CHAPTER 11

PROPERTY MANAGEMENT

TABLE OF CONTENTS

11.01.00.00 GENERAL
  01.00 Responsibility
  02.00 Delegations
  03.00 Property Management Reference File (PMRF)
  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 Rental of State-Owned Properties to State Employees
  08.00 Use of Bilingual Agents
  09.00 Federal Participation in Revenue and Expenses
  10.00 Other Applicable Federal Regulations
  11.00 Title VI, Civil Rights Act
  12.00 Right of Way Property System
  13.00 Filming on State-Owned Property
  14.00 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

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

(REV 8/2018)
11.04.00.00 RENTAL RATES
  01.00 General
  01.01 Rental Rate Increase Policy
  02.00 Rent Determinations
  02.01 Changing the Rental Rate Shown in the Appraisal
  03.00 Lease Term
  04.00 Escalation Clauses
  05.00 Local Rent Control
  06.00 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

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

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 Rental Application and Credit Report
  07.00 Guidelines for Selection of New Tenants
  08.00 Use of Cosigners
  09.00 Declined Applicants
  10.00 Executing the Rental Agreement
  11.00 Title VI Guidelines
  12.00 Lead-Based Paint and/or Hazards
  13.00 Initial Rent Collection
  14.00 Security Deposits
  14.01 Waivers/Reductions
  14.02 Refund
11.07.00.00  RENTAL PROCEDURES (Continued)
15.00  Utilities
15.01  Responsibility for Utility Costs
15.02  Notifying Utility Companies at Date of Recordation
15.03  Payment of Utility Bills by the State
15.04  Utility Deposits by Tenant
16.00  Possessory Interest Tax
17.00  Residential Property Occupancy and Vacancy Inspections
18.00  Uses of Rental Agreement
19.00  Courtesy Notice of Termination
20.00  Rental Refunds
20.01  Leases
21.00  Notices
22.00  Cancellation - Failure to Pay Rent
23.00  Cancellation - Notice to Vacate For Reasons Other Than Failure to Pay Rent
24.00  Cancellation - Breach of Covenant
25.00  Departmental Use of State-Owned Property
26.00  Termination Requirements

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
03.00  Vacated Rentable Property
03.01  Agent Activities
03.02  Property Manager 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
09.00  Non-Offsetting Maintenance
## PROPERTY MAINTENANCE AND REHABILITATION

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>01.00</td>
<td>General</td>
</tr>
<tr>
<td>01.01</td>
<td>Storm Water Management</td>
</tr>
<tr>
<td>02.00</td>
<td>Asbestos and Lead Paint</td>
</tr>
<tr>
<td>03.00</td>
<td>Maintenance Expenditure Guidelines</td>
</tr>
<tr>
<td>03.01</td>
<td>Vacant and Non-Rentable Property</td>
</tr>
<tr>
<td>03.02</td>
<td>Rented State-Owned Property</td>
</tr>
<tr>
<td>04.00</td>
<td>Health and Safety Requirements</td>
</tr>
<tr>
<td>05.00</td>
<td>Exterior and Interior Appearance of Improved Properties</td>
</tr>
<tr>
<td>06.00</td>
<td>Field Inspections</td>
</tr>
<tr>
<td>07.00</td>
<td>Rodent and Pest Control</td>
</tr>
<tr>
<td>08.00</td>
<td>Smoke Detection Devices</td>
</tr>
<tr>
<td>08.01</td>
<td>Installation and Type of Detector</td>
</tr>
<tr>
<td>08.02</td>
<td>Battery-Operated Smoke Devices</td>
</tr>
<tr>
<td>09.00</td>
<td>Rehabilitation of Residential Property</td>
</tr>
<tr>
<td>09.01</td>
<td>Inspections</td>
</tr>
<tr>
<td>09.02</td>
<td>Specifications and Estimates</td>
</tr>
<tr>
<td>09.03</td>
<td>Public Works Contracts</td>
</tr>
<tr>
<td>09.04</td>
<td>Public Works Contracts Under State Contract Act</td>
</tr>
<tr>
<td>09.05</td>
<td>Occupied Housing</td>
</tr>
<tr>
<td>10.00</td>
<td>Rehabilitation and Maintenance on Historic Structures</td>
</tr>
<tr>
<td>11.00</td>
<td>Maintenance Performed by Service Contract</td>
</tr>
<tr>
<td>11.01</td>
<td>Inspections</td>
</tr>
<tr>
<td>11.02</td>
<td>Requesting Work</td>
</tr>
<tr>
<td>11.03</td>
<td>Multi-provider and Single Provider Service Contracts</td>
</tr>
<tr>
<td>11.04</td>
<td>CAL-Card Small Purchase Program</td>
</tr>
<tr>
<td>11.05</td>
<td>Non-Credit Card Process (Under $5,000)</td>
</tr>
<tr>
<td>11.06</td>
<td>Submitting for Payment</td>
</tr>
<tr>
<td>11.07</td>
<td>Summary of Various Contract Processes</td>
</tr>
<tr>
<td>12.00</td>
<td>Draft Purchase Order (DPO)</td>
</tr>
<tr>
<td>13.00</td>
<td>Cash Expenditure Voucher (CEV)</td>
</tr>
<tr>
<td>14.00</td>
<td>Emergency Repairs</td>
</tr>
<tr>
<td>15.00</td>
<td>Rental Offsets</td>
</tr>
<tr>
<td>15.01</td>
<td>New Residential Tenants</td>
</tr>
<tr>
<td>15.02</td>
<td>Existing Residential Tenants</td>
</tr>
</tbody>
</table>

## INSURANCE REQUIREMENTS FOR TENANTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>01.00</td>
<td>Policy</td>
</tr>
<tr>
<td>02.00</td>
<td>When Insurance Is Required</td>
</tr>
<tr>
<td>03.00</td>
<td>Family Day Care Facilities</td>
</tr>
<tr>
<td>04.00</td>
<td>How the State Is Protected</td>
</tr>
<tr>
<td>05.00</td>
<td>Fire Insurance on State-Owned Properties</td>
</tr>
<tr>
<td>06.00</td>
<td>Self-Insurance by Tenant or Lessee</td>
</tr>
<tr>
<td>07.00</td>
<td>Certificate of Insurance</td>
</tr>
<tr>
<td>08.00</td>
<td>Fire and Explosion in State-Owned Buildings</td>
</tr>
</tbody>
</table>
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 by Lessee
12.00 Leasing Excess Land
13.00 Leasing to Highway Contractor
14.00 Leasing to a City, County, or Special District Under S&H Code 104.7
15.00 Lease Recordation
16.00 Lease Cancellation
16.01 Mutual Consent
16.02 Lessee’s Failure to Pay Rent
16.03 Based on Right of Termination
17.00 Materials Agreement for Removal of Materials
18.00 Available Office Space

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 Billboard Site Rental Schedules
05.00 Advertising Structure Agreement
06.00 Sign Rent Delinquencies

(REV 8/2018)
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

11.16.00.00  TRANSFERRING PROPERTIES TO CLEARANCE STATUS
  01.00  Scheduling Rental Termination
  02.00  Transferring Properties to Clearance Status
  03.00  Property Manager 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 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
  05.00  Utilities
  06.00  Employee Housing Rental Agreement
  07.00  Payment of Rent
  08.00  Possessory Interest Tax
  09.00  Maintenance and Repairs
  10.00  Carpeting for Employee Housing
  11.00  Surplus Property
  12.00  Reporting Requirements
  13.00  Storm Water Requirements

11.19.00.00  DELEGATIONS
  01.00  Delegations of Authority
11.00.00.00 - PROPERTY MANAGEMENT

11.01.00.00 - GENERAL

11.01.00 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.

11.01.02.00 Delegations

All Property Management approvals have been delegated to the regions/districts in accordance with the Statewide Delegation Summary. (See Chapter 2, Statewide Delegation Matrix, 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 Headquarters Right of Way (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.

11.01.03.00 Property Management Reference File (PMRF)

PMRF memos are used to supplement and clarify the Property Management manual. Memos are numbered “PMRF-96-***” where “***” is the sequential number beginning with “1” each calendar year.

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 SHOOP and has programmed funds for normal right of way, the no re-rent policy is mandatory.

In addition, the district 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 SHOOP 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 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.

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

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 (RWPS), 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 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.

11.01.08.00 Use of Bilingual Agents

Every effort should be made to use bilingual Agents when working in areas where tenants are non-English speaking.

11.01.09.00 Federal Participation in Revenue and Expenses

23 CFR 710.403(d) states that acquiring agencies shall charge current fair market value or rent for the use or disposal of real property interests, including access control, if those real property interests were obtained with Title 23 of the United States Code funding. Exceptions to the general requirement for charging fair market value may be approved if determined to be in the overall public interest for social, environmental, or economic purposes, or nonproprietary governmental use. Written requests for exceptions shall be submitted in advance to FHWA (through HQ R/W) for approval.
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(e). 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.

11.01.10.00 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 710.201 through 710.203. 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 right of way costs.

11.01.11.00 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.

11.01.12.00 Right of Way Property System


11.01.13.00 Filming on State-Owned Property

Government Code Section 14998-14998.10 is known as the Motion Picture, Television, and Commercial Industries Act of 1984.

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

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

These various Government Codes 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 Exhibit 11-EX-49, 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 their permit.

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.

When properties identified as historic are to be used for filming, contact HQ R/W for additional requirements prior to making any commitments or the signing of any agreements.

11.01.14.00 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 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 and Legal to ensure that the proper laws, regulations, and procedures are being followed.
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. Property Management 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. 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.

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.
- 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 and last 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 (see Section 11.07.16.00).

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 RWPS 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 DDC-R/W or delegated representative, to comply with actual conditions or when special situations arise.

<table>
<thead>
<tr>
<th>TYPES OF AGREEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Form No.</strong></td>
</tr>
<tr>
<td>11-EX-A</td>
</tr>
<tr>
<td>11-EX-B</td>
</tr>
<tr>
<td>11-EX-C</td>
</tr>
<tr>
<td>11-EX-D</td>
</tr>
</tbody>
</table>

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 Manager 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.

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

- R/W Contract
- MOS
- Rental Application
- Credit Report (if applicable)
- Rental Rate Documentation
- Rental Agreement (executed copy)
- Invoices or paid bills for repairs
- Property Management Rental Account Diary, RW 11-7, or alternative form (use is not mandatory, but is strongly recommended)
- Vacancy Report (if applicable)
- FOC (if applicable)

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 (Page 2 of Exhibit 11-EX-56, Residential Property Occupancy and Vacancy Inspections) should be transferred to that new rental file with any other 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.

