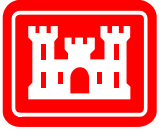


APPENDIX E



**US Army Corps
of Engineers**

Appendix E

Real Estate Appendix

South Pacific Division, Continuing Authorities Program
San Francisco District



Continuing Authorities Program (CAP), Section 103

REAL ESTATE PLAN

Lower Colma Creek CAP Section 103 Project Feasibility Study
San Mateo County, California

PREPARED FOR THE
SAN FRANCISCO DISTRICT
SOUTH PACIFIC DIVISION, U.S. ARMY CORPS OF
ENGINEERS

May 2023

PREPARED
BY THE
SACRAMENTO DISTRICT
REAL ESTATE DIVISION
SOUTH PACIFIC DIVISION, U.S. ARMY CORPS OF
ENGINEERS

Lower Colma Creek CAP Section 103 Project Real Estate Plan

TABLE OF CONTENTS

1. INTRODUCTION
 2. PROJECT AUTHORITY
 3. PROJECT DESCRIPTION
 4. DESCRIPTION OF LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATION, DISPOSAL AREAS(LERRDs)
 5. LERRDs OWNED BY THE NON-FEDERAL SPONSOR (NFS) AND CREDITING
 6. STANDARD FEDERAL ESTATES AND NON-STANDARD ESTATES
 7. DESCRIPTION OF ANY EXISTING FEDERAL PROJECT IN OR PARTIALLY IN THE PROPOSED PROJECT
 8. DESCRIPTION OF ANY FEDERALLY OWNED LAND NEEDED FOR THE PROJECT
 9. APPLICATION OF NAVIGATIONAL SERVITUDE TO THE LERRD'S REQUIREMENT
 10. PROJECT MAPS
 11. ANTICIPATED INCREASED FLOODING AND IMPACTS
 12. COST ESTIMATE
 13. RELOCATION ASSISTANCE BENEFITS
 14. MINERAL / TIMBER ACTIVITY
 15. NON-FEDERAL SPONSOR'S ABILITY TO ACQUIRE
 16. HAZARDOUS, TOXIC, AND RADIOLOGICAL WASTE IMPACTS
 17. ACQUISITION SCHEDULE
 18. DESCRIPTION OF FACILITY AND UTILITY RELOCATIONS
 19. RECOMMENDATION
- EXHIBIT A – PROJECT MAP
- EXHIBIT B – TRACK REGISTER
- EXHIBIT C – NONFEDERAL SPONSOR ASSESSMENT
- EXHIBIT D – CALIFORNIA STATUATE 1913 CHAPTER 345 & Memo

Lower Colma Creek CAP Section 103 Project Real Estate Plan

Lower Colma Creek CAP Section 103 Project Feasibility Study San Mateo County, California REAL ESTATE PLAN

1. Introduction:

This Real Estate Plan is prepared in accordance with ER 405-1-12, Section 12-16, and in support of the Lower Colma Creek Continuing Authorities Program (CAP) Section 103 Project Feasibility Study to determine Federal interest in providing flood risk protection to the South San Francisco Water Quality Control Plant (WQCP). This project successfully completed the Tentatively Selected Plan (TSP) Milestone on March 31, 2022. This Real Estate Plan is preliminary in nature, is to describe the Recommended Plan, Alternative 2, and is to be used for planning purposes only. Real Estate interests determined to be needed for the completion of the project are Flood Protection Levee Easements (FPLE) across 4 parcels all under the control of the City of South San Francisco, the Non-Federal Sponsor (NFS). A temporary work area easement is also required which falls under NFS control. There may be modifications to the plan that occur during Pre-construction, Engineering and Design (PED) phase, thus changing the final acquisition area(s) and/or administrative and land costs.

Non-Federal Sponsors

A Feasibility Cost Sharing Agreement was executed on November 25, 2020, with the City of South San Francisco as the NFS. The feasibility study is cost shared 50/50 between USACE and the NFS. Design and Implementation (D&I) of the project will be cost shared 65 percent federal and 35 percent non-federal.

