

**STAFF REPORT
C39**

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08/17/17
W 27074
A. Franzoia

GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

California Department of Transportation - District 3

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, near the cities of Sacramento and West Sacramento, Sacramento and Yolo Counties.

AUTHORIZED USE:

Mooring of construction equipment associated with the Tower Bridge Fender System Replacement Project.

LEASE TERM:

6 years, beginning August 17, 2017.

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

The lease is conditioned upon the Applicant obtaining an acknowledgment and consent for the lease from the City of Sacramento prior to construction.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6210.3, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

The Tower Bridge across the Sacramento River at the foot of Capitol Avenue and entrance to West Sacramento was dedicated on December 15, 1935.

STAFF REPORT NO. **C39** (CONT'D)

The Tower Bridge was listed in the National Register of Historic Places (NRHP) in 1982 at the state level of significance as a historically important transcontinental route, for its rare use of Streamlined Moderne architectural styling on a lift bridge, and as an outstanding expression of the social and architectural climate of the period.

On September 15, 1949, pursuant to section 101.5 of the Streets and Highways Code, the Commission authorized 19 right-of-way permits to the Division of Highways for crossings over navigable streams, including the Sacramento River for the Tower Bridge ([Item 17, September 15, 1949](#)).

On December 21, 1949, the Commission authorized the extension of the right-of-way from the approximate lines of low water on either side of the river to the mean high tide line ([Item 4, December 21, 1949](#)). A subsequent map was submitted in January 1950 showing the extension of the right-of-way to the mean high tide line.

Recent inspections revealed that much of the existing timber fender system protecting the Tower Bridge piers is deteriorated beyond all practical repairs. Fender sheathing has rotted away and the fenders have been deemed unsafe. U.S. Coast Guard (USCG) regulations require bridge owners to keep navigational aids and marine traffic protection in a state of good repair. The Applicant is proposing a project to replace the deteriorating timber fender system with updated materials to ensure that the fender system will continue to protect marine vessels, aid in navigation, and protect the bridge piers. Full replacement is required to restore the fenders to the required service condition.

The project will occur over approximately two construction seasons due to required in-water work windows. Work will occur during the day; no night work is anticipated. Some of the work will be around the fenders within the existing right-of-way. All other work and staging activities will be conducted entirely from barges moored in the river outside of the Applicant's existing right-of-way. The work will be comprised of removing the existing timber fender system and piles, driving new piles, and adding new wales and sheathing. The fender system will be replaced within the existing footprint and have the same appearance as the original system. The project will require mooring construction barges to the Tower Bridge Piers. The barges will occupy a portion of sovereign land outside the footprint of the Applicant's existing right-of-way. This proposed General Lease-Right-of-Way Use is to allow for the additional encroachment by those barges during the project period.

STAFF REPORT NO. **C39** (CONT'D)

Boat traffic on the river may be temporarily affected during construction. Boat traffic will be routed around the construction area and it is possible boat traffic may be stopped temporarily when work is being conducted in specific locations. The USCG will make a determination of how much construction can impede the river when the Applicant applies for the USCG permit during the design phase of the project. As indicated above, the proposed project is consistent with USCG regulations that require bridge owners to keep navigational aids and marine traffic protection in a state of good repair as it would allow the bridge fender system to continue to protect marine vessels, aid in navigation, and protect the bridge piers over the long term.

Fisheries within the Sacramento River may also be temporarily affected by the project. Special-status species potentially affected include delta smelt, green sturgeon, Central Valley spring-run Chinook salmon, Central Valley steelhead, and Sacramento River winter-run Chinook salmon. Biological Opinions have been issued by the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) on August 12, 2016, and June 20, 2016, respectively. As result of some project modifications, the Applicant has re-initiated consultation with USFWS and NMFS and anticipates Biological Opinions based on the project modifications in the fall of 2017.

The lease does not alienate the State's fee simple interest or permanently impair public rights. The recommended action will not substantially interfere with the Public Trust needs at this location, at this time or for the foreseeable term of the lease. For these reasons, staff recommends finding the proposed action is in the best interests of the State.

Climate Change Analysis:

Climate change impacts including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The Tower Bridge, the existing structure within the lease area, is located within the Sacramento River in a tidally-influenced region. Although the bridge platform itself is not vulnerable to flooding at current sea levels, it may be vulnerable to a higher risk of flood exposure given future projected scenarios of sea-level rise. In addition, the bridge's support structures (piles and timber fender system) may be affected by high flows and flood conditions.

