

STAFF REPORT

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10/24/19

Lease 7765.1

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G. Asimakopoulos

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

Rancho Murieta Community Services District

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Cosumnes River, adjacent to Assessor's Parcel Numbers 073-0190-109 and 073-0790-047, near Rancho Murieta, Sacramento County.

AUTHORIZED USE:

Continued operation and maintenance of three existing 12-inch diameter service pipelines located on a pedestrian bridge commonly known as the Old Yellow Bridge crossing the Cosumnes River.

LEASE TERM:

25 years, beginning June 1, 2019.

CONSIDERATION:

\$540 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. The existing pipelines are attached to the Old Yellow Bridge (Bridge) which is currently in trespass on sovereign land. Commission staff will make reasonable efforts to enter into a lease with the Bridge owner. This proposed lease will be subject to the Commission authorizing a lease with the Bridge owner, and should an agreement not be reached with the Bridge owner, the Commission may unilaterally terminate the proposed lease and require Lessee to remove all authorized facilities from the Bridge.
2. Liability insurance in an amount no less than \$2,000,000 per occurrence.

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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.

Public Trust and State's Best Interests Analysis:

On May 26 1994, the Commission authorized the issuance of a 25-year General Lease - Public Agency Use to the Rancho Murieta Community Services District (District), for the repair and maintenance of the existing pedestrian bridge crossing the Cosumnes River (River), accommodating three 12-inch diameter service pipelines ([Item C11, May 26, 1994](#)). The term of the lease began on June 1, 1994 and expired on May 31, 2019. The District is now applying for a new 25-year lease.

During the application process, staff determined the District owns and operates the three 12-inch diameter service pipelines; however, the District does not own or operate the Bridge. The Bridge is owned and maintained by Murieta Club Properties, LLC, a Delaware limited liability company (MCP). Staff has contacted MCP to submit a lease application for the continued operation and maintenance of the Bridge.

Originally constructed in 1908, the Bridge is a one-lane, approximately 300-foot-long by 18-foot-wide steel bridge, running generally north to south, and connects the north and south golf courses of the Rancho Murieta Country Club. The Bridge was seismically retrofitted in 2000 and is used by the District for support of three 12-inch diameter service pipelines crossing the River. The pipelines are supported on top of the deck along the bridge railing.

On the west side of the Bridge are two of the 12-inch diameter pipelines located one above the other. One is a sewer force main delivering wastewater from the pump station located in the commercial area south of Highway 16. The second pipeline is a reclaimed waterline delivering reclaimed wastewater from the District treatment plant to a nearby golf course. On the east side of the Bridge is a single 12-inch diameter pipeline providing potable water to a residential development located on the south side of the river.

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, pages 452-53), and a responsibility of all involved public agencies pursuant to the common law

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Public Trust Doctrine. Often, the most logical location for access to a waterway is where a bridge crosses it. Despite the fact that there is no immediate public access to the River at this location, the general area is used by the public for fishing, small boat access, and recreation. And, although pipelines are not a Public Trust use, the existing pipelines and Bridge, with a vertical clearance of approximately 50-feet, do not interfere with navigation, water-dependent recreation, or other Public Trust uses along the River in any substantive way.

The proposed lease does not alienate the State's fee simple interest, or permanently impair public rights. The lease requires the District 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:

The lease area surrounding the River is not tidally influenced and therefore, would not be subject to sea-level rise. However, 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, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

Regular maintenance, as required by 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.

Conclusion:

For the reasons stated above, staff believes the issuance of the proposed lease will not substantially interfere with the public rights to navigation, fishing, and commerce, or substantially interfere with the Public Trust

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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 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 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.
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).

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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.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning June 1, 2019, for a term of 25 years, for the continued operation and maintenance of three existing 12-inch diameter service pipelines located on a pedestrian bridge commonly known as the Old Yellow Bridge crossing the Cosumnes 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; annual rent in the amount of \$540 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence.

EXHIBIT A

LEASE 7765.9

LAND DESCRIPTION

A parcel of submerged land situate in the bed of the Cosumnes River, lying adjacent to fractional Section 3, Township 7 North, Range 8 East, Mount Diablo Meridian, as shown on Official Government Township Plat, approved November 11, 1882, County of Sacramento, State of California and more particularly described as follows:

COMMENCING at the northwest corner of the southeast one-quarter of the northwest one-quarter of said Section 3 as shown on that Record of Survey, filed in the Office of the Recorder of said County in Book 29 of Surveys at Page 4; thence South $41^{\circ} 52' 18''$ West 411.75 feet to the POINT OF BEGINNING; thence South $65^{\circ} 18' 26''$ West 20.00 feet; thence North $24^{\circ} 41' 34''$ West 305.00 feet; thence North $65^{\circ} 18' 26''$ East 20.00 feet; thence South $24^{\circ} 41' 34''$ East 305.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the low water mark of said Cosumnes River.

END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit on 09/03/2019.
Based on original description prepared on November 25, 1987 as found in PRC 7765 file, in License Agreement recorded in Book 88 04 29 at page 2332, Official Records of Sacramento County.



SITE

APN 073-0190-109

STATE HIGHWAY NO. 16

RIVER

APPROX.
SHORELINE

APPROX.
SHORELINE

~~COSUMNES~~

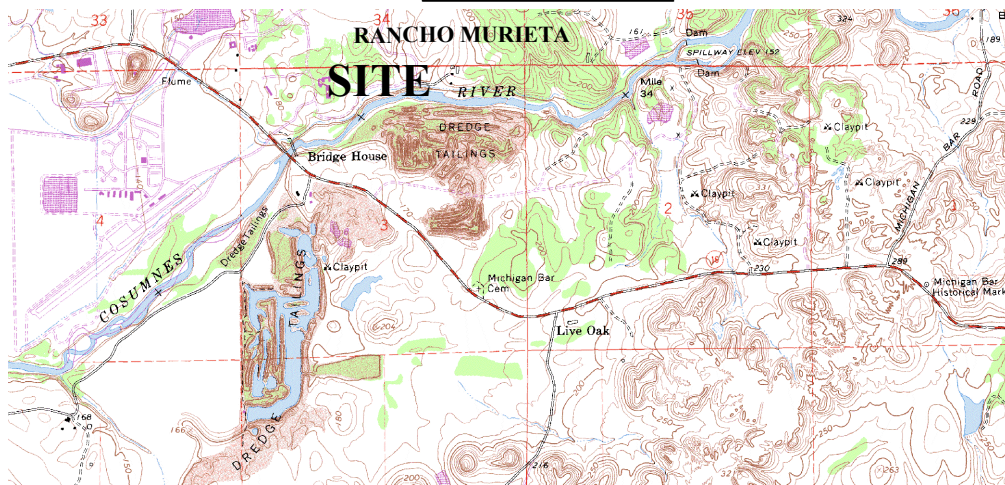
LEASE AREA

APN 073-0790-047

YELLOW BRIDGE AT COSUMNES RIVER, RANCHO MURIETA

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 7765.9

**RANCHO MURIETA COMMUNITY
SERVICES DISTRICT**

APNs 073-0190-109 & 073-0790-047

GENERAL LEASE-
PUBLIC AGENCY USE
SACRAMENTO COUNTY



TS 09/03/19