2. Project Authority

This study is being conducted under Section 103 of the CAP, authorized under the River and Harbor Act of 1962 (P.L. 87-874), as amended. The CAP is a standing authority from Congress to study, formulate a recommended plan, and construct projects that are of limited complexity and are within the federal spending limits established for each section of the authority. In this case, the federal spending limit for Section 103 is \$10 million from plan development to construction. CAP projects are intended to provide straightforward solutions to simple water resources problems through smaller-scale projects than those developed under a larger-scale feasibility study process. Projects implemented under the CAP Section 103 are formulated to protect public and private properties against damages caused by extreme water levels related to coastal storms. Features of these projects may include structural measures (e.g., seawalls, groins, breakwaters) and/or nonstructural measures (e.g., floodproofing, elevation, and relocation of structures).

The federal interest determination to continue to the feasibility phase was confirmed on 27 August 2019. A feasibility cost sharing agreement was signed with the non-federal sponsor on 25 November 2020, which initiated the feasibility study phase of this project.

3. Project Description:

The purpose of the Lower Colma Creek CAP 103 project is to reduce flood risk from coastal storms and sea level rise (coastal flooding) at a wastewater treatment plant in South San Francisco, California, as shown in figure 1, including Pump Station 4, which pumps directly to the plant. The project is needed to protect residents, businesses, and the environment from the detrimental effects of unconfined raw sewage in the event of flood waters causing the wastewater treatment plant and/or pump stations to go offline. The scope of the project is the immediate vicinity of the South San Francisco/San Bruno Water Quality Control Plant (WQCP), as shown in Figure 2, which services an area with over 165,000 full time residents, plus the daily population of San Francisco International Airport (SFIA or SFO).

The water resource problem to be solved by the Lower Colma CAP project is inundation of the WQCP facilities during coastal storm flood events. There is an existing risk of coastal flooding, and the frequency of coastal storm flood events is forecast to increase over time as a result of climate change. The WQCP is located at the confluence of Lower Colma Creek and the San Francisco Bay (Bay), a low-lying coastal area that is especially sensitive to the combined hazards of sea level rise and land subsidence. In addition to above-ground sources of flooding, the area is subject to rapid groundwater recharge that could cause the water table to rise to the surface (groundwater flooding). A flood event could inundate subterranean control rooms from the surface, if flooding elevations reach the surface entry points to the control rooms. Flooding in the subterranean control rooms would damage equipment and could then reach electrical motor control centers via underground conduits, causing the WQCP and/or pump stations to shut down. Were this to occur, wastewater treatment services would cease, resulting in raw sewage backing up into homes, overflowing from manholes in streets, and being released untreated into the Bay. Impacts to the local community, buildings, property, and infrastructure, as well as the environment would be extensive. There have been no improvements to reduce coastal storm flood risk in the area surrounding the plant.



Figure 1: Study area located in the City of South San Francisco ¹

¹ Source: Google Maps



Figure 2: South San Francisco Water Quality Control Plant, outlined in green²

The Tentatively Selected Plan (TSP) is Alternative 2, also known as North and South Plant Floodwalls Alternative. This includes an I-wall (sheet pile) floodwall, approximately 3 to 6.5 feet above grade at the north side of the WQCP adjacent to the right-bank of Creek (Floodwall 1A North, and 1B North). Also, a second, shorter 2- to 4-foot-high floodwall south of the WQCP adjacent to the San Francisco Bay (Floodwall 2S). Pump station #4 will have a perimeter concrete T-wall (ring wall), approximately 2-4 feet above grade with a gate for vehicular access and early flood warning system.

4. Description of Land, Easements, Rights-of-Way, Relocation, and Disposal Areas (LERRDs):

The project is in the City of South San Francisco, CA, which is part of San Mateo County on the western side of San Francisco Bay. Lands include the WQCP and its Pump Station #4 facilities.