By 2030, California's coast could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could increase the

STAFF REPORT NO. C39 (CONT'D)

Sacramento River's inundation levels within the lease area. Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased bank stability and structure. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for the region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour decreasing bank stability and structure.

The lease area, in particular the Tower Bridge's support structures, may be subject to the climate change effects of the projected scenario of 1 foot of sea-level rise (from year 2000 levels) by 2030 provided above. Regular maintenance (such as the proposed activities in the current project), and implementing best management practices will help reduce the likelihood of severe structural degradation or dislodgement.

Conclusion:

For all the reasons above, Commission staff believes that the proposed construction activities will not substantially interfere with the Public's Trust needs and values over the lease term, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This proposed action is consistent with the Commission's 2016-2020 Strategic Plan Strategy 1.1 to deliver the highest levels of public health

STAFF REPORT NO. **C39** (CONT'D)

and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.

2. A Mitigated Negative Declaration was prepared by the California Department of Transportation and adopted on January 8, 2016, for this project (State Clearinghouse No. 2015112002). Commission staff has reviewed such document.

Mitigation measures and avoidance and minimization measures were made a condition of approval by Caltrans.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

California Department of Fish and Wildlife
Central Valley Regional Water Quality Control Board
Central Valley Flood Prevention Board
U.S. Army Corps of Engineers
U.S. Coast Guard
U.S. Fish and Wildlife Service
National Marine Fisheries Service

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2015112002, was prepared and adopted by the California Department of Transportation, and mitigation measures and avoidance and minimization measures were made a condition of approval, on January 8, 2016, for this project, and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent

STAFF REPORT NO. **C39** (CONT'D)

judgement, the scope of activities to be carried out under the lease to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the public's right to navigation and fishing or with the Public Trust needs and values, at this location, at this time and for the foreseeable term of the lease, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Right-of-Way Use to the Applicant beginning August 17, 2017, for a term of 6 years, for the mooring of construction equipment associated with the Tower Bridge Fender System Replacement Project as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.

EXHIBIT A

W 27074

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent on the right bank to Swamp and Overflowed Land Survey 770, patented March 21, 1866, County of Yolo, and adjacent on the left bank to the Rancho New Helvetia, approved on February 18, 1860, County of Sacramento, State of California and more particularly described as follows:

Bounded on the northeast by the line parallel with and 400 feet northeasterly from the center line of the Tower Bridge (Bridge No. 22-0021) located on State Route 275 as shown on that State of California Department of Public Works Division of Highways (Caltrans) 101.5 map titled "Map Showing Sovereign Lands of the State of California in Yolo and Sacramento Counties Needed as a Right of Way for Protection of State Highway Road III-Vol-Sac-6-C-Sac" and on file with the California State Lands Commission;

Bounded on the southwest by the line parallel with and 400 feet southwesterly from the center line of the Tower Bridge (Bridge No. 22-0021) located on State Route 275 as shown on said map;

Bounded on the northwest by the ordinary high water mark of the right bank of Sacramento River;

