

RIGHT OF WAY MANUAL CHANGE

RWMC 21-02

EFFECTIVE DATE: July 16, 2021

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PURPOSE:

The Right of Way (RW) Manual is revised annually to update policy, procedure and guidance.

Content revisions were incorporated and are noted in the following pages.

CURRENT RIGHT OF WAY MANUAL DIRECTIVES:

The following Right of Way Manual Directives (RWMDs) are still in effect and have not been incorporated in the RW Manual at this time:

RWMD	Title	Effective Date
21-01	Direct Sale of Commercial Property Pursuant to SHC Section 118.1	05-20-2021
20-03	Treated Wood Waste Disposal	01-01-2021
20-02	U.S. DOT Mandate 1050.2A Assurances and Appendices	12-01-2020

RELATED POLICY AND PROCEDURES:

Summary of revisions includes:

Chapter 1 – Introduction

- **Section 1.01, Right of Way Manual Overview**
 - 1.01.01.00, Purpose – added clarifying language to document this manual is for Local Public Agency use to ensure compliance.
 - 1.01.06.00, Revisions – updated publication deadlines for January 2022 RW Manual.

Chapter 5 – Early and Advance Acquisition; Corridor Preservation; Hardship and Protection; Donations and Dedications

- **Section 5.01, Early Acquisition**
 - 5.01.01.00, General – at Item h, corrected “FHWA approves” to “FHWA concurs” regarding environmental review process.
- **Exhibits Table of Contents**
 - Updated title to reflect chapter title.

Chapter 6 – Right of Way Engineering

- **Section 6.14, State Lands**
 - 6.14.04.00, Transfer of Land Between State Agencies – updated reference to Transfer of Jurisdiction document and clarified usage.

Chapter 8 – Acquisition

- **Section 8.21, Public Lands – State**
 - 8.21.05.01 – Transfer of Jurisdiction Procedural Instructions – updated references to Transfer of Jurisdiction document and clarified usage.

Chapter 10 – Relocation Assistance

- **Forms Table of Contents**
 - Added *RW 10-7S, Aviso De Informacion General (General Information Notice – Spanish version)*; form was created and published in 2016 but was missing from *Table of Contents* list.

Chapter 11 – Property Management

- **Section 11.15, State as Lessee Leases**
 - 11.15.06.00, Park and Ride Facility Leases – corrected “Ridesharing Coordinator” to “Park and Ride Coordinator.”

Chapter 15 – Airspace

- Added clarification, updated references, and incorporated suggested changes from FHWA throughout the chapter.
- **Section 15.01, General**
 - 15.01.01.03, Statutory Provisions Related to Leased Rights of Way – added item for 23 USC 111 regarding airspace use on the interstate for non-transportation uses.

- **Section 15.02, Inventory of Airspace Leases and Internal Uses**
 - 15.02.02.01, Future Transportation Project Use – corrected typo (added word “and” to second sentence).
- **Section 15.03, Planning and Marketing**
 - 15.03.03.02, Signs – revised title of section from “Signs” to “Signs for Advertising Site Prior to Auction.”
 - 15.03.03.04, Adjoining Owners – revised to avoid potential preferential treatment to adjoining owners.
- **Section 15.04, Airspace Right of Way Use Agreements**
 - 15.04.01.04, Developmental Agreement – added section regarding flammable/explosive materials.
 - 15.04.01.07, Three-Year Directly Negotiated Nondevelopment Agreement – clarification provided regarding FHWA approval and policy documents.
 - 15.04.04.01, Terms and Conditions – added clarification of requirements and added “FHWA indemnification requirements.”
- **Section 15.05, Lease Rates and Adjustments**
 - 15.05.01.00, Valuation of Lease Rate – added reference and clarification regarding certified and licensed appraisers.
 - 15.05.05.01, Minimum Lease Rate – added clarification for all federally funded properties.
- **Section 15.06, Airspace Leases – Processing**
 - 15.06.03.00, Long-Term Leases – Competitive Bid – at Table 1, Step 12, added clarification regarding FHWA approval prior to execution of agreement.
 - 15.06.04.00, Long-Term Leases – Directly Negotiated – at Table 2, Step 14, added clarification regarding FHWA approval prior to execution of agreement.
 - 15.06.06.00, Public Agency Leases – added clarification regarding the lease rate.
 - 15.06.10.04, Sublease and Assignment – added clarification regarding FHWA concurrence.
 - 15.06.10.05, Amendments – added clarification regarding FHWA approval.
 - 15.06.11.02, Preliminary Approval – added clarification regarding FHWA approval.