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 shall be charged until the improvements have been removed, unless the R/W Contract provides for rent-free occupancy of the land. The Agent should discuss unique situations or uncertainties with the Property Manager or authorized representative before making a commitment. (See also 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.
11.03.00.00 - PROPERTY INVENTORY

11.03.01.00  General

Each district shall keep its inventory of rentable and non-rentable properties in RWPS up to date and accurate.

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 RWPS.

11.03.02.00  Inventory Disposal Record

The Acquisition Agent prepares the Inventory Disposal Record (IDR), RW 12-1, and assigns a Register Number when the MOS is prepared. (See Acquisition Chapter for additional information.)

11.03.03.00  Improvement Disposal Authorization

The Improvement Disposal Authorization (IDA), 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.

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 facilities. The Property Manager will keep the required inventory forms in a file to account for each item. The Property Manager 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 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.

11.03.07.00 Closed Inventory of Improvements File

The closed inventory record form shall be part of the district’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, 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 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 district shall acquire the land without paying any consideration for the water stock.

Each district shall maintain an inventory and disposal record of water stock. The district 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 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.

11.03.09.00 Lost or Stolen Property

The Agent reports all cases of lost or stolen properties as follows:

- Salvage or Contributory Value Less Than $100 - no action necessary.
- Salvage or Contributory Value More Than $100, less than $1,000 - send notice to the District Security Coordinator with a courtesy copy to the Departmental Security Coordinator in Headquarters (see Exhibit 12-EX-01). Notification of local law enforcement is at the district’s discretion.
- Salvage or Contributory Value More Than $1,000 - send notice to the District Security Coordinator with a courtesy copy to the Departmental Security Coordinator and report to local law enforcement agency.

Notification to the District Security Coordinator should be sent no later than the first work day following discovery of the incident.

The IDR should be properly annotated concerning lost, stolen, or destroyed property.
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 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.)
3) Local rent control (see Section 11.04.05.00).
4) Social, environmental, or economic purposes or nonproprietary government use with FHWA’s prior written approval.

The district shall set up 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 Relocation Assistance Chapter, Section 10.05.24.00, for further details.
- **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, Section 16.05.14.00, for further details.

These provisions do not preclude longer free occupancy periods where necessary or desirable with the DDC-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 keeping in mind that a 60-day notice is required prior to raising rents. This applies to residential and nonresidential properties.

Included within the 60-Day Notice for rent increase will be a statement that the tenant has the opportunity to request a “valuation summary.” The summary will be of sufficient detail to provide the tenant with adequate information to review and understand the basis of the rent increase. The tenant’s request must be in writing.

For residential properties only, the Department’s rental rate policy 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.

11.04.02.00  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 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 Manager 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 Manager or designee for approval. (See Section 11.05.04.00 for additional information in regard to nonresidential properties.) All documentation shall be filed in the rental folder.
11.04.03.00  Lease Term

At its discretion, the district 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. (See page 9 of Exhibit 11-EX-B, Lease Agreement, 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.

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. The rental file and the RWPS shall be appropriately documented. The Property Manager shall be responsible for reviewing the rental files and the RWPS to ensure compliance.

11.04.05.00  Local Rent Control

Occasionally, the rental rate policy that calls for rental increases under certain situations may be in conflict with local rental control. If the existing rental rate is substantially below the market rate and the proposed rate of increase exceeds the limits provided in a local rent control ordinance, the district should contact the local agency:

- To explain the need for bringing rents to market rate.

- To explain that once rents are at market rate, the limitations prescribed in the rent control ordinance will be observed.

- To attempt to get the local agency’s concurrence.

If the local agency does not concur, the district shall comply with the local ordinance.
**11.04.06.00 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.

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 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.)
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 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.

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:

- 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.
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) or less.

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.
- 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.

Rental Grace Period on Business Properties

See Relocation Assistance Chapter, Section 10.05.24.00, for information on rental grace periods.

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.

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 notice.
11.05.05.00 Rental Rate Review

The Property Manager 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.

11.05.06.00 Rental Rate Increase Policy

See R/W Manual Section 11.04.01.01.
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.

11.06.02.00  Annual Rental Rate Reviews

The Property Manager 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 60-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 Manager and other personnel for possible reference. A copy will be kept in the rental file. The Region/District Property Manager 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.

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 Manager. 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 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.

11.06.04.02  Appeals Hearing

All appeals will be to the DDC-R/W, who may appoint a single Hearing Officer or form a District Appeals Board to hear appeals and make recommendations for the DDC 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 DDC-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 DDC-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 DDC-R/W shall make the final decision. The DDC’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.
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 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 DDC-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 60 days after close of escrow.

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.

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 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, Exhibit 11-EX-54.

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

Note: The Right of Way Property System (RWPS) guidelines for collecting and keeping track of a pet deposit are as follows:

- The pet deposit will become part of the security 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.
- A note should be made in the “Comments” Section of the Tenancy Screen that a pet deposit has been collected with the amount indicated.
- Department policy in regard to refunding pet deposits is the same as with security deposits. (See Section 11.07.12.03.) A pet deposit may be utilized only for damage caused by a pet, not delinquent rent or damage not caused by a pet.
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 Subchapter 11.02.00.00, Closure Procedure.

11.07.02.00 Marketing Plan

Each district 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 RWPS Adjustment Request Screen is used to notify Accounting of any rent credit.

11.07.04.00 Advertising

Whenever the district uses newspaper advertisements, it shall comply with Public Contract Code Section 10115.13 relating to the use of certain advertising business enterprises. The Property Manager shall contact the Department’s Business Enterprise Program prior to advertising and request a list of any certified media firms for the area. The findings and subsequent actions shall be documented.

- **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 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 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.

- **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.

11.07.07.00 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 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.

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 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, gender, creed, color, religion, national or ethnic origin, age, marital status, or disability.

11.07.08.00 Use of Cosigners

Cosigners should not be used to qualify an applicant with insufficient income or credit.

11.07.09.00 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 Exhibit 11-EX-4, Written Notice of Denial.)

11.07.10.00 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 DDC-R/W or authorized representative may execute all residential and nonresidential rental agreements on the state’s behalf.

11.07.11.00 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.

11.07.12.00 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.
- 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.
11.07.13.00 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.)

11.07.14.00 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.

Generally, 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.

11.07.14.01 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.
- 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.

11.07.14.02 Refund

In all cases, 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) (see California Civil Code, Section 1950.5). The district must deliver any refund and the itemized statement within three weeks of the vacancy date.

In order to meet the three-week 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 the three weeks, preferably prior to the tenant(s) receiving a refund from the State Controller.

If the property is sold, the district, 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 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.
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 regions/districts, therefore, must adhere to the following guidelines, as well as develop additional procedures that address region/district problems and meet their specific needs.

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/districts 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.

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.

Notifying Utility Companies at Date of Recordation

Regions/districts 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.
11.07.15.03  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 write the source, charge, EA, special designation, and agency object (x002) codes on the bill or attach a Receiving Record (Form 1226A) with the information. 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. The Agent shall forward the bill to the Division of Accounting, Accounts Payable, Utility Section, with a change of address request. 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.

See Property Management Reference File #01-02, dated July 24, 2001, for further instructions.

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

11.07.15.04  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.

11.07.16.00  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.

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

11.07.17.00  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 unit. Page 1 of Exhibit 11-EX-56, Residential Property Occupancy and Vacancy Inspections, shall be completed. All blanks must be filled in, noting “OK” or any deficiencies. The form is to be signed by the tenant and the Agent and a copy shall be given to the tenant.

Page 2 of 11-EX-56 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.
11.07.18.00  Uses of Rental Agreement

Exhibit 11-EX-A, 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.
- Occasionally, instead of a lease where commercial or industrial month-to-month tenancies are involved.
- Vacant land only when necessary to execute a lease or rental agreement. This applies to vacant land, other than agricultural, or land with improvements retained by the grantor. Exhibit 11-EX-A, Residential Rental Agreement, may be modified to comply with actual conditions or when special situations arise upon approval of the DDC-R/W or designee.

11.07.19.00  Courtesy Notice of Termination

The Department’s policy is to provide all tenants who are not eligible for relocation benefits an informal courtesy letter of the state’s intention to terminate their tenancies at least 90 days before the required termination date. 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.

11.07.20.00  Rental Refunds

The 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 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.

<table>
<thead>
<tr>
<th>Tenant Has Paid Rent in Advance and Vacates the Premises on Their Own Volition Before the Rental Term Expires</th>
<th>The district 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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenant Has Paid Rent in Advance and Vacates the Premises at the State’s Request Before the Rental Term Expires</td>
<td>A refund will be made for the difference between the amount paid in advance and the amount owed for the partial month.</td>
</tr>
<tr>
<td>Tenant Has Not Paid Rent in Advance and Vacates the Premises Before the Rental Term Expires</td>
<td>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.</td>
</tr>
</tbody>
</table>

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

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

11.07.20.01  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.
11.07.21.00  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
- Landlord’s Notice of Termination, Exhibit 11-EX-6

Exhibit 11-EX-6, Landlord’s Notice of Termination, can be utilized as a 30-Day Notice or a 60-Day Notice. 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.

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.

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 as escrow with 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.

All nonresidential tenancies should receive a 30-day notice prior to termination.

11.07.22.00  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 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. 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 RWPS Delinquent Tenancy Screen will electronically notify Accounting not to accept rent payments after the three-day period.

11.07.23.00  Cancellation - Notice to Vacate For Reasons Other Than Failure to Pay Rent

Where the tenant is not delinquent in their rent and the state wishes to terminate a rental agreement or lease that contains a 30-day or 60-day termination clause, Exhibit 11-EX-6, Landlord’s Notice of Termination, shall be used.

The notice shall be served in the manner described in Section 11.08.04.00. Refund policy is described above. The notice may be modified to provide for various lease termination requirements such as a longer time frame.
11.07.24.00  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 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., late fees, deposits, insurance, and bonds) and may also include, for example, unapproved pets, excessive garbage or debris, and unauthorized use.

Incurable breaches cannot be cured once committed and include, for example, nuisance, committing waste and subleasing or assignment without prior state approval.

11.07.25.00  Departmental Use of State-Owned Property

Properties managed by Property Management may be used temporarily by other district 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.

