental Agreements and Leases on Nonstandard Forms Prior to Execution by the Department.	District	Senior RW Agent
	11.10.17.00	Approval of Rental Offsets	District	Up to $1,000.00: Senior RW Agent Above $1,000.00: Supervising RW Agent

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
	11.10.03.02	Maintenance Expenditures on Rented State-Owned Property May Be Allowed When It Would Be in the State's Best Interest as Follows: • Authorization of Major Repairs on Commercial or Industrial Leases • Authorization to Make Improvements or Repairs on Properties Under Master Tenancy Agreement • Authorization to Make Improvements or Repairs on Properties Under Agricultural Lease • When They Are Not the Obligation of the Tenant	District	Senior RW Agent
State Contract Act, DPAC Policy	11.10.10.04	Rehabilitation of Properties – Contract Proposals over $100K Must be Approved by DD or DDD Before Such Proposals are Submitted to DPAC Package Presented to DD or DDD Must Include Description of Work, Estimate of Cost & Economic Justification for Each Rehab Contract Over $100,000.	District	Supervising RW Agent

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
	11.12.06.00	Lease Approval by State: Standard Residential Rental Agreements and Nonresidential Leases at Fair Market Rent. Rental Agreements and Leases on Nonstandard Forms Must be Approved by Legal Prior to Execution by the Department.	District	Senior RW Agent
	11.12.11.00	Construction of Improvements by Lessee When It Will Not Result in a RAP Problem or Obligation to the State, But Will Result in a Net Profit to the State or Other Public Benefit	District	Supervising RW Agent
	11.12.15.00	Approval of Notice of Cancellation for More Than 90 Days of Interim Lease to a City or County Under S&H Code 104.7	District	Senior RW Agent
	11.13.05.00	Approval of Master Tenancy Agreements (). Use of Any Nonstandard Form for the Agreement Must be Approved by Legal Prior to Execution by the Department (11.12.06.00).	District	Supervising RW Agent
	11.14.04.00	New Outdoor Advertising Structure Agreements for More Than 5 Years. Use of Any Nonstandard Form for the Agreement Must be Approved by Legal Prior to Execution by the Department (11.12.06.00).	District	Supervising RW Agent

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
GOV §11007.1-§11007.8	11.15.05.00	Review the Fire and Hazard Insurance Required by Lessor on State's Temporary Facilities Leases	District	AGPA
	11.15.04.01	Execution of Standard State-as-Lessee Lease Agreements. Significant Modifications to the Standard Clauses Shall be Approved by Legal Prior to Execution by the Department.	District	Supervising RW Agent
	11.16.03.00	Approval of Property Manager to Transfer Improvements to Clearance Status	District	Senior RW Agent
	11.16.04.00	Approval of Financial Analysis on Advance Transfer to Clearance Status	District	RW Manager
California Administrative Health and Safety Codes 25286, 25294. 25295, 25298, and 25299 CCR Title 23 Div. 3, Ch 16	11.17.05.00	Exception to Requirements to Remove Underground Tanks	District	Supervising RW Agent

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Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	**RW Manual Section**	**Responsibility**	**Delegation**	**Lowest Level of Sub-Delegation**
	11.17.07.00	Approval of New Lease and Lease Renewal for a Parcel Confirmed to Contain Hazardous Waste	District	Supervising RW Agent
Deputy Directive #18 R-1	11.18.03.00	Employee-Occupied Caltrans-Owned Housing. Responsibility for Employee Housing as Follows: • Develop Statewide Procedures and Criteria for Disposal and/or Occupancy of Caltrans-Owned Housing • Assist District Directors in Determining Fair Market Rental Rates, Conducting Housing Availability Studies, and Disposal of Unnecessary Employee Housing.	District	Senior RW Agent