- **Section 15.07, Inspection and Use Requirements**
 - 15.07.07.01, Encroachments by Exception – added clarification regarding FHWA approval.
 - 15.07.09.04, Potential Surface Contamination – updated list to only reflect examples that might be currently allowed.
- **Section 15.08, Managing the Airspace Program – Property Management and the Marketing Plan**
 - 15.08.02.00, Property Management – added additional reference to RW Manual section 15.07.00.00.

Chapter 17 – Local Programs

- **Section 17.01, General**
 - 17.01.01.02, Background – removed outdated information related to funding act and STIP legislation “NOTE.”
 - 17.01.01.04, Types of Projects – added hyperlink to *Local Assistance Program Guidelines*.
- **Section 17.02, Roles and Responsibilities**
 - 17.02.01.01, FHWA – General – updated to reflect all agencies under the US DOT.
 - 17.02.01.02, FHWA Role – revised “NOTE” language to clarify Uniform Act compliance on all federal-aid projects regardless of phase federal funds are in.
 - 17.02.01.03, Process Reviews – clarified Caltrans involvement for certifications on projects with federal aid.
 - 17.02.03.01, State Roles – updated “Business, Transportation and Housing Agency” to “California State Transportation Agency.”
 - 17.02.04.01, Department’s Role – corrected CFR references.
 - 17.02.04.06, Region/District Role – Right of Way – clarified acceptance/approval level for Certifications. (At item G, replaced “should” with “shall.”)

- **Section 17.04, Local Public Agency Projects on the State Highway System**
 - 17.04.01.00, Local Public Agency Projects on the State Highway System – Background – removed specific Article and Appendix references to the Project Delivery Procedures Manual (PDPM) as these have not been updated to reflect the Design Evaluation Engineering Report (DEER).
 - 17.04.06.01, Locally Funded Projects – Duties – at item F, revised “Approve” to “Accept” for consistency with Exhibits and rest of manual chapter.
- **Section 17.05, Local Agency Qualifications**
 - 17.05.03.01, Caltrans Audits and Investigations – updated to reflect current name of the unit that conducts audits and investigations (now “Independent Office of Audits and Investigations”).
- **Section 17.08, Project Certification**
 - 17.08.03.00, Projects on State Highway System Requiring a Right of Way Certification – added “NOTE” to clarify Local Public Agencies must prepare a Right of Way certification for all federal-aid projects, regardless of phase.

Exhibit Updates

- **6-EX-02, Example Legal Documents** – Added “Transfer of Jurisdiction – Dept. of Parks & Rec.” and “Transfer of Jurisdiction – Other State Agencies” documents.
- **8-EX-17, Authorization to Use Independent Report** – retired; reports are no longer reviewed/authorized when Caltrans Legal contracts with an expert witness.
- **8-EX-25, Possession and Use Agreement** – Updated throughout to accommodate non-fee simple interest acquisitions, internal escrows, possession date uncertainties, etc. (06-2021)
- **8-EX-32, Transfer of Jurisdiction of State-Owned Real Property (for Department of Parks and Recreation TOJ Transactions)** – retired; TOJ documents now available in Exhibit 6-EX-02, Example Legal Documents.
- **8-EX-33, Transfer of Jurisdiction of State-Owned Real Property (for TOJ Transactions with All Other State Agencies)** – retired; TOJ documents now available in Exhibit 6-EX-02, Example Legal Documents.
- **10-EX-40S, Carta de Beneficios Condicionales Residentes por 90 Dias y no Permanentes (Conditional Entitlement Letter 90-Day and Non-Tenured Occupant[s] – Spanish version)** – New Spanish language version of 10-EX-40, Conditional Entitlement Letter 90-Day and Non-Tenured Occupant(s) (translation only, no changes to content). (04-2021)