11.07.26.00  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. (Exhibit 11-EX-6, Landlord’s Notice of Termination, when the Department gives notice; and Exhibit 11-EX-6B, Notice of Right to Inspection, when the tenant gives notice.)

- At a reasonable time, but no earlier than two weeks before the termination or the end of the rental agreement or lease, 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.) 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.) This statement shall be given to the 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.
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 agreement provides 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 will be charged if the rent is not received by the 10th of the month. A postmark prior to the 10th of the month does not constitute receipt by the 10th of the month.

11.08.02.00 Suggested Methods of Collection

The Agent should notify the tenant personally by telephone or letter that rent is delinquent and must be paid. In many cases, the tenant will pay the rent after this contact and will be prompt in paying thereafter. If the tenant is delinquent again the following month, however, the Agent shall send a strongly worded letter. 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). If the tenant fails to make a payment plan payment, a 30-day or 60-day notice will be served immediately. No further payment plans or compromises will be offered. 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 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, vacancy may be requested prior to this time. The Property Manager shall make this decision.

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 demanding that the tenant pay the total amount of unpaid rent as of the day of service. The 3-day notice may cover the current month’s rent, plus any previous period of delinquency that may still be unpaid. 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.

If a tenant is chronically delinquent but not currently delinquent, a 30-day or 60-day notice terminating the tenancy may be in order (see RW 11-10, Notice of Termination of Tenancy and Notice to Quit). If a 30-day or 60-day notice 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 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 or Quit, it does not cancel the Notice of Termination of Tenancy and Notice to Quit.

See Section 11.07.21.00, Notices, for additional information and requirements in regard to serving notices to vacate or to terminate the tenancy.

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 is served to the delinquent tenant for the total amount of unpaid rent as of the day of service.
Service of a 3-day notice or a 30/60-day notice is governed by CCP Section 1162 and 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 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 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.

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

Ordinary mail may be used when mailing copies of notices. To substantiate service, the server shall execute a proof of service by posting and shall place a copy in the rental file. As an alternative, the tenant’s copy may be sent certified mail, in which case the Agent does not need to sign a proof of service. The certified mail receipt shall be placed in the rental file.

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, region/district policy may require that the RAP Unit serve the notice. At the least, 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 Chapter 10, Relocation Assistance.

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 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.

**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 will 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 shall be assessed if the full amount of rent is not received on or before the 10th of each month. The late charge covers damages resulting from breach of the lease or rental agreement. The amount is determined by using 6% of the monthly rent as a guideline and shall not exceed 10%. The amount is entered in the late payment clause in the rental/lease agreement. Late charges may be waived for government agencies.

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. The 10% figure is related to the maximum rate of interest in California chargeable by most persons (voluntary usury).

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 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.

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 RWPS 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 RWPS 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.
**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 RWPS.

- Copy of first and last pages of rental agreement
- Copy of rental application
- New address documentation
- Copy of note about efforts to collect
- Copy of judgment
- Copy of voided check
- 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.

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 district enter into a repayment plan with the delinquent tenant.**

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 districts.

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.
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 to facilitate audit and management review.

- Information on newly acquired property shall be entered in RWPS 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 a year.
- 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 Manager 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.

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.

11.09.03.00 Vacated Rentable Property

The Property Manager 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 vacancy report in the rental file. At least annually, one of the inspections shall be done concurrently with a maintenance inspection and documented as required under Section 11.10.06.00.
11.09.03.01 Agent Activities

When a tenant vacates, the Agent shall thoroughly inspect and secure the property as soon thereafter as possible. 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.
- Prepare the necessary accounting documents to close the tenant’s file.

11.09.03.02 Property Manager Activities

The Property Manager 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 files for audit.

11.09.04.00 Occupied Rentable Property

Field inspections of occupied properties shall be made at least annually to ensure the properties are maintained as well as or better than other properties in the neighborhood. Section 1954 of the California Civil Code (Civil Code) allows a landlord to enter the dwelling unit 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 California Civil Code Section 1950.5, when the tenant has abandoned or surrendered the premises, or pursuant to court order. 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 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 Civil Code for further requirements.

In addition, Right of Way 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). Leased properties are inspected to ensure tenants are maintaining properties in a neat and orderly manner, with no illicit discharges, and with proper storage of materials. Leases with certain types of industrial activity must have coverage under the State Water Resource Control Board’s General Industrial 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. The storm water inspection should be conducted at the same time as the regular property inspection.
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:

- Exhibits 11-EX-54 (Residential Property Inspection) and 11-EX-54SW (Residential Storm Water Inspection), or
- Exhibits 11-EX-55 (Non-Residential Property Inspection) and 11-EX-55SW (Non-Residential Storm Water Inspection).

**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 Manager 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.

**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 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.

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 district files. Unimproved properties shall be inspected at least yearly, and improved properties shall be inspected at least monthly. These inspections may be combined with required maintenance inspections, which shall be documented as required under Section 11.10.06.00.
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 11.07.12.00.

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 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 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.

The District Cashier should be used only as a last resort.

If the tenancy account is not set up in the RWPS, 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.

11.09.07.00 Termination of Rental Accounts

The district shall use the RWPS 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.
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. See Section 11.10.15.00 for detailed information.

Contractors hired by the state perform non-offsetting maintenance. The Property Manager must approve receipts and bills for non-offsetting maintenance using the RWPS Maintenance Module.
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. 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.

Under Health and Safety Code Sections 17980.6, 17980.7, and 17980.8, the state has a specific legal obligation to keep the premises in a condition fit for human occupancy. If necessary repairs require the tenant to relocate, the state must pay reasonable relocation costs. See R/W Manual Section 10.10.00.00 and contact District RAP Unit for assistance.

Displaced tenants must be given written notice of the first right to reoccupy the property after it is rehabilitated.

The state is also responsible for reasonable and actual costs to the enforcement agency that issued the citation, including the 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 lease language that addresses storm water pollution prevention by the lessee/tenant in new and renewed leases. The lease 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.

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 General Permit for Storm Water Discharges Associated with Industrial Activity (General Industrial Permit) 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 General Industrial Permit. Lessees with coverage under the General Industrial 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 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 requirements. However, Property Management manages its properties consistent with local MS4s by inspecting properties to ensure lessees comply with the terms of their lease, maintain the property and use storm water best management practices.

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. 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.

11.10.03.00  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.

11.10.03.02  Rented State-Owned Property

Maintenance expenditures by the state shall be governed as follows:

- **Commercial or Industrial Lease (11-EX-B)** - Major repairs only shall be made to the roof, main sewer lines, and water service pipes to fixtures. Tenants 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 (11-EX-23)** - 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 (11-EX-C)** - 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 (11-EX-D)** - The state will make no repairs and perform no maintenance whatsoever on the advertising structure.

- **Rental Agreement, Month-to-Month Tenancy (11-EX-A)** - 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.
11.10.04.00 Health and Safety Requirements

Exterior Areas

All 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 barricades where necessary.
- Remove attractive nuisances such as abandoned cars, refrigerators, and freezers.
- Post proper signs to reduce trespassing such as illegal parking or storage.

If the property is tenant-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. Refer to the Service Contracts Manual for additional information on service contracts.

Interior Areas

Any property condition that may affect health and safety of occupants should be investigated as soon as possible. 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 professional with expertise 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 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 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.
### Inspection of Improved Properties

<table>
<thead>
<tr>
<th>Occupancy</th>
<th>Areas of Concern</th>
</tr>
</thead>
</table>
| Tenant-Occupied Property Exterior       | • 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       | • 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. |
| Unoccupied Property That Will Be Re-Rented | All the physical conditions outlined above under “Tenant-Occupied Property - Exterior” and “Tenant-Occupied Property - Interior.” |
| Unoccupied Property That Will Not Be Re-Rented | 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 periodically inspecting and documenting every rental account under their control.

<table>
<thead>
<tr>
<th>Type of Property</th>
<th>Form</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>11-EX-54, Residential Property Inspection, and 11-EX-54SW, Residential Storm Water Inspection</td>
<td>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 RWPMS. Copies of the inspection forms are to be signed by the supervisor and maintained in the file. A log shall be kept of the inspections noting all deficiencies and shall be used to document correction of deficiencies of residential properties.</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>11-EX-55, Non-Residential Property Inspection, and 11-EX-55SW, Non-Residential Storm Water Inspection</td>
<td>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 RWPMS. These check sheets shall be filed in a master binder, one for each Agent, numerically by rental account number. Each master binder shall be filed in the district’s Property Management office so it will be readily available for the Property Manager or other interested parties to review.</td>
</tr>
</tbody>
</table>

Note: If a tenant notifies R/W of a health and safety issue, the district should 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 should still send a written response to the tenant confirming the outcome of the inspection. All such investigations, resolution, if any, and communications with the tenant must be documented in the property file.
Required frequency of field inspections is indicated below.

- **Agent** - Field inspections of all properties shall be made at least annually to ensure the properties are maintained as well as or better than other properties in the neighborhood.

- **Property Manager** - Field inspections or reviews by the Property Manager or authorized representative shall be performed at least annually to ensure the rental properties are maintained as well as or better than other properties in the neighborhood. Additionally, field inspections shall be performed at least annually to ensure rental properties are maintained to prevent storm water pollution. The Property Manager shall document inspections with any necessary comments on the inspection forms.

### 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:

- 11-EX-54, Residential Property Inspection.
- 11-EX-55, Non-Residential Property Inspection.
- 11-EX-56, Residential Property Occupancy and Vacancy Inspections.

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 Service Contracts Manual for further details.)

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

### 11.10.08.00 Smoke Detection Devices

Property Management is responsible for having approved smoke detectors installed in every occupied residential unit in accordance with Health and Safety Code, Section 13113.7 and Section 13113.8.

#### 11.10.08.01 Installation and Type of Detector

All smoke detectors:

- Will be of the ionization type. According to the Fire Marshal’s Office, the photoelectric type requires more maintenance.
- Will be hard-wired (110-120 volts AC).
- Must be of a type approved and listed by the State Fire Marshal. A monthly updated list is available at all State Fire Marshal offices.
- Must be installed in accordance with manufacturer’s instructions, State Fire Marshal regulations, and applicable local codes and ordinances.
- Must 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.
• Will be inspected by the Agent or a qualified contractor at least annually to ensure proper operation. Any needed repairs or maintenance shall be performed by a qualified person.