The real estate cost estimate for Alternative 2 was developed in accordance with ER 405-1-12 and is based upon footprints delineating project requirements developed for feasibility level design by the San Francisco District Engineering Division. The project encompasses 4 parcels, approximately 0.60 acres of affected land. The estimate of total Real Estate land and damages costs are \$1,343,504, with a contingency of 35% added.

Parcel identified as APN of 096-070-040 was believed to be owned by the State of California at the start of the feasibility study. A preliminary look at county records pointed to State ownership. However, after the State Lands Commission was engaged, it was revealed that the City of South San Francisco was granted the parcel by the State in 1913 through statute 1913 Chapter 345. A memo from the State Lands Commission and copy of the statute is attached as Exhibit D. In the statute the State of California retains residual and review authority of granted lands, however the City of South San Francisco holds the necessary rights to grant easements on the property at their own discretion.

² Source: Google Maps, 2019

Lower Colma Creek CAP Section 103 Project Real Estate Plan

An estimated 0.33 acres is required in Temporary Work Area Easement (TWAE) for staging located on one parcel owned by the City of South San Francisco.

An estimated 0.27 acres is required as Flood Protection Levee Easement. Portions from the 4 parcels owned by the City of South San Francisco.

In total, 0.60 acres of TWAE and FPLE are needed for the project. Table 1 shows the breakdown of the needed interests on the affected parcels.

TABLE 1. REAL ESTATE INTEREST BREAKDOWN			
Parcel APN	Owner	FPLE	TWAE
		ACRES	ACRES
015-180-260	City of South San Francisco	0.06	-
015-180-180	City of South San Francisco	0.06	-
015-135-200	City of South San Francisco	0.03	-
096-070-040	City of South San Francisco	0.12	0.33
	Totals	0.27	0.33
		0.60 total acreage	

The non-Federal sponsor will acquire the minimum interests in real estate to support the construction and subsequent operation and maintenance of the future USACE project. Permanent and Temporary Easement acquisition is anticipated.

Once the project partnership agreement (PPA) process is complete, the San Francisco District Engineering Division will prepare the final design for advertisement and construction. During this process the tract register and tract maps will be updated to reflect any modifications to include final staging areas, access requirements, construction haul routes, and recreation features. This information will be used for future crediting purposes.

5. LERRDs Owned by the Non-Federal Sponsor and Crediting:

The NFS has ownership of all the required lands located at and around the WQCP, being the land where Floodwalls 1B & 2S are to be constructed and where the ring wall will be built around Pump Station #4.

Credit will only be applied to LERRDs owned and/or held by the sponsors that fall within the “project footprint,” namely the LERRDs required for the TSP. Lands outside of the project requirements and that may be acquired for the sponsor’s own purposes, which do not support the minimum interests necessary to construct, operate and maintain the Project, would not be creditable LERRDs. Only land deemed necessary to construct, operate and maintain the plan would be creditable. The value of potentially creditable lands owned by the sponsors is included in the TSP’s cost estimate.

6. Standard Federal Estates and Non-Standard Estates:

The non-Federal sponsor will be required to acquire the minimum interest in real estate that will support the construction and subsequent operation and maintenance of the proposed USACE project.

Lower Colma Creek CAP Section 103 Project Real Estate Plan

The following standard estates (with definitions) are identified as required for the project:

Flood Protection Levee Easement (FPLE): A perpetual and assignable right and easement in (the land described in Schedule A) (Tracts Nos. ____, ____ and ____) to construct, maintain, repair, operate, patrol and replace a flood protection (levee) (floodwall)(gate closure) (sandbag closure), including all appurtenances thereto; reserving, however, to the owners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Temporary Work Area Easement (TWAE): A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. ____, ____ and ____), for a period not to exceed ____, beginning with date possession of the land is granted to the United States, Sonoma County Water Agency, for use by the United States, State Coastal Conservancy and/or Santa Clara Valley Water District, its representatives, non-Federal sponsors, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the ____ Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Non-standard estate for a perpetual easement:

No non-standard estates are anticipated for the project at this time.