- **11-EX-H, Assignment of Lease (Where State Is Lessor)** – Added section to incorporate language to accept electronic signatures.
- **11-EX-06C, Waiver of 48-Hour Notice of Initial Inspection** – Added section to incorporate language to accept electronic signatures.
- **11-EX-13, Recommendation and Approval Form for Archive Copy of Lease (for internal Caltrans use)** – Added section to incorporate language to accept electronic signatures.
- **11-EX-16, Materials Agreement (Sample Format) (for internal Caltrans use)** – Added section to incorporate language to accept electronic signatures.
- **11-EX-17, Materials Agreement (Sample Format) (for internal Caltrans use)** – Added section to incorporate language to accept electronic signatures.
- **11-EX-22, Bid Proposal** – Added section to incorporate language to accept electronic signatures.
- **11-EX-30, State as Lessee Lease Agreement (for internal Caltrans use)** – At Item 7, Rent, included clarification and specific references to rental payments section for additional transparency. (04-2021)
- **11-EX-48, Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards** – Added section to incorporate language to accept electronic signatures.
- **11-EX-51, Pet Application** – Added section to incorporate language to accept electronic signatures.
- **11-EX-52, Pet Addendum** – Added section to incorporate language to accept electronic signatures.
- **11-EX-54SW, Residential Storm Water Inspection (for internal Caltrans use)** – Added section to incorporate language to accept electronic signatures.
- **11-EX-55, Non-Residential Property Inspection (for internal Caltrans use)** – Added section to incorporate language to accept electronic signatures.
- **11-EX-55SW, Storm Water Inspection (Non-Residential) (for internal Caltrans use)** – Added section to incorporate language to accept electronic signatures.
- **11-EX-56, Residential Property Occupancy and Vacancy Inspections (for internal Caltrans use)** – Added section to incorporate language to accept electronic signatures.
- **11-EX-57, Memorandum of Understanding for Utilizing State-Owned Property** – Added section to incorporate language to accept electronic signatures.
- **11-EX-66, Flood Disclosure Addendum** – Added section to incorporate language to accept electronic signatures.

- **14-EX-03, Right of Way Certification** –
 - At Item 1. A. (Total number of parcels required), added clarification to fields “Project R/W Required (per appraisal map)” and “Effective Date of Contract.”
 - At Item 2 (Status of Affected Railroad Operating Facilities), added new clause option for “None Affected” stating even though railroad appears on the plans, it is not impacted.
 - At Item 4 (Status of Required Utility Relocations), updated Buy America language for consistency with updates to Local Programs equivalents revised earlier this year.
 - Added clarification to Endnote Instructions.
- **14-EX-13, Design-Build Certification** –
 - At Item 1. A. (Parcels Required for this Certification), added clarification to fields “Owner Last Name/Business” and “Effective Date of Contract.”
 - At Item 2 (Status of Affected Railroad Operating Facilities), added new clause option for “None Affected” stating no adjustment of railroad facilities is necessary.
 - At Item 3 (Material/Disposal Site[s]), added clarification to fields “Owner Last Name/Business” and date formats for “Document Effective Date” and “Expiration Date.”
 - At Item 4 (Status of Required Utility Relocations), updated Buy America language for consistency with updates to Local Programs equivalents revised earlier this year.
 - At Item 4 (Status of Required Utility Relocations), added clarification to field “R/W Notice No. and Notice Date.”
 - Added clarification to Endnote Instructions.
- **14-EX-15, Construction Manager/General Contractor (CM/GC) Certification** –
 - At Item 1. A. (Parcels Required for this Certification), added clarification to fields “Owner Last Name/Business” and “Effective Date of Contract;” also added date formats for “Effective OP Date.”
 - At Item 2 (Status of Affected Railroad Operating Facilities), added new clause option for “None Affected” stating no adjustment of railroad facilities is necessary.
 - At Item 3 (Material/Disposal Site[s]), added clarification to fields “Owner Last Name/Business.”
 - At Item 4 (Status of Required Utility Relocations), updated Buy America language for consistency with updates to Local Programs equivalents revised earlier this year.
 - Added clarification to Endnote Instructions.
- **15-EX-01, District Airspace Review Committee (DARC) Checklist** – New checklist for a more efficient review process.