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 Devices

A battery-operated smoke detector may be substituted for a hard-wired detector where:

• A rental unit has six months or less left before it is permanently vacated, or

• The rental unit is located in a remote area, especially if the source of electric power is a generator or is subject to frequent outages.

All batteries must be changed annually at the time of the annual field inspection. The Agent should note the date the battery was changed on the Residential Property Inspection form, 11-EX-54. The above exceptions must be permitted by code or law and, when possible, the installation must be done by a properly licensed person or company that obtained the required permits and had the work inspected by the proper local authority.

11.10.09.00 Rehabilitation of Residential Property

The Department’s policy is to upgrade and maintain housing at standards that meet the most recent edition of the Uniform Housing Code of the International Conference of Building Officials. Rehabilitation standards shall include safety and energy saving devices such as smoke detectors, ceiling insulation, and weather stripping. This rehabilitation policy shall apply to residential rental property on routes where construction is not imminent.

11.10.09.01 Inspections

The first step in the rehabilitation process is a code inspection to determine whether housing units are in compliance with the Uniform Housing Code. Inspections may be performed by qualified district personnel or under contract with local building inspectors. 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.

Qualified district personnel or local building inspectors should also be used to monitor the contractor’s work while it is being done and upon completion.

11.10.09.02 Specifications and Estimates

Qualified district 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 he/she 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 Section 11.10.11.00.)
11.10.09.03 Public Works Contracts

Depending on scope of work, a project may require a public works contract. 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.” The type of work it covers is explained in Chapter 9 of the Caltrans Service Contracts Manual. As defined in Section 9.1.1 of the Service Contracts Manual, whole roof replacements, initial (first time) painting, replacement of heating/air conditioning systems, parking lot resurfacing, sidewalk repair, etc., are covered by public works contracts. 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 project. (Also, see Section 11.10.11.00 for a description of service contracts.)

Prior to requesting a public works contract, Property Management shall prepare a package for approval by the DDC. 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.

11.10.09.04 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 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 Section 11.10.09.03 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.
11.10.09.05  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 survey indicates there are no health and safety concerns due to the presence of asbestos.
- 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.

11.10.10.00  Rehabilitation and Maintenance on Historic Structures

Public Resources Code Section 5024 requires all state agencies to inventory all agency-owned structures over 50 years old to identify and protect those that are historic. Property Management is responsible to ensure that all structures subject to provisions of Section 5024 are adequately and appropriately maintained.

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 Environmental Branch for processing to the State Historic Preservation Officer (SHPO) for review and approval prior to undertaking any such work. The District Environmental Branch shall submit these plans and specifications to the Chief, Architectural and Historic Studies Section, Headquarters Environmental Analysis, for processing to SHPO.

11.10.11.00  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 (Section 11.10.09.03). 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 put words in a company representative’s mouth, and then turn around and use these in 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 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 Section 11.10.09.02.)

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

11.10.11.01 Inspections

Type of Inspections:

Small: An agent shall inspect all maintenance issues before, during, and after the work has been completed and document all findings in the rental file. Meeting with the contractor 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 contractor cannot be made until the work has been inspected and completed satisfactorily.

Medium: An agent shall inspect all maintenance issues before, during, and after the work has been completed and document all findings in the rental file. Meeting with the contractor 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 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 table entitled “Inspection Guidelines for Service Contracts.” When work is completed by the contractor, an Agent, other than the person ordering the work, should inspect the work according to the table.
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.)

<table>
<thead>
<tr>
<th>Size of Job</th>
<th>Estimated Cost</th>
<th>Examples</th>
<th>Type of Inspection</th>
</tr>
</thead>
</table>
| Small repairs | Less than $500 | - Change a faucet  
- Mow a lawn  
- Fix a window | Confirmation with tenant by phone that the job has been completed adequately. 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 | Less than $1,000 | - Paint partially  
- Install flooring  
- Repair cabinet  
- Repair roof | An Agent shall inspect the work before and after the job is done. |
| Large repairs | Over $1,000 | - Repaint entire interior or exterior of house  
- Install new flooring and carpeting  
- Repair roof | 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. |

11.10.11.02 Requesting Work

If maintenance work is required, the Agent shall enter a full description of the job, including cost estimate, on the RWPS Maintenance Request Screen and submit it to the Property Manager or authorized person for approval.

Upon approval of the request, the Agent shall file a hard copy of the Maintenance Request Screen in the rental folder.

11.10.11.03 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 (Form 360). When a contractor’s bill is received on a multi-provider or single provider contract, the Agent shall update the Maintenance Request Screen itemizing the work done and indicating the appropriate charges. 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. Two copies of the Maintenance Request Screen must be submitted to Accounting for payment in accordance with Section 11.10.11.06.
11.10.11.04  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. Therefore, the CAL-Card limits for services are $4,999.99 per fiscal year for the same type of service with the same vendor. Although bids are not required, it is recommended that more than one contractor (preferably three) be contacted in order to find the best value.

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 an Original Purchase Request (ADM 1415) 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 Purchase Request, credit card receipt, and any other backup documentation for verification and post audit by Department or DGS. To process payment under CAL-Card, a complete package must be received in Accounting by the 8th of each month. The package consists of:

- Original Purchase Request Form (ADM 1415)
- Original Charge Slip and/or Sales Invoice
- Original VISA dispute form entitled “Cardholder Statement of Questioned Item,” Form CSQI-RO494, if necessary.
- 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.)

11.10.11.05  Non-Credit Card Process (Under $5,000)

The non-credit card process (Form ADM-3015, Service Agreement Under $5,000) 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 $4,999.99, and the term over which services are to be provided cannot extend beyond two years in length. See instructions on Form ADM-3015 and information in the CAL-Card Handbook. Although bids are not required, it is recommended that more than one contractor (preferably three) be contacted in order to find the best value.
The following package must be submitted to Accounting to pay the contractor’s invoice:

- Original completed Purchase Request (ADM 1415)
- 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)

### 11.10.11.06 Submitting for Payment

Maintenance Requests, Contracts, Cash Expenditure Vouchers, Draft Purchase Orders, Statements of Account, Purchase Requests, and other coded documents must be properly coded (Object 7058) 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 RWPS in a timely manner and file a copy of the document in a separate file or binder. 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, 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 927-927.12 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.

### 11.10.11.07 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.

### 11.10.12.00 Draft Purchase Order (DPO)

Draft Purchase Orders (Form DAS OBM-1024) 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 not to exceed $200 (including tax and freight). This limit can be increased to $500 under special circumstances. Consult with Accounting for 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 $5, except in rare emergency situations.
- 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.

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. Upon completion of repairs, Maintenance will contact Property Management for proper coding information and send the DPO to Property Management to review coding. 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.

11.10.13.00 Cash Expenditure Voucher (CEV)

The CEV, Form FA-0202, 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 CEV when they are in the field and discover a maintenance problem that requires immediate attention.

Material needed for repairs can be purchased with employees’ own funds (up to a limit of $50 including tax) for which they will be reimbursed by check by presenting a CEV to Accounting. The CEV should be filled out in triplicate and given to Accounting along with applicable receipts.

The CEV may also be used to expedite repairs for employee housing by requesting Maintenance employees to purchase the materials necessary for repairs with their own funds and to submit a CEV to Property Management for processing through Accounting.

11.10.14.00 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 and evaluating the conditions for health and safety concerns. When the agent determines that an emergency condition exists, corrective measures will be scheduled within 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.

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

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 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, 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 or less may be approved by the Property Manager (Senior). Rental offsets more than $1,000 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 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.
When the tenant has completed the work, a Property Management Agent, other than the person authorized to amend the rental agreement, shall inspect the property to verify and document satisfactory completion of the work. The tenant also needs to provide the Property Management Agent the receipt 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.

After inspection and acceptance of the work, the Agent shall procure from the tenant, when applicable, all pertinent and properly receipted itemized statements obtained from vendors. The Agent shall complete an RWPS 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 RWPS Contract Screen for contract number “Offsets.” A copy of the rental offset paperwork, along with the receipt for materials, 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."

**11.10.15.01 New Residential Tenants**

Where 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 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.

**11.10.15.02 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.
11.11.00.00 - INSURANCE REQUIREMENTS FOR TENANTS

11.11.01.00  Policy

Tenants and lessees shall be required to obtain personal injury liability insurance in most leases and rental agreements where extraordinary liability features are present. Insurance shall be in the amount of $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” 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.
- Multi-residential properties with swimming pools.
- 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.

Health and Safety Code Section 1597.531, however, does set minimum levels of mandatory liability insurance or bond coverage for family day care homes. 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.

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 district should request the tenant to provide copies of the affidavits.
**GUIDELINES FOR PERSONAL INJURY, LIABILITY, AND PROPERTY DAMAGE INSURANCE**

<table>
<thead>
<tr>
<th>Type of Use</th>
<th>Required</th>
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</thead>
<tbody>
<tr>
<td><strong>PUBLIC AGENCIES:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-insured</td>
<td>X*</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Not Self-insured</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>PUBLIC UTILITIES:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-insured</td>
<td>X*</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Not Self-insured</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>RESIDENTIAL:</strong></td>
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<td></td>
<td></td>
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<tr>
<td>SFR</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>SFR with Pool</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multi-residential</td>
<td>X</td>
<td></td>
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<tr>
<td>Multi-residential with Pool</td>
<td>X</td>
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<tr>
<td>Master Tenancy Residential Apartments and Mobile Home Park</td>
<td>X</td>
<td></td>
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<tr>
<td><strong>COMMERCIAL/INDUSTRIAL:</strong></td>
<td></td>
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<tr>
<td>Large Corporations with Self-insurance (Ralston Purina, etc.)</td>
<td>X*</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Parking - Private (For Lessee employees)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parking - Public</td>
<td>X</td>
<td></td>
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<tr>
<td>Sales (Retail, Wholesale)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restaurants, Bars</td>
<td>X</td>
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<td></td>
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<tr>
<td>Offices - All Types</td>
<td>X</td>
<td></td>
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<tr>
<td>Warehouses/Storage-Inside</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Storage-Outside - Equipment, RVs, Boats, etc.</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Service Stations</td>
<td>X</td>
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<tr>
<td>Manufacturing</td>
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<tr>
<td>Oil and Gas Subsurface Rights</td>
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<td>Oil Well with Surface Rights</td>
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<tr>
<td><strong>AGRICULTURAL:</strong></td>
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<tr>
<td>Grazing - Cows, Horses, Sheep, Llamas, Goats</td>
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<tr>
<td>Crops - Row Crops, Orchards, Vineyards, Dry Farming</td>
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<tr>
<td>Sales - Fruits, Vegetables, Christmas Trees, etc.</td>
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<td></td>
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<tr>
<td>Community Gardens</td>
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<tr>
<td><strong>SIGNBOARDS:</strong></td>
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<td>On Premise</td>
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<td>Off Premise</td>
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<tr>
<td><strong>OTHER:</strong></td>
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<tr>
<td>Recreational (Golf Driving Range, Tennis Clubs, Skateboard Parks, Bike Paths)</td>
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<td></td>
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<tr>
<td>Road Approach</td>
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<td>Landscaping</td>
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<tr>
<td>Parks</td>
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<tr>
<td>Park and Ride Lots</td>
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<td>Porter Bill Parks</td>
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<td></td>
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<tr>
<td>Churches</td>
<td>X</td>
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</tbody>
</table>

* with self-insurance clause in lease.
11.11.04.00 How the State Is Protected

When the district determines that public liability insurance protection is required for the state’s benefit, the liability and property damage insurance clause (11-EX-B, Lease Agreement, Clause 23) shall be inserted in the rental agreement or lease making it mandatory for the tenant or lessee to provide the state with the specified amounts of public liability insurance and naming the state as an added insured. When the rental or lease agreement is signed, the 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 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 agreement or lease, but the insurance policy shall be in force before occupancy.