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CHAPTER 11

PROPERTY MANAGEMENT
TABLE OF CONTENTS

EXHIBITS

Exhibit No.	Title
11-EX-A	Residential Rental Agreement (for internal Caltrans use)
11-EX-B	Lease Agreement (for internal Caltrans use)
11-EX-C	Agricultural Lease Agreement (for internal Caltrans use)
11-EX-D	Advertising Structure Agreement (for internal Caltrans use)
11-EX-E	Rental Agreement Amendment (for internal Caltrans use)
11-EX-F	Rental Offset Agreement
11-EX-G	Lease Renewal (for internal Caltrans use)
11-EX-H	Assignment of Lease (Where State Is Lessor)
11-EX-I	Cancellation of Lease
11-EX-J	Employee Housing Rental Agreement (for internal Caltrans use)
11-EX-1	Letter to FHWA Dated March 4, 1999
11-EX-2	Department Cash Handling Policy
11-EX-2A	Cash Receipt Book Procedures
11-EX-3	Affordable Rent Tenants
11-EX-4	Written Notice of Denial
11-EX-5	Rent Proration Examples
11-EX-6	*Held for Future Use*
11-EX-6B	Notice of Right to Inspection
11-EX-6C	Waiver of 48-Hour Notice of Initial Inspection
11-EX-6D	Initial Vacancy Inspection and Statement of Proposed Security Deductions (for internal Caltrans use)
11-EX-7	District Right of Way Procedure: Vacating Premises, Unlawful Detainer Actions
11-EX-7A	Proof of Service Notice
11-EX-7B	Unlawful Detainer Request
11-EX-8	Correction Notice - Unsuitable Conditions
11-EX-9	Sample Possessory Interest Tax Letter
11-EX-10	Summary of Contract Processes
11-EX-11	Guidelines for Personal Injury, Liability and Property Damage Insurance

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Exhibit No.	Title
11-EX-12	Liability, Property Damage and Fire Insurance (for internal Caltrans use)
11-EX-13	Recommendation and Approval Form for Archive Copy of Lease (for internal Caltrans use)
11-EX-14	Sample Notice to Bidders (for internal Caltrans use)
11-EX-15	City, County, or Special District Lease (for internal Caltrans use)
11-EX-16	Materials Agreement (Sample Format) (for internal Caltrans use)
11-EX-17	Materials Agreement (Sample Format) (for internal Caltrans use)
11-EX-18	Notice to Bidders and Interested Parties
11-EX-19	Terms of Auction
11-EX-20	List of Tenants in Possession
11-EX-21	Inventory
11-EX-22	Bid Proposal
11-EX-23	Master Tenancy Lease Agreement (for internal Caltrans use)
11-EX-24	Bid Proposal Mailing Envelope (Sample) (for internal Caltrans use)
11-EX-25	*Held for Future Use*
11-EX-26	Bid Results - Unsuccessful Bidders (for internal Caltrans use)
11-EX-27	Public Notice (Sign for Master Tenancy)
11-EX-28	Billboard Site Rental Schedules
11-EX-29	Advertising Rate Card Examples
11-EX-30	State as Lessee Lease Agreement (for internal Caltrans use)
11-EX-31	Approval of Plans for Temporary Field Offices (Fire Marshal Guidelines)
11-EX-32	Office of Insurance and Risk Management-DGS (Insurance Log)
11-EX-33	Lease Agreement-Park and Ride Lot (for internal Caltrans use)
11-EX-34	Service of Notice to Vacate (Notice to RAP Unit)
11-EX-35	Letter of Intent to Vacate—90
11-EX-36	Utility Removal Letter (Example)
11-EX-37	DD-18-R1 - Employee-Occupied Caltrans-Owned Housing
11-EX-38	Gross Income for the Purpose of Calculating Affordable Rent
11-EX-39	Collection Agency Transmittal
11-EX-40	Statutory Notice to Former Tenant of Right to Reclaim Abandoned Property
11-EX-41	Statutory Notice to Person Other Than Former Tenant of Right to Reclaim Abandoned Property
11-EX-42	State Space Allowances Standards

