

STAFF REPORT

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10/24/19

Lease 4724.9

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G. Asimakopoulos

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

County of San Joaquin

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Middle River, adjacent to Assessor's Parcel Numbers 131-120-030, 131-120-040, 131-120-140, 131-120-150, 189-150-010, and 189-250-320, near Tracy, San Joaquin County.

AUTHORIZED USE:

Operation and maintenance of an existing bridge commonly known as the Tracy Boulevard Bridge, Bridge No. 29C-073, crossing Middle River.

LEASE TERM:

25 years, beginning November 4, 2019.

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:

Lessee shall not place, attach, or authorize placement or attachment of any additional utilities or other improvements on the Bridge or within the lease premises without the Commission's prior review and approval. Separate leases, subleases, or a lease amendment will be required for any utilities to be placed on the bridge or within the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

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Public Trust and State's Best Interests Analysis:

On January 26, 1973, the Commission authorized the issuance of a 49-year Public Agency Permit to the County of San Joaquin (County), for the operation and maintenance of the existing County highway bridge crossing Middle River at Tracy Road ([Item C2, January 26, 1973](#)). The term of the lease began on November 4, 1970 and will expire on November 3, 2019. The County is now applying for a new 25-year lease.

The original bridge, constructed in 1947, was a one-lane, 466-foot-long by 21-foot-wide steel truss swing span bridge. In 1976, the California Department of Transportation (Caltrans) conducted an inspection of the bridge and determined that it was structurally deficient and functionally obsolete. As a result, in 1977, the bridge was removed and replaced in the same location with the existing two-lane, concrete I-girder bridge with a concrete deck. The existing bridge, now known as the Tracy Boulevard Bridge (Bridge), is a fixed, seven-span structure measuring approximately 466 feet long and 33 feet wide.

The as-built plans for the existing bridge showed two openings within the bridge structure to accommodate the future installation of utility conduits by AT&T California (AT&T). In 1978, AT&T installed two 4-inch-diameter steel conduits on the bridge without prior authorization from the Commission. AT&T understands that they must submit an application for a separate lease for the continued use and maintenance of the existing utility conduits located on the bridge.

The most recent inspection of the Bridge was conducted by Caltrans in September 2018. The inspection report concluded that the Bridge was in good condition and recommended the removal of vegetation that was growing over the Bridge rails. The County completed the recommended removal work later in 2018. The proposed lease stipulates that Caltrans shall perform a routine inspection of the Bridge every 2 years and a detailed inspection every 5 years.

Promotion of the public's right to access and use California's navigable waters is a mandate of the California Constitution (article X, section 4), a condition of statehood in the Act of Admission of the State of California into the Union (Vol. 9, Statutes at Large, page 452), and a responsibility of all involved public agencies pursuant to the common law Public Trust Doctrine. Bridges are often the most logical location for the public to access a waterway because kayakers, rafters, and others may legally utilize the public access easements around bridges to enter and exit navigable waterways. Furthermore, bridges and roads are necessary to

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facilitate the movement of goods, people, and services throughout the State. The movement of goods is a critical part of local, state and national commerce, and the creation and maintenance of the instrumentalities of commerce is essential to a thriving economy. While the existing Bridge does not currently facilitate water-dependent activities, it does not interfere with navigation, water-dependent recreation, or other Public Trust uses along the Middle River.

The proposed lease does not alienate the State's fee simple interest, or permanently impair public rights. The lease requires the County to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from lessee's activities within the lease premises. The lease does not grant the lessee exclusive rights to the lease premises and is also limited to a term of 25 years, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time. Staff believes this use of State land, by a public agency, for a public benefit is in the best interests of the State.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on the Middle River, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: Projections are with respect to a 1991 to 2009 baseline.

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This effect could increase the Middle River's inundation levels within the lease area. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. 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 riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the bridge footings. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards.

The bridge footings may need reinforcement to withstand higher levels of flood exposure and more frequent storm events. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For the reasons stated above, staff believes the issuance of the proposed lease will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of

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sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the bridge deck and pipelines and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the issuance of the proposed lease will not substantially impair the public rights to navigation, fishing, or other 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.

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AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the County of San Joaquin beginning November 4, 2019, for a term of 25 years, for the existing Tracy Boulevard Bridge crossing Middle River; as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; consideration being 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

LEASE 4724.9

LAND DESCRIPTION

A strip of tide and submerged land 100 feet wide lying in the bed of the Middle River, San Joaquin County, State of California, lying 50 feet on each side of the following described centerline:

COMMENCING at a 2 inch iron pipe on the easterly line of Partition Map Lands of David Bixler Estates, per map filed in Volume 8, page 4 Official Maps and Plats, San Joaquin County Records; thence North $33^{\circ} 59' 03''$ East 263.26 feet; thence South $13^{\circ} 00' 00''$ East 50.00 feet to the POINT OF BEGINNING on the centerline of Road No. 923; thence along said centerline of said road North $13^{\circ} 00' 00''$ West 490.00 feet to the TERMINUS of said centerline.