The Certificate of Insurance form from the tenant or lessee’s insurance carrier is kept in the rental file with the rental agreement or lease.

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 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, 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 premiums.

“The Department of Transportation, when it has acquired title to any real property for highway purposes and leases such property for commercial 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 therefore 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, 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 11-EX-B (Liability, Property Damage and Fire Insurance, Clause 23) and 11-EX-C (Agricultural Lease Agreement, Clause 22).

**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.

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**

Whenever a fire or explosion takes place in a state-owned property, the district should call the nearest State Fire Marshal office (see state Telephone Directory). The caller should be prepared to identify location, type of property, and extent of damages, if known. The Fire Marshal will decide whether to make a formal investigation.

Rebuilding or repairing damage caused by the fire may begin without delay whether or not an investigation is made.
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 is Exhibit 11-EX-B, Lease Agreement, which should be used for leasing all commercial and industrial properties. For income residential properties where the state is seeking a master tenant, use Exhibit 11-EX-23, Master Tenancy Lease Agreement. For agricultural property, use Exhibit 11-EX-C, Agricultural Lease.

11.12.03.00 Lease Rates

With few exceptions, lease rates shall be based on comparable market rates at Fair Market Value.

11.12.04.00 Lease Preparation

The district shall prepare the lease in quadruplicate. Forward or deliver to lessee two originals for signature and one copy for the lessee’s file, and retain one copy in the rental file. Lessee will 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.

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 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 and nonresidential rental agreements and non-airspace leases. 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

Report RWM 540, Reminder Report, will alert Property Management of leases that are due to expire. Upon receiving the report, the Agent shall:

- Review and inspect the property.
- Determine if the current lease rate is still the market rate.
- Check to see if the present tenant is interested in renewing the lease at current Fair Market Value.

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.

If the lessee wants to continue leasing, the lease may be renewed or modified using Exhibit 11-EX-G, Lease Renewal. 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.

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 assignment of the lease. The state has the option to refuse or accept (but cannot unreasonably withhold approval) the proposed assignee as a responsible party who is able to fulfill the lease obligations for the balance of the lease period. The 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 shall sign the “Assignment of Lease” section of Exhibit 11-EX-H, Assignment of Lease, as assignee. 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.

11.12.10.00 Public Notice to Bidders

It may be advantageous for the district to use the public bidding process to accomplish leasing of certain types of property. The suggested format presented in Exhibit 11-EX-14, Notice to Bidders, may be modified to fit any type of property being offered for lease.

11.12.11.00 Construction of Improvements by Lessee

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

Such leases should 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, 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.

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 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.

**11.12.13.00 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 standard lease Exhibit 11-EX-B, 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 state leases. 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, District Right of Way will obtain the District Permit Engineer’s approval of the lease.

**11.12.14.00 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 this program.

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, community garden, 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 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.
- 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.

Exhibit 11-EX-15, City, County, or Special District Lease, shall be used for all these types of transactions.
11.12.15.00  Lease Recordation

Under most circumstances, a lease 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.

11.12.16.00  Lease Cancellation

All state leases shall contain provisions that the state shall have the right to cancel the lease upon giving specific notice without other qualifications or reasons.

11.12.16.01  Mutual Consent

Occasions may arise when it is to the mutual benefit of the state and lessee to cancel a lease that is in force. This shall be accomplished by using Exhibit 11-EX-1, Cancellation of Lease. The lease cancellation shall be signed by both parties and shall be processed in the same manner as the lease.

11.12.16.02  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 state. 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, apply when canceling tenancy of a lessee who is eligible for relocation payments.

Money that the lessee has on deposit with the state 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 the property, leaving it in a satisfactory condition acceptable to the state.

11.12.16.03  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 state wishes to cancel the lease, RW 11-10, Notice of Termination of Tenancy and Notice to Quit, shall be used.

11.12.17.00  Materials Agreement for Removal of Materials

Occasionally, the state 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 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 adjoining property. To ensure desirable results are achieved, the District Environmental Branch must be contacted for advice and recommendation before a Materials Agreement is negotiated.

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.

See Exhibits 11-EX-16, Materials Agreement, and 11-EX-17, Materials Agreement, for sample formats of Materials Agreements.
**11.12.18.00 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.
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

Exhibit 11-EX-23, Master Tenancy Lease Agreement, will be utilized for all master tenancy leases. This is a standard lease and not all clauses will apply to all situations. 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 state’s lessee of income residential, commercial, or industrial property capable of being sublet into two or more rental units. Master tenants are obtained through negotiations or by successful bid on an advertised lease for a particular property. As 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.

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 state 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 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 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 changes in tenancy and receipt of signed non-RAP eligibility statements for all new tenants must be established.
- A statement that district staff will perform interior and exterior inspections semiannually and that the master tenant will correct conditions of disrepair or the tenancy will be terminated.

Master tenancy agreements may be written for varying lengths of time at the district’s discretion. The agreements should be written for time periods that are commensurate with district clearance schedules, which are generally controlled by certification dates. 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 lease onset.

11.13.07.00 Minimum Acceptable Lease Rate

The 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 grantor. 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.

11.13.08.00 Advertising Availability of Master Tenancy

The 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 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 ad should request interested parties to phone or write the district for a brochure or flyer with the particulars as well as bidding requirements and procedures.

11.13.09.00 Bid Proposal Package

Bid proposal packages that are mailed to interested parties 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-24 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 the “Notice to Bidders and Interested Parties.”

Although the lease will normally be awarded to the highest responsible bidder, the state reserves the right to refuse any and all bids. The 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 contained in the “Terms of Auction” notice. When these terms have been met to the district’s satisfaction, the district shall return the second highest bidder’s deposit and mail a letter reporting the bid results to all unsuccessful bidders (see Exhibit 11-EX-26).

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 Subchapter 11.12.00.00 for details.
11.13.12.00 Posting of Public Notice

After final approval of the lease, the district shall post a public notice sign on all residential properties under a master tenancy agreement (see Exhibit 11-EX-27). 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 7274. 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.

<table>
<thead>
<tr>
<th>Item</th>
<th>Form/Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice to Bidders and Interested Parties</td>
<td>Exhibit 11-EX-18</td>
<td>This notice sets forth the address of the lessor; indicates date and time sealed bids shall be opened; and makes specific remarks about allowing only one bid from any one person, corporation, or firm.</td>
</tr>
<tr>
<td>Terms of Auction</td>
<td>Exhibit 11-EX-19</td>
<td>This details the required amount of money to be submitted with the bid, the manner in which payment is to be made, where payments are to be received, 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.</td>
</tr>
<tr>
<td>List of Tenants in Possession</td>
<td>Exhibit 11-EX-20</td>
<td>This sheet lists by address the tenants in possession with their corresponding rental rates and number of bedrooms. It also has information in regard to the utilities for which the Master Tenant is responsible. The list of tenants in possession is actually incorporated into the lease.</td>
</tr>
<tr>
<td>Inventory</td>
<td>Exhibit 11-EX-21</td>
<td>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.</td>
</tr>
</tbody>
</table>
### ITEMS INCLUDED IN BID PROPOSAL PACKAGE (Continued)

<table>
<thead>
<tr>
<th>Item</th>
<th>Form/Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bid Proposal</td>
<td>Exhibit 11-EX-22</td>
<td>The proposal form shall be fully executed by the bidder, who is responsible for completing the following:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Address of the property.</td>
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<td></td>
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<td>• Monthly lease rate willing to pay.</td>
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<tr>
<td></td>
<td></td>
<td>• 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.</td>
</tr>
<tr>
<td></td>
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<td>• Bidder’s telephone number, business address, or home address for refunding money to unsuccessful bidders.</td>
</tr>
<tr>
<td></td>
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<td>• The bid proposal shall be accompanied by the first month’s rent, as bid and it shall be paid in the manner set forth in the “Terms of Auction.” Failure to do so in the manner described is basis for rejection of the bid.</td>
</tr>
<tr>
<td></td>
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<td>To be considered, the bid proposal, in proper order, shall be received at the District Office by the time specified in the “Notice to Bidders.”</td>
</tr>
<tr>
<td>Rental Application</td>
<td>Form RW 11-5</td>
<td>The completed form shall be submitted at the time the bid proposal is submitted. The form is used by Property Management to determine the bidder’s financial responsibility.</td>
</tr>
<tr>
<td>Sample Lease Agreement</td>
<td>Exhibit 11-EX-23</td>
<td>This is a sample master tenancy agreement that may be modified as needed and approved by Legal.</td>
</tr>
<tr>
<td>Bid Proposal Mailing Envelope</td>
<td>Exhibit 11-EX-24</td>
<td>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 indicated.</td>
</tr>
</tbody>
</table>
11.14.00.00 - OUTDOOR ADVERTISING SIGNS

11.14.01.00  General
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
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 provide that the sign company prorates rental payments to both the state and to the state’s grantor. Should the sign be located partially within the right of way and partially on the remainder, the state’s rental agreement shall reflect only the amount of money payable to the state.