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Exhibit No.	Title
11-EX-43	*Held for Future Use*
11-EX-44	Notice of Termination of Tenancy and Notice to Quit
11-EX-45	Request for Rent Determination
11-EX-46	Documentation of Residential Fair Market Rental Rate
11-EX-47	Uninhabitable Conditions
11-EX-48	Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards
11-EX-49	Department of Transportation, Division of Right of Way, STAR Program Agreement
11-EX-50	Modular Lease Agreement
11-EX-51	Pet Application
11-EX-52	Pet Addendum
11-EX-53	Nominal Value Nonresidential Rental Appraisal
11-EX-54	Residential Property Inspection (for internal Caltrans use)
11-EX-54SW	Residential Storm Water Inspection (for internal Caltrans use)
11-EX-55	Non-Residential Property Inspection (for internal Caltrans use)
11-EX-55SW	Storm Water Inspection (Non-Residential) (for internal Caltrans use)
11-EX-56	Residential Property Occupancy and Vacancy Inspections (for internal Caltrans use)
11-EX-57	Memorandum of Understanding for Utilizing State-Owned Property
11-EX-58	Property Occupancy and Vacancy Inspections (for internal Caltrans use)
11-EX-59	Unimproved Property Inspection (for internal Caltrans use)
11-EX-60	Notice of Belief of Abandonment – Residential
11-EX-61	Notice of Belief of Abandonment – Non-Residential
11-EX-62	Statutory Notice to Former Tenant of Right to Reclaim Abandoned Property – Non-Residential
11-EX-63	Statutory Notice to Person Other Than Former Tenant of Right to Reclaim Abandoned Property – Non-Residential
11-EX-64	Bed Bug Information Sheet
11-EX-65	Vacancy Report (for internal Caltrans use)
11-EX-66	Flood Disclosure Addendum
11-EX-67	Notice to Terminate Non-Residential Tenancy
11-EX-68	3-Day Notice to Correct Breach of Covenant
11-EX-69	60-Day Notice to Terminate Residential Tenancy – Just Cause

Exhibits are located online:

- External Exhibits site
- Internal Exhibits site (internal Caltrans link)

(REV 7/2020)

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CHAPTER 11

PROPERTY MANAGEMENT
TABLE OF CONTENTS

FORMS

Form No.	Title
RW 11-1	*Held for Future Use*
RW 11-2	*Held for Future Use*
RW 11-3	*Held for Future Use*
RW 11-4	*Held for Future Use*
RW 11-5	Residential Rental Application
RW 11-6	Non-Residential Rental Application
RW 11-7	Property Management Rental Account Diary
RW 11-8	*Held for Future Use*
RW 11-9	*Held for Future Use*
RW 11-10	60-Day Notice to Terminate Tenancy
RW 11-11	3-Day Notice to Pay Rent or Quit
RW 11-12	3-Day Notice to Correct Breach of Covenant or Quit (Curable Breach)
RW 11-13	3-Day Notice to Quit for Breach of Covenant (Incurable Breach)
RW 11-14	*Held for Future Use*
RW 11-15	*Held for Future Use*
RW 11-16	*Held for Future Use*
RW 11-17	*Held for Future Use*
RW 11-18	Certificate of Insurance with Endorsement for Lease of State-Owned Property
RW 11-19	*Held for Future Use*
RW 11-20	*Held for Future Use*
RW 11-21	*Held for Future Use*
RW 11-22	*Held for Future Use*
RW 11-23	Contractor's Time Reporting Sheet
RW 11-24	Income Certification
RW 11-25	Authorization to Write Off or Adjust Accounts Receivable Bill
RW 11-26	*Held for Future Use*
RW 11-27	State Fire Marshal Checklist

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Form No.	Title
RW 11-28	Plan Approval Request
RW 11-29	Seismic Screening Checklist
RW 11-30	Certification of Structural Evaluation
RW 11-31	Structural Evaluation Request
RW 11-32	Plan Review Application

Forms are located online:

- External Forms site
- Internal Forms site (internal Caltrans link)

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