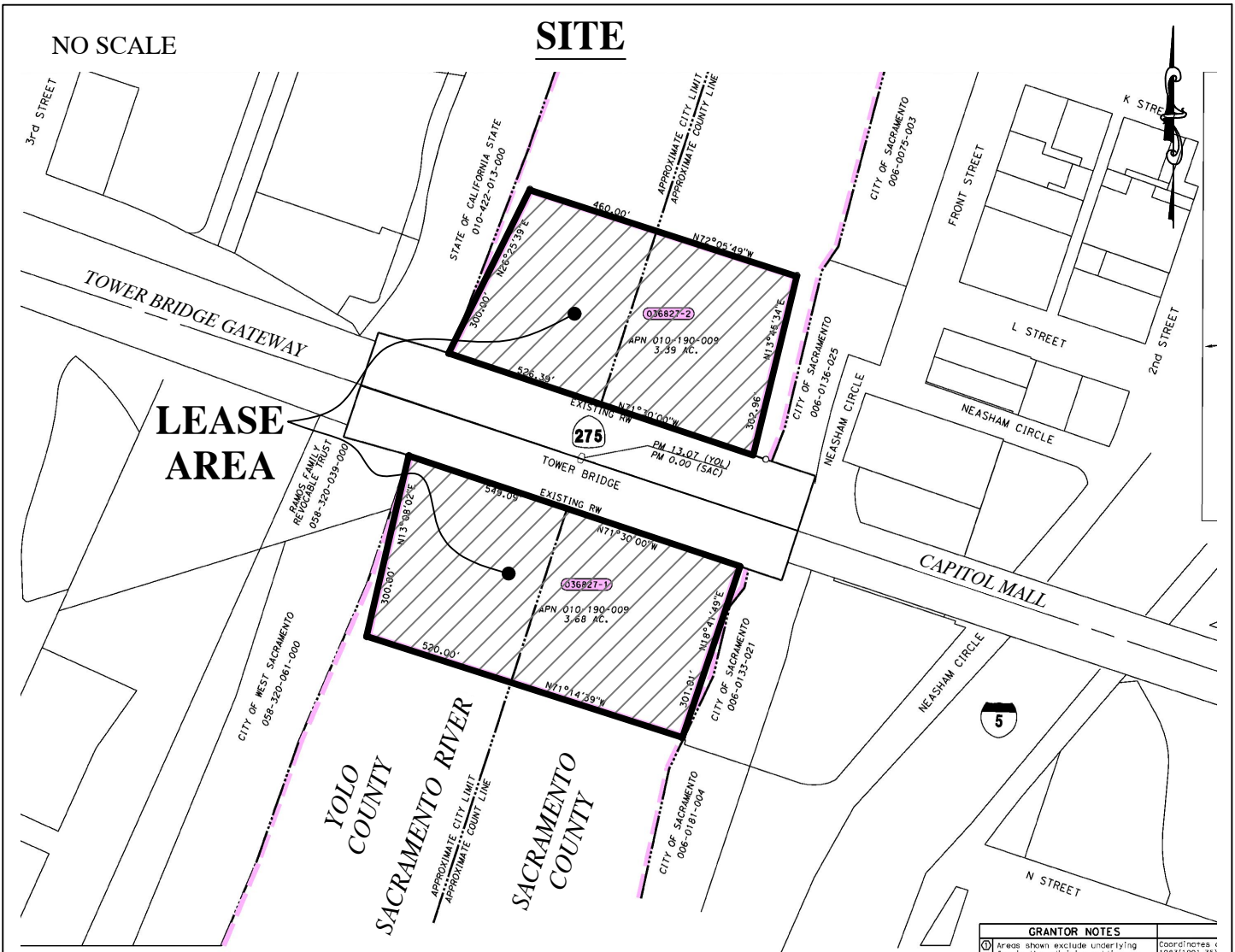
Bounded on the southeast by the ordinary high water mark of the left bank of Sacramento River per Boundary Line Agreement (BLA) 245.

EXCEPTING THEREFROM any portion lying within right-of-way as shown on that State of California Department of Public Works Division of Highways (Caltrans) 101.5 map titled "Map Showing Sovereign Lands of the State of California in Yolo and Sacramento Counties Needed as a Right of Way for Protection of State Highway Road III-Vol-Sac-6-C-Sac" and on file with the California State Lands Commission.

