



September 4, 2024

TO: Statewide Real Estate Services and Mega Programs

FROM: Robin Curl, Property Management Program Manager

SUBJECT: 2024-05-RES Event Lease Memo

The purpose of this memorandum is to establish the basis for a revision to WSDOT's Right of Way Manual regarding the use of WSDOT property for public and private events (1) to increase the minimum daily rental rate from One Hundred Dollars (\$100.00) per day to Five Hundred Dollars (\$500.00) per day and (2) to clarify the application of Leasehold Excise Tax (LET). To comply with 23 CFR 710.105, 710.403 and 710.405, RCW 47.12.120, and WAC 468-30-110, and subject to RCW chapter 47.12 and RCW chapter 82.29A. Real Estate Services processes and grants temporary property rights for events in the form of leases as further detailed in section 11.8 of the Right of Way Manual.

An Event Lease (RES-433) authorizes use of WSDOT owned property for no more than five (5) consecutive days. The Event Lease template is approved as to form by the Assistant Attorney General's office. Current policy allows for Event Leases to be executed without an Engineering Review (ECM Review) or Assistant Attorney General or Federal Highway Administration review and approval.

Increase in daily minimum rental rate: Section 11-8.1.A.7 of the Right of Way Manual currently states *the minimum rental rate is \$100 per day up to five days. WSDOT may charge more for rent depending on the individual event details.*

The minimum daily rental rate for an Event Lease shall be increased from One Hundred Dollars (\$100.00) per day to Five Hundred Dollars (\$500.00) per day. WSDOT's authority to charge more than the minimum daily rental rate depending on the size and impacts of the event remains unchanged. The maximum duration of an Event Lease of five (5) consecutive days remains unchanged.

Application of Leasehold Excise Tax (LET): Typically LET is charged to nongovernmental entities for use of public property, however there's an exemption from LET where the use of public property is for less than 30-days.

RCW 82.29A.130(9) states the following leasehold interests are exempt from taxes imposed pursuant to RCW 82.29A.030 and RWC 82.29A.040: *(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than 30 days: PROVIDED, That for purposes of this subsection, successive leases or lease*

*renewals giving substantially continuous use of possession of the same property to the same lessee are deemed a single leasehold interest: PROVIDED FURTHER, That no leasehold interest is deemed to give use or possession for a period of **less than 30 days** solely by virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on **an occasional, temporary basis**.*

This policy modifies 11-8.1.A.7 in the Right of Way Manual M 26-01. Headquarters is in the process of updating the appropriate chapter of the Right of Way Manual to reflect this policy change.