7. Description of any Existing Federal Projects in or Partially in the Proposed Project:

There have been no improvements to reduce flood risk in the area surrounding the plant and no existing Federal Projects in or partially in the proposed project area.

8. Description of any Federally owned Land Needed for the Project:

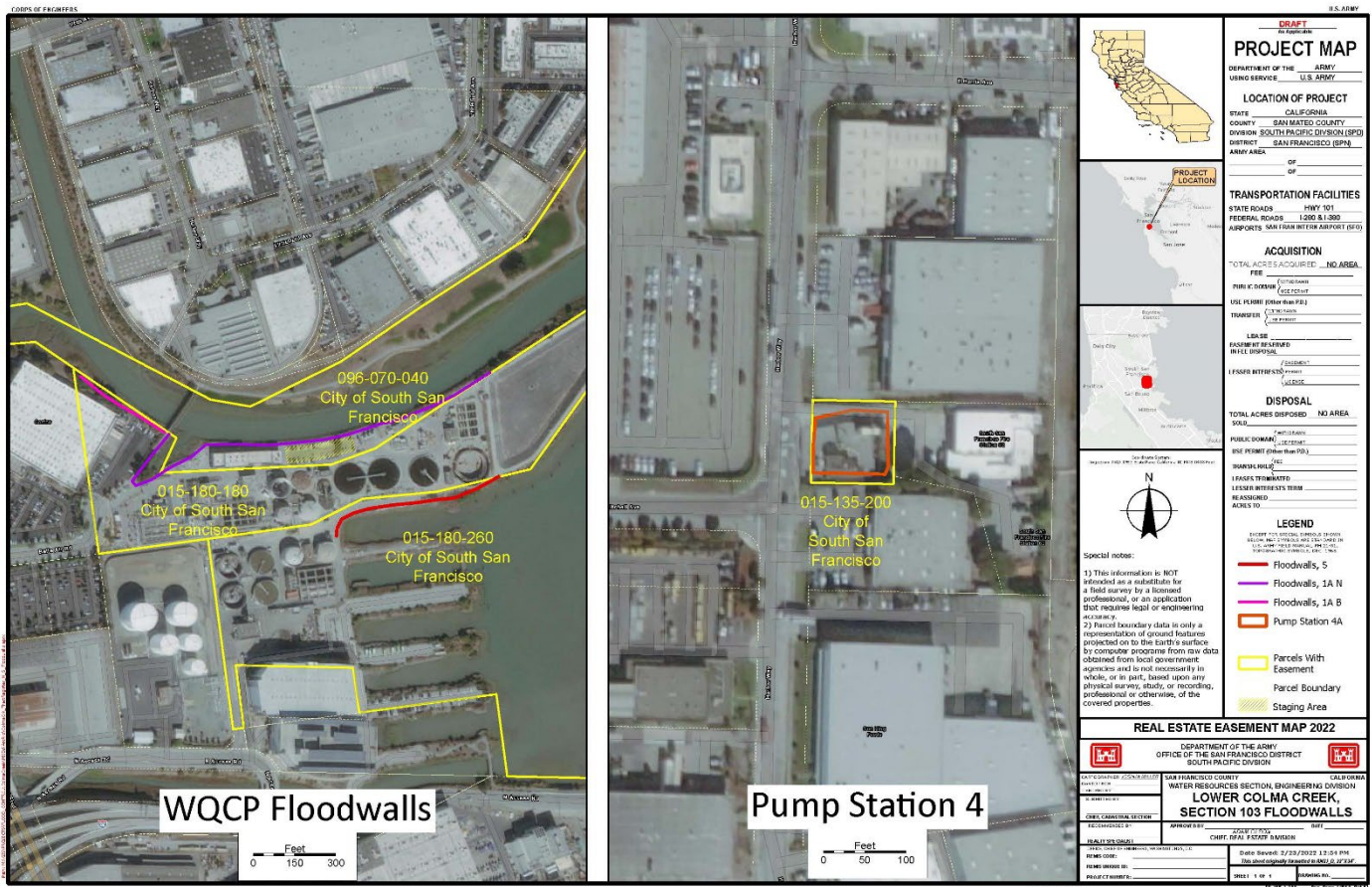
There are no federally owned lands needed for this project.