END OF DESCRIPTION

Prepared 07/20/17 by the California
State Lands Commission Boundary Unit





TOWER BRIDGE, SACRAMENTO

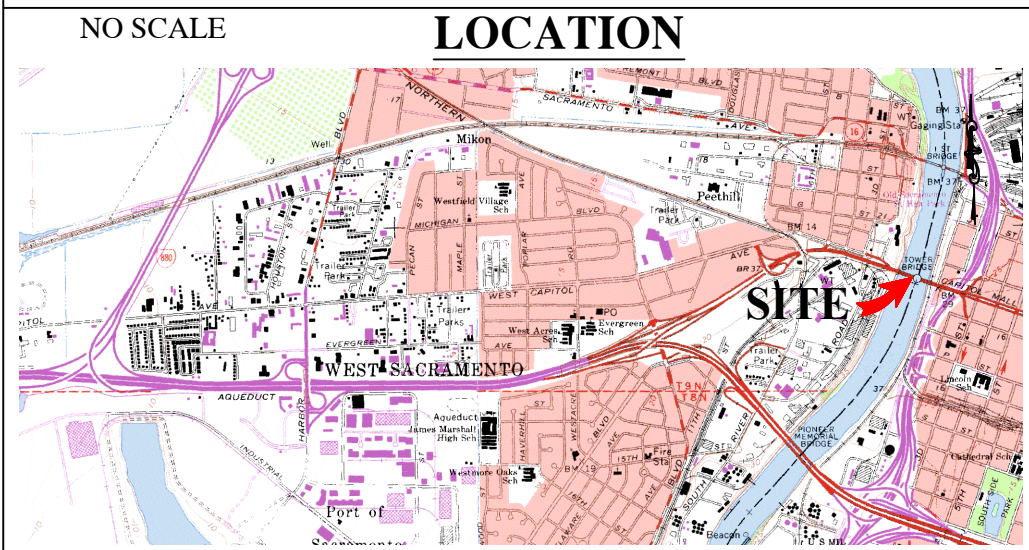


Exhibit B
W 27074
DEPARTMENT OF TRANSPORTATION
APNs 006-0133-021, 006-0136-025;
058-320-039, -061; & 010-442-013
GENERAL LEASE -
RIGHT-OF-WAY USE
SACRAMENTO &
YOLO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
TOWER BRIDGE FENDER REPLACEMENT PROJECT
(W27074, State Clearinghouse No. 2015112002)

The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the Tower Bridge Fender Replacement Project (Project). The CEQA lead agency for the Project is the California Department of Transportation (Caltrans).

In conjunction with approval of this Project, the Commission adopts mitigation measures for the implementation of the portions of the Project located on Commission lands. The purpose of the measures is to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency has adopted an MND; State Clearinghouse No. 2015112002, and adopted mitigation measures for the whole of the Project (see Attachment C-1) and remains responsible for ensuring that implementation of the mitigation measures occurs. The Commission’s action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. The full text of each mitigation measure, as set forth in the MND prepared by the CEQA lead agency and listed in Table C-1, is incorporated by reference in this Exhibit C.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM) ²
Hydrology and Water Quality: Impact WQ-1	MM WQ-1 through MM WQ-8

¹ The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

² See Attachment C-1 for the full text of each MM taken from the MND prepared by the CEQA lead agency.

ATTACHMENT C-1

**Mitigation Measures Adopted by the
California Department of Transportation**

In addition, in order to reduce and minimize potential impacts on Hydrology and Water Quality, to a level that is considered less than significant, it is recommended that the following mitigation measures be incorporated and implemented during the course of the project.

- Hydrology and Water Quality: [Impact WQ-1](#)

- MM WQ-1 • The project shall incorporate appropriate pollution prevention best management practices (BMPs) and comply with the standard requirements of Caltrans' Statewide National Pollution Discharge Elimination System (NPDES) Permit, Order No. 2012-0011-DWQ, NPDES No. CAS000003 and the appropriate County Municipal Separate Storm Sewer System Phase I/II Permit (Sacramento County and Yolo County, respectively).
- MM WQ-2 • Any soil disturbance, created within the contract limits or at the Contractor's secured area(s), is required to be reviewed and approved by Caltrans Environmental staff and accounted for in the total Disturbed Soil Area (DSA) estimate. With that understanding, and at this time, no ground disturbance is anticipated for the proposed project.
- MM WQ-3 • Follow all applicable guidelines and requirements in the 2010 Caltrans Standard Specifications (2010 CSS), Section 13, regarding water pollution control and general specifications for preventing, controlling, and abating water pollution in streams, waterways, and other bodies of water.
- MM WQ-4 • Attention should be given to 2010 CSS, Section 13-4 (Job Site Management), to control potential sources of water pollution before it encounters any storm water system or watercourse.
- MM WQ-5 • The effective management and implementation of an approved Water Pollution Control Program (WPCP) is required to address the appropriate use of temporary construction site BMPs and for the purposes of implementing effective BMP handling, storage, and disposal practices during construction activities.
- MM WQ-6 • Project activities that may involve bridge access will require existing drainage facilities to be identified and protected by the application of appropriate Construction Site BMPs.
- MM WQ-7 • To prevent the potential discharge of turbid water into the Sacramento River that may result from temporary de-watering activities, it is suggested that pumped water be filtered and/or treated before being discharged into receiving waters. Although the exact method has not been determined at this time, any discharge to surface waters must be done so in a manner that ensures conformance with the water quality requirements of the approved 401 permit, the Central Valley Regional Basin Plan, and all applicable NPDES permits.
- MM WQ-8 • Mitigation measures shall be implemented to contain construction related material, in manageable locations, and prevent debris from entering surface waters during in-water work and for any construction operations outside of receiving waters.



John D. Webb, Chief
North Region Environmental Services
California Department of Transportation

1-8-16
Date