The sidelines of said strip to be lengthened or shortened as to terminate at the ordinary high water mark of the right and left banks of Middle River.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right and left banks of said river.

END OF DESCRIPTION

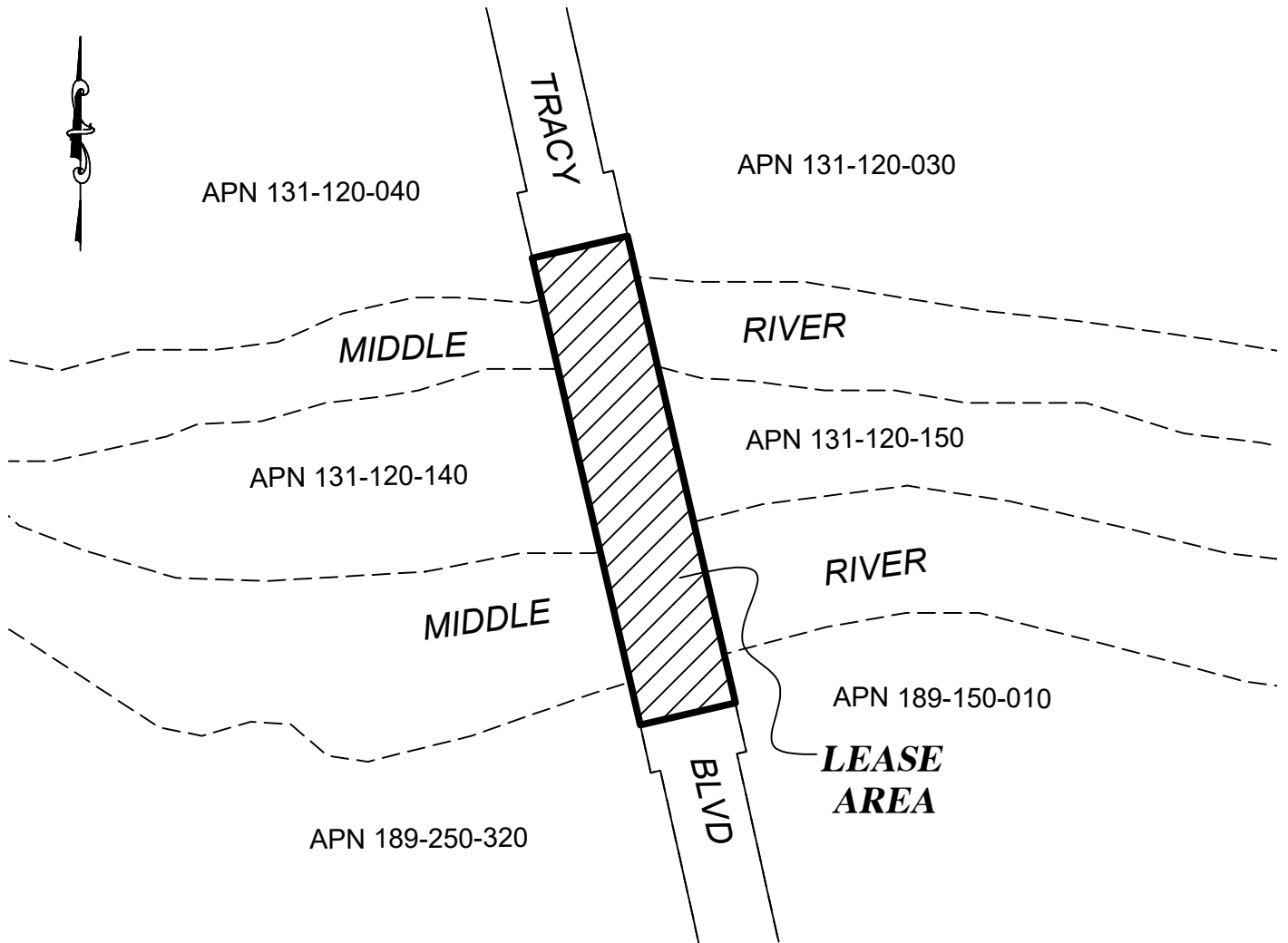
Revised by the California State Lands Commission Boundary Unit 07/15/19. Original description prepared on 11/01/1970 as found in PRC 4724.9 file, Calendar Item No. 2.



NO SCALE



SITE



TRACY BOULEVARD CROSSING MIDDLE RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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 B

LEASE 4724.9
COUNTY OF SAN JOAQUIN
APNs: MULTIPLES
GENERAL LEASE -
PUBLIC AGENCY USE
SAN JOAQUIN COUNTY



TS 07/15/19