

**CALENDAR ITEM
C63**

A	26	10/14/14
S	5, 12, 14	W 26736 B. Terry

GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

Comcast of California XII, LLC
3055 Comcast Place
Livermore, CA 94551

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Tuolumne River, adjacent to Assessor's Parcel Numbers 017-021-001, 017-026-023, 037-037-001, and 056-026-032, city of Modesto, Stanislaus County.

AUTHORIZED USE:

Use and maintenance of an existing fiber optic communication cable contained in a three-inch diameter conduit not previously authorized by the Commission.

LEASE TERM:

21 years, one month, and 25 days, beginning October 14, 2014.

CONSIDERATION:

\$450 per year, with the State reserving the right to fix a different rent periodically during the lease term, as approved in the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$3,000,000 per occurrence.

OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the uplands adjoining the lease premises.
2. On December 10, 2010, the Commission authorized Lease No. PRC 2178.9, a General Lease – Public Agency Use, with the city of Modesto (City) for an existing bridge crossing the Tuolumne River, known as the Carpenter Road Bridge. That lease will expire on December 9, 2035.

CALENDAR ITEM NO. **C63** (CONT'D)

3. In July 2012, the Applicant, with the City's permission, placed a three-inch diameter conduit containing one fiber optic communication cable along the inside of the Carpenter Road Bridge. At the time the cable was placed, neither the Applicant nor the City was aware that a lease was required by the Commission for the placement of the cable in the bridge. The Applicant is now applying for a General Lease – Right-of-Way Use.
4. The Applicant has authorization from the city of Modesto for the use of the bridge. Staff recommends that the Applicant's lease term coincides with the remaining term of the General Lease – Public Agency Use issued to the City for the bridge.
5. The 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

6. 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 the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

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).

CALENDAR ITEM NO. **C63** (CONT'D)

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 Comcast of California XII, LLC beginning October 14, 2014, for a term of 21 years, one month, and 25 days, for the use and maintenance of an existing fiber optic communication cable not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$450, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in an amount no less than \$3,000,000 per occurrence.

EXHIBIT A

W 26736

LAND DESCRIPTION

A strip of submerged land, 10 feet wide, lying in the bed of the Tuolumne River, adjacent to Section 12, T. 4 S., R. 8 E., and Section 7, T. 4 S., R. 9 E., M.D.M., Stanislaus County, State of California, the easterly line of which lies 9 feet westerly of the following described line:

A line parallel with and lying 20 feet perpendicular distance westerly of the Section Line common to said Sections 7 and 12, being the centerline of Carpenter Road according to the drawing by the Stanislaus County Road Commissioner's Office titled Road Department Survey Carpenter Road, File No. B-6A, dated 4/19/1961, BEGINNING at the intersection of said centerline with the centerline of Old Hatch Road, being North 0° 17' 20" West along said Section Line from the ¼ Corner of said Sections 7 and 12, 2101.65 feet, and North 62° 46' 40" West along the centerline of Old Hatch Road, 22.60 feet according to said map; thence North 0° 17' 20" West parallel with said Sections Line common to said Sections 7 and 12, 600.00 feet to the POINT OF TERMINATION of this description.

EXCEPTING THEREFROM any portions lying landward of low water marks of said Tuolumne River.

