

STAFF REPORT

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W27079
R. Collins

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

City of Mendota

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Fresno Slough, near Mendota, Fresno County.

AUTHORIZED USE:

Removal of an existing bridge; construction, use, and maintenance of a 313-foot-long, 32-foot-wide bridge supported on a pile foundation, and an attached 20-inch-diameter water pipeline.

LEASE TERM:

25 years, beginning June 23, 2020.

CONSIDERATION:

\$140 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee shall not install, attach, or authorize placement of any utilities or other improvements on the Bridge or within the Lease Premises without the Commission's prior review and approval.
- Lessee shall place warning signage and/or buoys clearly visible from the shore and in the water both upstream and downstream of the Lease Premises to provide notice of construction activities.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to the Lease as necessary to

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accurately reflect the final location of the authorized improvements. Once approved by Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The revised Exhibits shall be incorporated in the Lease as though fully set forth therein.

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:

The City of Mendota (City), in cooperation with the U.S. Bureau of Reclamation (Reclamation), proposes to replace the existing Mowry Bridge (Bridge) in the Fresno Slough with a new bridge (Project). The existing Bridge consists of a twenty-span timber girder bridge constructed after 1921 that has never been authorized by the Commission. It is likely that the bridge was constructed before the Commission was established in 1938. The Bridge is 300 feet long and 15 feet wide and does not have any railing for vehicle safety. The City purchased the Bridge in 2002 and added a concrete deck and a 20-inch-diameter water pipeline that provides the sole source of water to the City from three wells located approximately 1.5 miles east of the Bridge. The existing Bridge has been closed to vehicular traffic by the City since late 2015 due to beaver damage to several of the existing timber pile extensions. The Bridge has never been available for public use and is not planned to be available for public use; a locked automatic gate and fencing off the west end of the bridge will remain in place. The City proposes to replace the existing Bridge, and Reclamation proposes to use the new Bridge for construction and future maintenance access for the Mendota Pool Bypass as part of the San Joaquin River Reach 2B Improvements Project.

The City's existing water pipeline will be temporarily supported prior to removal of the existing Bridge. The existing Bridge will be removed span by span starting in the middle and working toward the bridge abutments. A temporary debris catchment will be suspended from the structure to prevent all debris from falling into the water. Typical equipment used will include hydraulic cranes, excavators, backhoes, haul trucks, and hand-operated concrete saws and hydraulic jackhammers. It is anticipated that removal of the existing timber elements will consist of treated wood, requiring management of the treated wood in accordance with chapter 34 of division 4.5 of title 22 of the California Code of Regulations, and the Caltrans Standard Specifications.

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The replacement Bridge will consist of a six-span, precast, prestressed concrete voided slab bridge. The length of each interior span will be approximately 56 feet and the total bridge length will be approximately 313 feet. The new bridge will be supported on 36-inch-diameter cast-in-place-steel-shell pipe piles. The 32-foot-wide replacement Bridge will accommodate a 24-foot-wide travel way between standard Caltrans Type 732 barriers (each 1.5 feet wide and 32 inches high), and a 5.2-foot-wide “shelf” outside the southern barrier. The existing 20-inch-diameter water pipeline will be relocated to the shelf behind the southern barrier and handrailing will be provided at the southern edge of the bridge deck to enhance maintenance worker safety.

The existing Bridge currently has virtually no clearance at the maximum high-water elevation (high rainfall events and during spring snow melt) and approximately 2 feet of clearance after water releases from Friant Dam stop. The replacement Bridge will have about 4.8 feet of clearance at the maximum high-water elevation with a clearance between 6 and 7 feet on average during the balance of the year, allowing kayaks, canoes, and boats passage under the Bridge.

Staff reviewed environmental justice data that indicated significant existing pollution burdens to the surrounding community having a population of 98 percent Hispanic or Latino residents. These existing burdens may result in impacts to health such as asthma and cardiovascular disease. In addition, the same data showed high burdens to groundwater threats. Staff believes that the lease for the removal of the existing Bridge and construction, use, and maintenance of the new Bridge and water pipeline will not exacerbate these existing conditions and may result in possible future benefits to the City by protecting public drinking water supplies to the community. As part of an environmental justice outreach effort, staff contacted several environmental justice organizations in Fresno County providing notification of the proposed lease. The letter sent to several environmental justice organizations included a brief description of the lease and named a staff person as a point of contact. No comments on the proposed lease were received as a result of the outreach.