Billboard site rental rates shall be based on the Billboard Site Rental Schedules (Exhibit 11-EX-28, Billboard Site Rental Schedule) or the existing rental rate, whichever is greater.

11.14.04.00  Billboard Site Rental Schedules
The type of billboard and the number of advertising sign faces in place on a site determine the billboard site rental rates, by multiplying the advertising rate by the appropriate percentage shown on Exhibit 11-EX-28, Billboard Site Rental Schedule. Determination of rental rates shall be documented in the rental account file.

Outdoor advertising companies publish advertising rates for Poster Panels and Urban “Rotates.” The rates are normally published for each calendar year, but may be changed more often. Current rates for posters or rotating bulletins may be obtained by asking the sign company for a rate card for the type and location of the sign involved.

Locations in the rate books are general in nature, such as Los Angeles Metro Market, San Francisco, and Oakland/San Jose Metro Market. Examples of published advertising rate formats are shown on Exhibit 11-EX-29, Advertising Rate Card Examples.

Site rental rates are determined by multiplying the advertising rate times the percentage shown on the Billboard Site Rental Schedules (Exhibit 11-EX-28, Billboard Site Rental Schedule) for each advertising sign face on a site as shown in Exhibit 11-EX-29, Advertising Rate Card Examples.

11.14.05.00  Advertising Structure Agreement
The sign owner shall be required to sign Exhibit 11-EX-D, Advertising Structure Agreement, in triplicate. The agreement shall be executed on the state’s behalf in accordance with Section 11.12.06.00.

Historically, advertising rates used to determine sign site rental rates have increased in much larger yearly increments than increases indicated by consumer price indexes. The standard lease term for an Advertising Structure Agreement, therefore, is two years. If a sign company wishes to enter into an agreement for more than two years, a clause should be included in the agreement to increase the rent 10% per year after the first 2 years. This ensures a reasonable increase in the rental rate during the extended term.

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

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

S&H Code Section, 104(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 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.

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.

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 District Division Chief of the office requesting the facility. All requests shall be sent to the DDC-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 EA (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 office 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 project will occupy the space.
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 Rehabilitation’s *Americans with Disabilities Act Access Guide: Survey Checklist* 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 Administrative Code, Title 24, State Building Standards and the Americans with Disabilities Act.

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 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 Streets and Highways 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. Form RW 11-28, Plan Approval Request, must accompany all plans to the SFM. 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 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 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.

**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. This is the responsibility of the landlord. (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. 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 are maximum guidelines that can be modified as necessary to meet specific job requirements. Detailed documentation is required when allowance modifications are made.

Right of Way should always avoid renting more space than is necessary, but it should rent sufficient space to accommodate 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, 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, Exhibit 11-EX-43, 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 material efficiency; while providing healthy, productive and comfortable indoor environments and long-term benefits to Californians.”

For specific guidelines, recommendations, and information, refer to website [http://www.calrecycle.ca.gov/greenbuilding/basics.htm](http://www.calrecycle.ca.gov/greenbuilding/basics.htm).
11.15.03.07  Hazardous Materials Certification

Asbestos material in buildings comes in two forms: friable and nonfriable. 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. This would typically be pipe wrapping, insulation, or fireproofing. Nonfriable asbestos is generally considered nonhazardous and is typically vinyl asbestos floor tile or asbestos roofing felts and shingles.

Current state policy dictates that all buildings built before calendar year 1980 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 Environmental Protection Agency (EPA) Asbestos Hazard Emergency Response Act (AHERA) Certified Inspector. If the building was constructed subsequent to calendar year 1980, a photocopy of the Occupancy Certificate issued by the city or county building department is all that is required. The Occupancy Certificate must be provided prior to the execution of the lease.

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.

Also, current state policy dictates that all buildings built before calendar year 1980 must be certified as free of hazard from Lead Containing Materials (LCM). Paint chip samples must be collected by California Department of Health Services (DHS) Lead Certified Project Designer for laboratory analysis to determine lead content. Website for your assistance is: https://www.epa.gov/lead/protect-your-family-lead-your-home-1.

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** - Exhibit 11-EX-30, State as Lessee Lease Agreement, shall be used. 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 Exhibit 11-EX-30, State as Lessee Lease Agreement, 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 the execution of said lease.

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 DDC of the requesting function shall be shown on the lease.

11.15.04.02  Lease Extension

The Region/District may extend the term of existing leases.

11.15 - 4 (REV 12/2016)
11.15.04.03 **Triple Net Leases**

Triple net leases that require the State to pay for the lessor’s future increased expenses for the leased property, such as taxes, insurance, utilities, and debt service, shall be avoided. Prospective lessors should be advised to include such items in their proposed rental rate.

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 11007.1-11007.74. 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.

Although there is no need to furnish insurance policy coverage on SAL leases, there may be instances when an owner 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. It may be prudent to renegotiate rental terms if purchase of an insurance policy is required.

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. 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 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 Ridesharing Coordinator is responsible for the Program. Since no rent is paid for use of the facilities, the coordinator usually handles the 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 Exhibit 11-EX-33 for a typical Park and Ride lease.) Since the State is lessee, the lessor may require changes in the typical lease. The local Legal office must approve any changes.

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 Traffic System Management.
### PARK & RIDE PROCEDURES

<table>
<thead>
<tr>
<th>Function</th>
<th>Procedures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition</td>
<td>Receive an appraisal of the fair market rent.</td>
</tr>
<tr>
<td></td>
<td>Prepare a Lease Agreement using Exhibit 11-EX-33. Property Management</td>
</tr>
<tr>
<td></td>
<td>should review and approve the lease, and the local Legal office must approve</td>
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<tr>
<td></td>
<td>any changes in the standard lease.</td>
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<tr>
<td></td>
<td>Pay the fair market rent for the entire lease term in advance in a lump sum</td>
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<tr>
<td></td>
<td>by R/W Contract.</td>
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<td></td>
<td>Send a short-form MOS and Claim Schedule to HQ R/W, Acquisition Branch.</td>
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<tr>
<td></td>
<td>Enter parcels in IRWS.</td>
</tr>
<tr>
<td>Property Management</td>
<td>Review the lease prepared by Acquisition prior to presenting it to the</td>
</tr>
<tr>
<td></td>
<td>lessor.</td>
</tr>
<tr>
<td></td>
<td>Forward a copy of the executed lease to HQ R/W, Property Management Branch.</td>
</tr>
</tbody>
</table>

#### 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 parks, 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 Construction’s resident engineers, Construction must supply appropriate charge information.
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 Unit in writing within two days of the first knowledge of a RAP eligible vacating state-owned property.
- Provide a courtesy 90-Day Letter for noneligible RAP tenants, in accordance with provisions of Section 11.07.19.00.
- Ensure that all noneligible RAP tenants occupying premises leased under master tenancy are informed they are not eligible for relocation assistance payments.
- Coordinate sale of excess land or building improvements with the RAP Unit 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 eligible 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).

Depending on 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. Should the Agent need assistance in interpreting these provisions of California law, the Agent may consult with 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.
- When necessary, submit a service request to the proper maintenance personnel 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.

11.16.03.00 Property Manager Review

The Property Manager shall review all improved rental properties that are transferred to clearance status and shall perform the following functions:

• Verify that entries made in RWPS 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 DDC-R/W shall be attached to the improvement disposal report for disposal of any residential improvements. Comments and recommendations must 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. The tenant must have made authorized capital improvements valued in excess of $5,000 at their expense. Upon Excess Land’s request, Property Management will identify all eligible properties. For further details, see Excess Land Chapter 16.
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.

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.)

- Flammable
- 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.

General

The Department strives to identify, investigate, and clean up 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. Project Development is the lead unit for the identification, investigation, 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 assists in identifying 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 is done under the administrative and technical control of the District Hazardous Waste Coordinator (HWC) with concurrence of the Department’s Hazardous Waste Management Branch, Office of Project Planning and Design. If at any time a formal Hazardous Waste Management Plan is required, Project Development assumes the lead role.

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 Tanks

The State Underground Storage Tank Law is contained in Chapter 6.7, Division 20, Health and Safety Code, and Underground Tank Regulations, Subchapter 16, Chapter 3, Title 23, California Administrative Code. These sections include Health and Safety Code Sections 25286, 25294, 25295, 25298 and 25299.

All underground 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.”

Underground 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 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 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 Office of Service 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.

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 district should continue tenancy with amendment of lease to include the hazardous waste clause.

If hazardous waste exists and the lessee’s operation is causing the waste, the district should notify the lessee to cease such action and terminate the lease. The 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 authorized delegate must approve any new lease or lease renewal for a parcel confirmed to contain a 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 or rental 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 (e.g., siding and insulation) should be coordinated with the HWC. See R/W Manual Section 12.03.07.00 for additional information.

**11.17.08.00 Lease Clause for Nonresidential Properties and Information for Tenants**

Exhibit 11-EX-B, Lease Agreement, 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 district’s judgment 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. Each nonresidential tenant shall be provided with a copy of this list.

Additional information contained in California Health and Safety Code Sections 25286, 25294, 25295, 25298, and 25299 may also be obtained from the HWC. Tenants of properties with underground tanks shall be provided with a copy of these sections.

Use of the hazardous waste clause and the tenant’s listing of hazardous materials asked to be permitted should give the Property Manager notice of potential problems. Before any lease or rental is entered into with a new tenant, however, the Property Manager must inquire into the specific type of use proposed and consider the risk, with advice as needed.
11.18.00.00 - DEPARTMENT-OWNED EMPLOYEE HOUSING

11.18.01.00 Definition

California Code of Regulations (CCR), Department of Personnel Administration (DPA) Rule 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 necessary for direct support of the station and is limited to crewmembers assigned to the station and their immediate family.

See Deputy Directive DD-18-R1, Employee-Occupied Caltrans-Owned Housing (Exhibit 11-EX-37), 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. Additional information on roles and responsibilities is included in the January 26, 1995 memorandum entitled “Employee-Occupied Caltrans-Owned Housing” (PSEP 1243) from the Division of Accounting.

11.18.04.00 Rental Rates

Employees will pay fair market rental rates for employee housing, consistent with collective bargaining unit agreements, as follows:

- All new employee-tenants will be charged fair market rents.
- The state will raise existing rental rates paid by employees up to 25% each year up to fair market value.

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 will be equipped with separate tanks and/or meters for fuel and electricity.