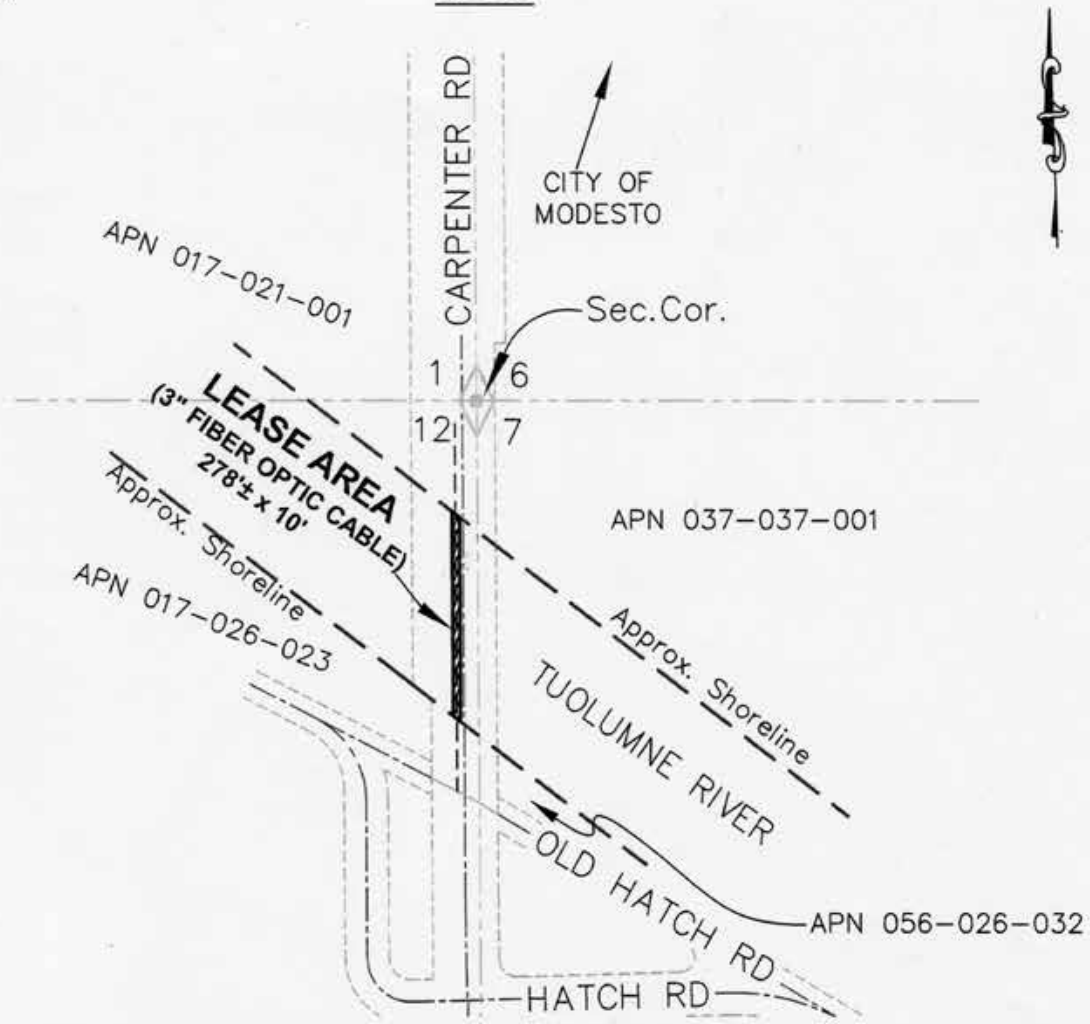
END DESCRIPTION

Prepared 02/05/14 by the California State Lands Commission Boundary Unit



NO SCALE

SITE



CARPENTER ROAD BRIDGE, CROSSING TUOLUMNE RIVER, MODESTO

NO SCALE

LOCATION

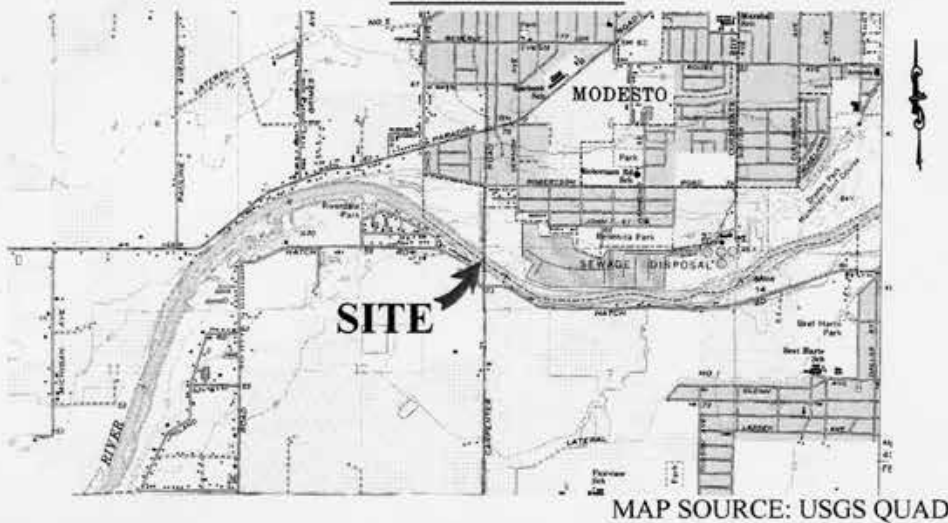


Exhibit B

W 26736
 COMCAST OF CALIFORNIA XII,
 LLC
 APNs 056-026-032, 017-026-023,
 017-021-001 & 037-037-001
 GENERAL LEASE-
 RIGHT-OF-WAY USE
 STANISLAUS 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.