9. Application of Navigational Servitude to the LERRDs Requirement:

Structures affected by construction in this area are above the mean high-water mark (MHW) and therefore do not fall within the rights of Navigational Servitude. Real estate requirements for the proposed Tentatively Selected Plan include approximately 0.60 acres of permanent easements and temporary work area easements.

Lower Colma Creek CAP Section 103 Project Real Estate Plan

10. Project Maps:



11. Anticipated Increased Flooding and Impacts:

There are no known anticipated flooding impacts from the proposed project.

12. Cost Estimate:

A Gross Appraisal was completed for the project area in April 2023, by USACE. The land affected was considered industrial land. The cost per square foot from appraisal was \$80 for both FPLE & TWAE land rights plus a 35% incremental cost to cover unknowns and possible changes in the project.

The utilities affected, being a storm drain outfall and culvert within the FPLE area, will be slightly modified to fit within the floodwall. A high-voltage cable may need to be shifted by 3 inches. However, current design shows no contact between the wall and the line. These utilities serve the WQCP and belong to the City of South San Francisco. A gas line owned by Shell is also affected by the project. However, the gas line has not been utilized for the past few decades. Shell has been contacted to work on providing an encroachment permit to cap the line where it stands now.

Lower Colma Creek CAP Section 103 Project Real Estate Plan

Table 2: Cost Table for			
Plan Features	Cost	Contingency Cost	Total Cost
Code of Accounts 01	FEDERAL		
Fed RE Admin	\$80,000.00	(10%) \$8,000.00	\$88,000
01	NON-FEDERAL		
Permanent Easement Take Areas	\$903,412	(35%) \$316,194	\$1,219,606
Temporary Work Area Easements	\$91,776	(35%) \$32,122	\$123,898
Lands and Damages Total	\$995,188	(35%) \$348,316	\$1,343,504
Non-Fed RE Admin	\$14,000	(10%) \$1,400	\$15,400
MCACES 02 AC COUNTY RELOCATIONS (Non-Fed)			
Utility Relocation Costs PED Relocations Construction Management	\$8,000		\$8,000
TOTAL FED, NON-FED, RELO, L&D - LERRDS (rounded)			\$1,455,000

13. Relocation Assistance Benefits:

The non-Federal sponsors must comply with the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 *et seq.* (P.L. 91-646, “the Uniform Act”) and provide relocation assistance to qualifying residences and businesses within the project area that are displaced, as defined in the Uniform Act, because of USACE project implementation.

The sponsor has also been advised of PL 91-646 requirements to pay Fair Market Value for property acquisitions necessary for the project and the requirements for documenting expenses for credit purposes.

No relocation assistance benefits are anticipated for the project at this time.

Lower Colma Creek CAP Section 103 Project Real Estate Plan

14. Mineral / Timber Activity

There are no valuable minerals impacted by this project. There was no enhancement for mineral deposits included in the cost estimate.

15. Non-Federal Sponsor's Ability to Acquire:

The non-Federal sponsor has a real estate staff to acquire the necessary real estate. All the underlying fee ownership required for the project is already owned by the NFS.