The proposed lease does not alienate the State’s fee simple interest, nor does it substantially interfere with navigation, water-dependent recreation, or other Public Trust uses in the Fresno Slough. The lease requires the City to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from the lessee’s activities within the Lease Premises. The lease requires the payment of annual rent to compensate the people of the State for the occupation of

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the sovereign land involved. 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.

Climate Change:

This section of the Fresno Slough and the San Joaquin River is not tidally influenced and would not be subject to sea-level rise. 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. Runoff will likely increase scour, decreasing bank stability at a faster rate.

The proposed Project includes replacing the existing Mowry Bridge over Fresno Slough. As stated above, the existing Bridge has been closed to most vehicular traffic by the City since late 2015 due to beaver damage to several of the existing timber pile extensions. The proposed bridge replacement is designed to withstand scour pressures, liquefaction, and seismic events. It is also designed to have greater clearance from the water level of the slough to accommodate high-water due to flood flows. Regular maintenance of the new bridge and bank structures, as required by the terms of the lease, will reduce the likelihood of severe structural damage or degradation over the term of the lease.

Conclusion:

In conclusion and based on the information above, staff believes that the proposed lease will not substantially interfere 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.

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 City will not be allowed to replace the Bridge. Upon expiration or prior termination of the lease, the

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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. Pursuant to the Commission's delegation of authority and the State California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, § 15025), Commission staff in cooperation with the U.S. Bureau of Reclamation prepared a Joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for the original project identified as the Mendota Pool Bypass and Reach 2B Improvements Project, CSLC EIR No. 766, State Clearinghouse No. 2009072044. The EIS/EIR was prepared and circulated for public review pursuant to the provisions of CEQA and certified as an EIR by the Commission together with adoption of a Mitigation Monitoring and Reporting Program (MMRP), CEQA Findings, and Statement of Overriding Considerations on April 20, 2017 ([Item 61, April 20, 2017](#)). The replacement of Mowry Bridge was identified in the EIS/EIR but not fully analyzed due to not being fully designed at the time. The City of Mendota as a responsible agency and the project proponent prepared an Addendum to the EIR for the Mowry Bridge Replacement Project and adopted it on February 27, 2020. Many of the mitigation measures identified in the MMRP from the EIS/EIR apply to the Bridge replacement project. The MMRP remains in full force and effect. The evaluation contained in the Addendum, based on substantial evidence, found that no new or more severe significant effects will occur as a result of the Mowry Bridge Replacement Project.
4. The EIS/EIR has been challenged in a lawsuit under CEQA raising issues including improper lead agency, failure to include responsible agencies, inadequate project description, failure to adequately describe project impacts, inadequate mitigation measures, inadequate alternatives analysis, and failure to adequately address comments. (*San Joaquin River Exchange Contractors Water Authority v. State of California; State Lands Commission.*) No injunction or stay has been issued. When a lawsuit has been filed and no stay or injunction has been issued, responsible agencies must assume the EIR complies with the requirements of CEQA and proceed with consideration of the project. If the Commission approves the project, the approval constitutes permission to proceed with the project at the applicant's risk pending final determination of the lawsuit. (Pub. Resources Code, § 21167.3 subdivision (b).)

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5. 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.

FURTHER APPROVALS REQUIRED:

U.S. Bureau of Reclamation
U.S. Army Corps of Engineers
Central Valley Water Quality Control Board
California Department of Fish and Wildlife
Central Valley Flood Protection Board

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the Commission certified the EIR for the Mendota Pool Bypass and Reach 2B Improvements Project, Commission EIR No. 776, State Clearinghouse No. 2009072044, and adopted an MMRP, CEQA Findings, and Statement of Overriding Considerations on April 20, 2017 ([Item 61, April 20, 2017](#)); that the Commission has reviewed and considered the information contained therein together with the Addendum prepared and adopted by City of Mendota on February 27, 2020; that the Addendum evaluated the Mowry Bridge Replacement Project, that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued by this authorization has 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 impacts will occur, and therefore, no additional CEQA analysis is required.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere 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.

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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 – Public Agency Use to the Applicant beginning June 23, 2020, for a term of 25 years, for removal of an existing bridge, and for the construction, use, and maintenance of a 313-foot-long, 32-foot-wide bridge supported on a pile foundation, and an attached 20-inch-diameter water pipeline, as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; rent in the amount of \$140 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence. This authorization constitutes permission to proceed with the Mowry Bridge Replacement Project at the Applicant's risk, pending final determination of the lawsuit, *San Joaquin River Exchange Contractors Water Authority v. State of California; State Lands Commission*.