At locations where commercial electricity and fuel are not available or fuel is supplied by the maintenance station and no meters have been installed, the employee shall reimburse the state at the same rate charged by the nearest public utility company or fuel supplier. District Right of Way shall obtain estimates of fair and reasonable average monthly charges for such units.

If meters have been installed, the Maintenance Supervisor will read the meters monthly and Accounting will bill the employee-tenants.
If water is not metered to the employee housing unit, employees will be charged a flat monthly rate in accordance with Department of Personnel Administration Rule 599.642 as shown below:

<table>
<thead>
<tr>
<th></th>
<th>Housekeeping</th>
<th>Non-Housekeeping</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 1</td>
<td>$3.50 per month</td>
<td>$1.75 per month</td>
</tr>
<tr>
<td>Class 2</td>
<td>$5.50 per month</td>
<td>$2.75 per month</td>
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</tbody>
</table>

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.

The rental agreement for each unit shall specify utilities to be paid directly by the employee to commercial suppliers. If the maintenance station supplies utilities, the rental agreement shall specify the method of reimbursement by the employee.

11.18.06.00 Employee Housing Rental Agreement

Use of the Employee Housing Rental Agreement (Exhibit 11-EX-J) is mandatory for occupancy of employee housing units. Rental agreements are not required for dormitory occupants.

11.18.07.00 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 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 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.

11.18.08.00 Possessory Interest Tax

The tenant’s interest in employee housing is subject to a possessory interest tax that the city or county may impose. Any tax payment shall not reduce rent due the Department and shall be the tenant’s responsibility.

11.18.09.00 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. Rental offsets shall not be used for employee housing.

Because of the distance of some 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. Costs of work done in this manner shall be documented in the rental file.
It is the responsibility of the Division of Maintenance to authorize and allocate funds necessary for the maintenance and repair of employee housing facilities. When it is necessary to perform maintenance or repairs, Right of Way will contact Maintenance to obtain the correct EA.

11.18.10.00  Carpeting for Employee Housing

The purchase of rugs or carpeting for employee housing shall be in accordance with DGS Carpet Specifications that are in effect at the time quotations are sought. In addition, purchase must be in compliance with existing procurement statutes, regulations, policies, and procedures. For a copy of the specifications or additional information, contact the Purchase Branch in the Administrative Service Center.

11.18.11.00  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.

11.18.12.00  Reporting Requirements

CCR, DPA Rule Section 599.640-648 requires Departments with state-owned properties to 1) establish processes and procedures to annually assess the fair market value 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 Section 599.644(c) of Title 2 states, “At the direction of the Department of Personnel Administration, 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 of Personnel Administration.” The Department has the responsibility to submit the following information to DPA 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

HQ will send out a request to the Regions/Districts for the annual survey along with instructions and other pertinent information.

11.18.13.00  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.
11.19.00.00 – DELEGATIONS

11.19.01.00 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.

<table>
<thead>
<tr>
<th>Reference (Statutory, WBS, Director’s Policy, Deputy Directive, etc.)</th>
<th>RW Manual Section</th>
<th>Responsibility</th>
<th>Delegation</th>
<th>Lowest Level of Sub-Delegation</th>
</tr>
</thead>
</table>
| 11.01.04.01 | No Re-Rent Policy on Residential Units:  
- Exception to Establishment of a No Re-Rent Policy, if Project is in the STIP or SHOOP 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 |
| 11.01.04.02 | No Re-Rent Policy on Nonresidential Units:  
- Justification and Approval Required are the Same as For Residential Units (Section 11.01.04.01) | District | RW Manager |
<p>| 11.02.06.00 | Establishing New Accounts Upon Approval of Rental Agreement | District | Associated Governmental Program Analyst (AGPA) |
| 11.02.06.00 | Modify Standard Forms to Comply With Actual Conditions or When Special Situations. 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 (12.04.05.00) | District | Supervising RW Agent |</p>
<table>
<thead>
<tr>
<th>Reference (Statutory, WBS, Director’s Policy, Deputy Directive, etc.)</th>
<th>RW Manual Section</th>
<th>Responsibility</th>
<th>Delegation</th>
<th>Lowest Level of Sub-Delegation</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.03.08.00</td>
<td>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.</td>
<td>District</td>
<td>Senior RW Agent</td>
<td></td>
</tr>
<tr>
<td>11.04.01.00</td>
<td>Granting Grantors and Inherited Tenants Longer Free-Occupancy Period</td>
<td>District</td>
<td>RW Manager</td>
<td></td>
</tr>
<tr>
<td>11.04.03.00</td>
<td>Approval for a Flat Rate for Commercial and Industrial Leases in a Stable Market</td>
<td>District</td>
<td>Supervising RW Agent</td>
<td></td>
</tr>
<tr>
<td>11.07.10.00</td>
<td>Approval of All Residential and Nonresidential Rental Agreements Per Appraisal or R/W Contract and Standard Form</td>
<td>District</td>
<td>Senior RW Agent</td>
<td></td>
</tr>
<tr>
<td>11.12.06.00</td>
<td>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.</td>
<td>District</td>
<td>Senior RW Agent</td>
<td></td>
</tr>
<tr>
<td>11.09.08.00</td>
<td>Approval of Rental Offsets</td>
<td>District</td>
<td>Up to $100: Senior RW Agent $101 to $250: Supervising RW Agent</td>
<td></td>
</tr>
<tr>
<td>Reference</td>
<td>RW Manual Section</td>
<td>Responsibility</td>
<td>Delegation</td>
<td>Lowest Level of Sub-Delegation</td>
</tr>
<tr>
<td>-----------</td>
<td>------------------</td>
<td>----------------</td>
<td>------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td></td>
<td>11.10.03.02</td>
<td>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</td>
<td>District</td>
<td>Senior RW Agent</td>
</tr>
<tr>
<td>State Contract Act, DPAC Policy</td>
<td>11.10.09.04</td>
<td>Rehabilitation of Properties – Contract Proposals over $117K Must be Approved by DD or DDC Before Such Proposals are Mailed to Bidders (See Table Entitled “Responsibility for Major Contracts” Following 11.10.09.04). Package Presented to DD or DDC Must Include Description of Work, Estimate of Cost &amp; Economic Justification for Each Rehab Contract Over $117,000.</td>
<td>District</td>
<td>Supervising RW Agent</td>
</tr>
<tr>
<td></td>
<td>11.12.06.00</td>
<td>Lease Approval by State: Standard Residential, Nonresidential, and Non-Airspace Leases at Fair Market Rent. Rental Agreements and Leases on Nonstandard Forms Must be Approved by Legal Prior to Execution by the Department.</td>
<td>District</td>
<td>Senior RW Agent</td>
</tr>
<tr>
<td></td>
<td>11.12.10.00</td>
<td>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</td>
<td>District</td>
<td>Supervising RW Agent</td>
</tr>
<tr>
<td></td>
<td>11.12.13.02</td>
<td>Approval of Notice of Cancellation for More Than 90 Days of Interim Lease to a City or County Under S&amp;H Code 104.7</td>
<td>District</td>
<td>Senior RW Agent</td>
</tr>
<tr>
<td>Reference</td>
<td>RW Manual Section</td>
<td>Responsibility</td>
<td>Delegation</td>
<td>Lowest Level of Sub-Delegation</td>
</tr>
<tr>
<td>------------------------------</td>
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<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>(Statutory, WBS, Director’s Policy, Deputy Directive, etc.)</td>
<td>11.13.05.00</td>
<td>Approval of Master Tenancy Agreements (11-EX-23). Use of Any Nonstandard Form for the Agreement Must be Approved by Legal Prior to Execution by the Department (11.12.06.00).</td>
<td>District</td>
<td>Supervising RW Agent</td>
</tr>
<tr>
<td></td>
<td>11.14.05.00</td>
<td>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).</td>
<td>District</td>
<td>Supervising RW Agent</td>
</tr>
<tr>
<td>GOV §11007.1-§11007.74</td>
<td>11.15.05.00</td>
<td>Review the Fire and Hazard Insurance Required by Lessor on State’s Temporary Facilities Leases</td>
<td>District</td>
<td>AGPA</td>
</tr>
<tr>
<td></td>
<td>11.15.04.00</td>
<td>Execution of Standard State-as-Lessee Lease Agreements. Significant Modifications to the Standard Clauses in 11-EX-30 Shall be Approved by Legal Prior to Execution by the Department.</td>
<td>District</td>
<td>Supervising RW Agent</td>
</tr>
<tr>
<td></td>
<td>11.16.03.00</td>
<td>Approval of Property Manager to Transfer Improvements to Clearance Status</td>
<td>District</td>
<td>Senior RW Agent</td>
</tr>
<tr>
<td></td>
<td>11.16.04.00</td>
<td>Approval of Financial Analysis on Advance Transfer to Clearance Status</td>
<td>District</td>
<td>RW Manager</td>
</tr>
<tr>
<td>California Administrative Health and Safety Codes 25286, 25295, 25298, and 25299 CCR Title 23 Div 3, Ch 16</td>
<td>11.17.05.00</td>
<td>Exception to Requirement to Remove Underground Tanks</td>
<td>District</td>
<td>Supervising RW Agent</td>
</tr>
<tr>
<td></td>
<td>11.17.07.00</td>
<td>Approval of New Lease and Lease Renewal for a Parcel Confirmed to Contain Hazardous Waste</td>
<td>District</td>
<td>Supervising RW Agent</td>
</tr>
<tr>
<td>Reference (Statutory, WBS, Director’s Policy, Deputy Directive, etc.)</td>
<td>RW Manual Section</td>
<td>Responsibility</td>
<td>Delegation</td>
<td>Lowest Level of Sub-Delegation</td>
</tr>
<tr>
<td>---</td>
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<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>
| Deputy Directive #18 R-2 | 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 |
## CHAPTER 11