16. Hazardous, Toxic, and Radiological Waste (HTRW):

No known HTRW are found on the project footprint. The California State Water Resources Control Board GeoTracker database was queried to identify potential hazardous, toxic, and radioactive waste (HTRW) sites in the vicinity of the project area. A 3,000-foot radius circle from the WQCP's entrance returned 31 total sites. This is a developed and industrial area and the majority of the returned sites are Leaking Underground Storage Tank (LUST) cleanup sites. The closest LUST site to the study area is at Pump Station 4 at 249 Harbor Way, but the tank was removed in November 1997 and the case was certified as closed by the San Mateo County Health Services Agency in August 2003. The nearest open site to the study area is at the Shell (Equilon) South San Francisco Terminal at 135 North Access Road (less than 1,000 feet from the WQCP at an adjacent parcel), and this is currently in a verification monitoring phase.

Besides these existing sites, onsite the WQCP maintains a set of chemicals and fuels instrumental to its operations. In the unfortunate event of a spill or excessive exposure, these chemicals can be harmful to individuals. The WQCP has a strict management protocol for these substances that includes a Contingency Operations Plan and Spill Prevention Control and Countermeasure Plan, as required by its National Pollutant Discharge Elimination System (NPDES) permit. These chemicals are used to treat wastewater onsite at the WQCP and are stored in bulk quantities.

17. Real Estate Acquisition Schedule:

COE – Corps of Engineers
NFS – Non-Federal Sponsor

Table 3. Real Estate Acquisition Schedule				
Project Name: Lower Colma Creek Flood Reduction Project	COE Start	COE Finish	NFS Start	NFS Finish
Receipt of Preliminary Drawings from Engineering/PM	Sep-Nov 2023	Mar-May 2024		
Receipt of Final Drawings from Engineering/PM	Mar-May 2024	Jun-Aug 2024		
Formal Transmittal of Final Drawings and Instruction to Acquire LERRDS	Jun-Aug 2024	Sep-Nov 2024		
Prepare/Review Mapping & Legal Descriptions	Sep 2024	Aug 2024	Jan-Feb 2024	Mar-May 2024
NFS City Council Approval			Mar-May 2024	Jun-Aug 2024

Lower Colma Creek CAP Section 103 Project Real Estate Plan

Certify All Necessary LERRDS for Construction			Jun-Aug 2024	Sep-Nov 2024
Prepare and Submit Credit Requests			Sep-Nov 2024	Mar-May 2025
Establish Value for Creditable LERRDS	Jun-Aug 2025	Sep-Nov 2025		
Review/Approve or Deny Credit Requests	Sep-Nov 2025	Dec 2025		

18. Description of Facility and Utility Relocations:

There will be modifications to a few known utilities in the wastewater treatment plant during the north and south floodwall construction shown in Table 4.

Table 4. UTILITY RELOCATIONS				
Item	Known Utility	Location	Owner	Cost
1	48" - D Storm Drain Outfall	North Floodwall, N1A	City of S. San Francisco	\$1,500
2	30" - D Storm Drain Culvert	North Floodwall, N1A	City of S. San Francisco	\$1,500
3	High Voltage Cable	South Floodwall, 2S	City of S. San Francisco	\$3,000
4	Gas Line	North Floodwall S	Shell	\$2,000

Items 1 and 2 will be slightly modified and any intersections will be resealed. The High Voltage cable for item 3 will possibly be shifted 3 feet away from the new floodwall depending on final design. Item 4, a gas line, has not been used for decades. Shell, the owner, has been contacted and an encroachment permit is currently being negotiated to cap the line.

19. Recommendation:

This real estate plan has been prepared in accordance with ER405-1-12, Chapter 12 and is recommended for approval.