- **15-EX-04, Letter of Understanding** – Added section to incorporate language to accept electronic signatures. (05-2021)
- **15-EX-07, District Airspace Review Committee (DARC) Approval Memo** – New memo for a more efficient review process.
- **15-EX-08, Estoppel Certificate** – Added section to incorporate language to accept electronic signatures. (05-2021)
- **15-EX-14, Storm Water Inspection Report**
 - Added section to incorporate language to accept electronic signatures. (05-2021)
 - Updated BMP reference hyperlink on last page of instructions. (05-2021)
- **17-EX-09, Design-Build – Project Right of Way Statement** – Corrected CFR reference from “23 CFR 710.313” to “23 CFR 710.309.” (06-2021)
- **17-EX-10, Design-Build Certification**
 - At item 1, Status of Required Right of Way, replaced “State” with “(Local Public Agency Name).”
 - At item 11, Certification, added “(Package #)” option and corrected CFR references.
- **17-EX-18, Right of Way Certification**
 - Inserted “Local Public Agency Name Here” on the first page (similar to other Local Programs documents). (04-2021)
 - In Railroad portion (pg. 4), corrected reference to Section “5-1.2C” to “5-1.20C.” (04-2021)

Form Updates

- **RW 07-02, Parcel Occupancy Data Form** – Typo in title corrected (was “Form Parcel Occupancy Data”). (04-2021)
- **RW 07-11A, Comparable Data** – Typo on instructions page resolved (text rows overlapped). (04-2021)
- **RW 07-17A, Certificate of Market Value Determination – Excess Land**
 - The value amount field now accepts numbers and letters. (06-2021)
 - Added electronic signature. (06-2021)
- **RW 08-03, Right of Way Contract – State Highway** – Added Title VI clauses 1. (C) and (D) for compliance with USDOT Non-Discrimination Assurances. (04-2021)
- **RW 13-03, Report of Investigation**
 - At Page 1, added field for “Project ID.”
 - At Page 5, Item 9, removed “AS FOLLOWS.”
 - At Instructions, Page 2, Item 9, removed “AS FOLLOWS.”

- **RW 13-04, Notice to Owner**
 - Re-ordered two sections of the form (“Liability” section previously followed “Notification” section; now “Notification” section follows “Liability” section). (04-2021)
 - At Page 2, added to “This Notice Does Not Constitute a Permit” section for clarification regarding the “Written Agreement,” “Claim Period,” etc. (04-2021)
 - **RW 13-04R, Revised Notice to Owner**
 - Re-ordered two sections of the form (“Liability” section previously followed “Notification” section; now “Notification” section follows “Liability” section). (05-2021)
 - At Page 2, added to “This Notice Does Not Constitute a Permit” section for clarification regarding the “Written Agreement,” “Claim Period,” etc. (05-2021)
 - **RW 13-05, Utility Agreement**
 - At Item IV. Payment for Work –
 - Cleaned up language for clarification. (06-2021)
 - Added “detailed itemized” bills/statements. (06-2021)
 - Clarified 48 CFR reference. (06-2021)
 - **RW 13-06, Right of Way Utility Payment Request and Coding Instructions** – Increased space in several fields to accommodate additional characters. (04-2021)
 - **RW 13-15, FHWA Specific Authorization**
 - At Remarks section – added new checkbox field with the following language: “The proposed adjustment of utility facilities to be performed by the state’s highway contractor is approved. Payment for the utility adjustment will be vouchered through the construction phase. Therefore, the authorization date for this work will be the date that FHWA approves the construction project.” (06-2021)
 - At cc: section – added “District R/W Coordinator – File” to list. (06-2021)
 - **RW 13-20, Agreement for the Positive Location of Underground Utilities** – Updated State’s signature block. (06-2021)
 - **RW 13-20A, One Time Only – Agreement for the Positive Location of Underground Utilities** – new form for one-time only agreements.
 - **RW 15-06, Consent of Assignment (No Relief)** – Added section to incorporate language to accept electronic signatures. (06-2021)
 - **RW 15-08, Consent to Sublease** – Added section to incorporate language to accept electronic signatures. (06-2021)
 - **RW 16-01, Excess Land Parcel Acquisition/Disposal Summary** – Updated throughout – added fields for “HMDD-D signed” and “Copy of 16-1 sent to Accounting,” removed fields no longer applicable, added digital signatures, etc. (04-2021)
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Other comments and suggestions for improvement to the RW Manual may be submitted to RWManual@dot.ca.gov.