### Property Management

#### Table of Contents

## EXHIBITS

<table>
<thead>
<tr>
<th>Exhibit No.</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>11-EX-A</td>
<td>Residential Rental Agreement</td>
</tr>
<tr>
<td>11-EX-B</td>
<td>Lease Agreement</td>
</tr>
<tr>
<td>11-EX-C</td>
<td>Agricultural Lease Agreement</td>
</tr>
<tr>
<td>11-EX-D</td>
<td>Advertising Structure Agreement</td>
</tr>
<tr>
<td>11-EX-E</td>
<td>Rental Agreement Amendment</td>
</tr>
<tr>
<td>11-EX-F</td>
<td>Rental Offset Agreement</td>
</tr>
<tr>
<td>11-EX-G</td>
<td>Lease Renewal</td>
</tr>
<tr>
<td>11-EX-H</td>
<td>Assignment of Lease (Where State Is Lessor)</td>
</tr>
<tr>
<td>11-EX-I</td>
<td>Cancellation of Lease</td>
</tr>
<tr>
<td>11-EX-J</td>
<td>Employee Housing Rental Agreement</td>
</tr>
<tr>
<td>11-EX-1</td>
<td>Letter to FHWA Dated March 4, 1999</td>
</tr>
<tr>
<td>11-EX-2</td>
<td>Department Cash Handling Policy</td>
</tr>
<tr>
<td>11-EX-2A</td>
<td>Cash Receipt Book Procedures</td>
</tr>
<tr>
<td>11-EX-3</td>
<td>Affordable Rent Tenants</td>
</tr>
<tr>
<td>11-EX-4</td>
<td>Written Notice of Denial</td>
</tr>
<tr>
<td>11-EX-5</td>
<td>Rent Proration Examples</td>
</tr>
<tr>
<td>11-EX-6</td>
<td>Landlord’s Notice of Termination</td>
</tr>
<tr>
<td>11-EX-6B</td>
<td>Notice of Right to Inspection</td>
</tr>
<tr>
<td>11-EX-6C</td>
<td>Waiver of 48-Hour Notice of Initial Inspection</td>
</tr>
<tr>
<td>11-EX-6D</td>
<td>Initial Vacancy Inspection and Statement of Proposed Security Deductions</td>
</tr>
<tr>
<td>11-EX-7</td>
<td>District Right of Way Procedure: Vacating Premises, Unlawful Detainer Actions</td>
</tr>
<tr>
<td>11-EX-7A</td>
<td>Proof of Service Notice</td>
</tr>
<tr>
<td>11-EX-7B</td>
<td>Unlawful Detainer Request</td>
</tr>
<tr>
<td>11-EX-8</td>
<td>Correction Notice - Unsuitable Conditions</td>
</tr>
<tr>
<td>11-EX-9</td>
<td>Sample Possessory Interest Tax Letter</td>
</tr>
<tr>
<td>11-EX-10</td>
<td>Summary of Contract Processes</td>
</tr>
<tr>
<td>11-EX-11</td>
<td>Guidelines for Personal Injury, Liability and Property Damage Insurance</td>
</tr>
<tr>
<td>11-EX-12</td>
<td>Liability, Property Damage and Fire Insurance</td>
</tr>
<tr>
<td>11-EX-13</td>
<td>Recommendation and Approval Form for Archive Copy of Lease</td>
</tr>
<tr>
<td>11-EX-14</td>
<td>Notice to Bidders</td>
</tr>
<tr>
<td>11-EX-15</td>
<td>City, County, or Special District Lease</td>
</tr>
<tr>
<td>11-EX-16</td>
<td>Materials Agreement (Sample Format)</td>
</tr>
<tr>
<td>11-EX-17</td>
<td>Materials Agreement (Sample Format)</td>
</tr>
<tr>
<td>11-EX-18</td>
<td>Notice to Bidders and Interested Parties</td>
</tr>
<tr>
<td>11-EX-19</td>
<td>Terms of Auction</td>
</tr>
<tr>
<td>11-EX-20</td>
<td>List of Tenants in Possession</td>
</tr>
<tr>
<td>11-EX-21</td>
<td>Inventory</td>
</tr>
<tr>
<td>11-EX-22</td>
<td>Bid Proposal</td>
</tr>
<tr>
<td>11-EX-23</td>
<td>Master Tenancy Lease Agreement</td>
</tr>
<tr>
<td>11-EX-24</td>
<td>Bid Proposal Mailing Envelope (Sample)</td>
</tr>
<tr>
<td>11-EX-25</td>
<td>Notice to Tenant (Relocation Payments Not Forthcoming to New Tenants)</td>
</tr>
<tr>
<td>11-EX-26</td>
<td>Bid Results - Unsuccessful Bidders</td>
</tr>
<tr>
<td>11-EX-27</td>
<td>Public Notice (Sign for Master Tenancy)</td>
</tr>
<tr>
<td>11-EX-28</td>
<td>Billboard Site Rental Schedules</td>
</tr>
<tr>
<td>11-EX-29</td>
<td>Advertising Rate Card Examples</td>
</tr>
<tr>
<td>11-EX-30</td>
<td>State As Lessee Lease Agreement</td>
</tr>
</tbody>
</table>

(REV 8/2018)
<table>
<thead>
<tr>
<th>Exhibit No.</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>11-EX-31</td>
<td>Approval of Plans for Temporary Field Offices (Fire Marshal Guidelines)</td>
</tr>
<tr>
<td>11-EX-32</td>
<td>Office of Insurance and Risk Management-DGS (Insurance Log)</td>
</tr>
<tr>
<td>11-EX-33</td>
<td>Lease Agreement-Park and Ride Lot</td>
</tr>
<tr>
<td>11-EX-34</td>
<td>Service of Notice to Vacate (Notice to RAP Unit)</td>
</tr>
<tr>
<td>11-EX-35</td>
<td>Letter of Intent to Vacate—90</td>
</tr>
<tr>
<td>11-EX-36</td>
<td>Utility Removal Letter (Example)</td>
</tr>
<tr>
<td>11-EX-37</td>
<td>DD-18-R1 - Employee-Occupied Caltrans-Owned Housing</td>
</tr>
<tr>
<td>11-EX-38</td>
<td>Gross Income for the Purpose of Calculating Affordable Rent</td>
</tr>
<tr>
<td>11-EX-39</td>
<td>Collection Agency Transmittal</td>
</tr>
<tr>
<td>11-EX-40</td>
<td>Statutory Notice to Former Tenant of Right to Reclaim Abandoned Property</td>
</tr>
<tr>
<td>11-EX-41</td>
<td>Statutory Notice to Person Other Than Former Tenant of Right to Reclaim Abandoned Property</td>
</tr>
<tr>
<td>11-EX-42</td>
<td>State Space Allowances Standards</td>
</tr>
<tr>
<td>11-EX-43</td>
<td>Executive Order D-16-00</td>
</tr>
<tr>
<td>11-EX-44</td>
<td>Notice of Termination of Tenancy and Notice to Quit</td>
</tr>
<tr>
<td>11-EX-45</td>
<td>Request for Rent Determination</td>
</tr>
<tr>
<td>11-EX-46</td>
<td>Documentation of Residential Fair Market Rental Rate</td>
</tr>
<tr>
<td>11-EX-47</td>
<td>Uninhabitable Conditions</td>
</tr>
<tr>
<td>11-EX-48</td>
<td>Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards</td>
</tr>
<tr>
<td>11-EX-49</td>
<td>Department of Transportation, Division of Right of Way, STAR Program Agreement</td>
</tr>
<tr>
<td>11-EX-50</td>
<td>Modular Lease Agreement</td>
</tr>
<tr>
<td>11-EX-51</td>
<td>Pet Application</td>
</tr>
<tr>
<td>11-EX-52</td>
<td>Pet Addendum</td>
</tr>
<tr>
<td>11-EX-53</td>
<td>Nominal Value Nonresidential Rental Appraisal</td>
</tr>
<tr>
<td>11-EX-54</td>
<td>Residential Property Inspection</td>
</tr>
<tr>
<td>11-EX-54SW</td>
<td>Residential Storm Water Inspection</td>
</tr>
<tr>
<td>11-EX-55</td>
<td>Non-Residential Property Inspection</td>
</tr>
<tr>
<td>11-EX-55SW</td>
<td>Non-Residential Storm Water Inspection</td>
</tr>
<tr>
<td>11-EX-56</td>
<td>Residential Property Occupancy and Vacancy Inspections</td>
</tr>
<tr>
<td>11-EX-57</td>
<td>Memorandum of Understanding for Utilizing State-Owned Property</td>
</tr>
</tbody>
</table>

Exhibits are located online at [http://www.dot.ca.gov/hq/row/rowman/exhibits/index.htm](http://www.dot.ca.gov/hq/row/rowman/exhibits/index.htm).
# CHAPTER 11

## Property Management Table of Contents

### FORMS

<table>
<thead>
<tr>
<th>Form No.</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>RW 11-1</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-2</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-3</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-4</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-5</td>
<td>Residential Rental Application</td>
</tr>
<tr>
<td>RW 11-6</td>
<td>Non-Residential Rental Application</td>
</tr>
<tr>
<td>RW 11-7</td>
<td>Property Management Rental Account Diary</td>
</tr>
<tr>
<td>RW 11-8</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-9</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-10</td>
<td>60-Day Notice to Terminate Tenancy</td>
</tr>
<tr>
<td>RW 11-11</td>
<td>3-Day Notice to Pay Rent or Quit</td>
</tr>
<tr>
<td>RW 11-12</td>
<td>3-Day Notice to Correct Breach of Covenant or Quit (Curable Breach)</td>
</tr>
<tr>
<td>RW 11-13</td>
<td>3-Day Notice to Quit for Breach of Covenant (Incurable Breach)</td>
</tr>
<tr>
<td>RW 11-14</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-15</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-16</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-17</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-18</td>
<td>Certificate of Insurance With Endorsement for Lease of State-Owned Property</td>
</tr>
<tr>
<td>RW 11-19</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-20</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-21</td>
<td>Held for Future Use</td>
</tr>
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<td>RW 11-22</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-23</td>
<td>Contractor's Time Reporting Sheet</td>
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<td>RW 11-24</td>
<td>Income Certification</td>
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<tr>
<td>RW 11-25</td>
<td>Authorization to Write Off or Adjust Accounts Receivable Bill</td>
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<tr>
<td>RW 11-26</td>
<td>Held for Future Use</td>
</tr>
<tr>
<td>RW 11-27</td>
<td>State Fire Marshal Checklist</td>
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<tr>
<td>RW 11-28</td>
<td>Plan Approval Request</td>
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<td>RW 11-29</td>
<td>Seismic Screening Checklist</td>
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<td>RW 11-30</td>
<td>Certification of Structural Evaluation</td>
</tr>
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<td>RW 11-31</td>
<td>Structural Evaluation Request</td>
</tr>
<tr>
<td>RW 11-32</td>
<td>Plan Review Application</td>
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Forms are located online at [http://www.dot.ca.gov/hq/row/man/forms/index.htm](http://www.dot.ca.gov/hq/row/man/forms/index.htm).