PREPARED BY:

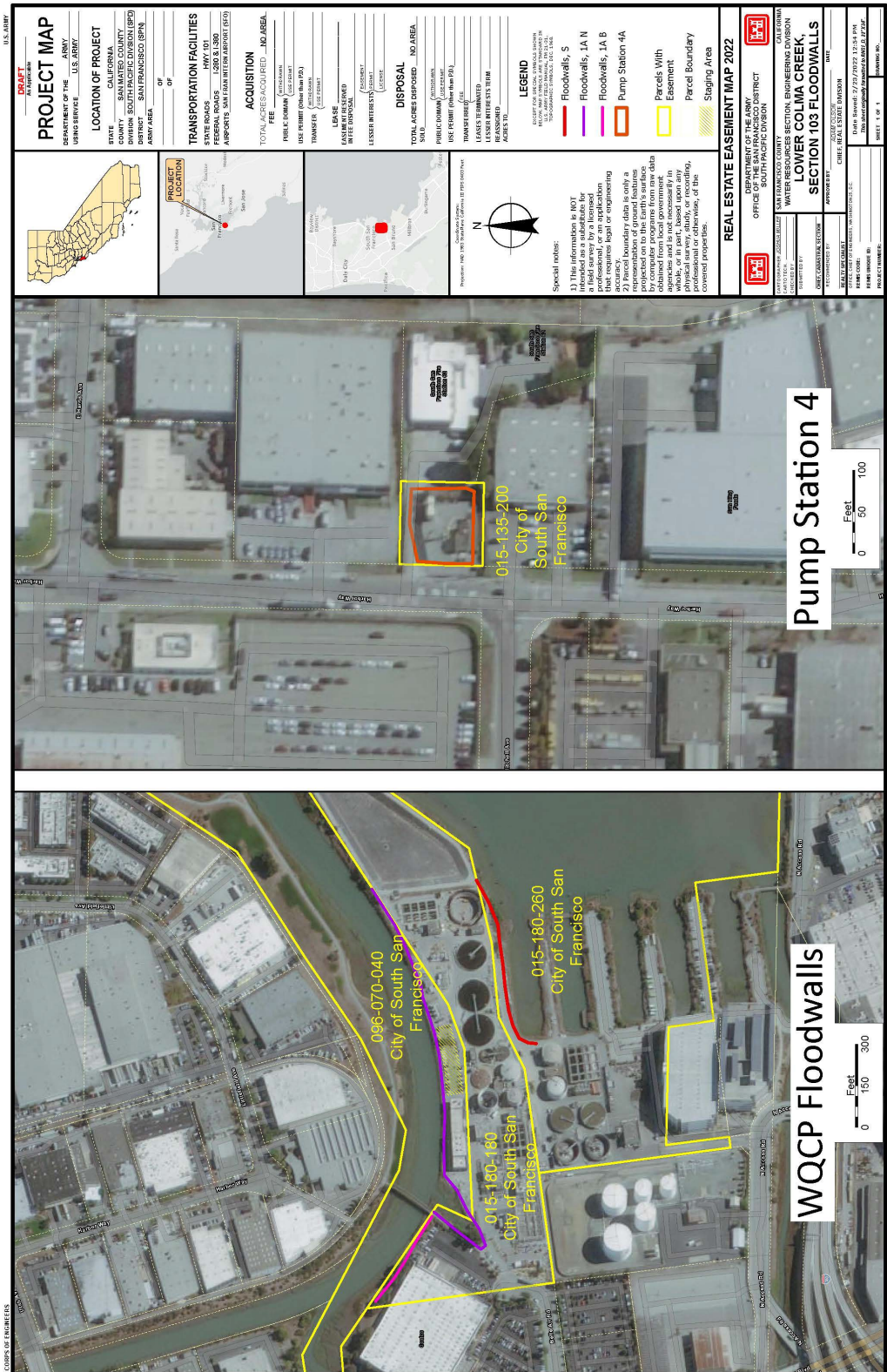
Joseph Devincenzi Realty Specialist
Sacramento District

REVIEWED AND RECOMMENDED BY:

Adam Olson Date
Chief, Real Estate Division Sacramento District

Lower Colma Creek CAP Section 103 Project Real Estate Plan

EXHIBIT A PROJECT MAP



Lower Colma Creek CAP Section 103 Project Real Estate Plan

EXHIBIT B TRACK REGISTER

Colma Creek Parcels – Floodwalls North & South; Pump Station #4							
Floodwalls							
APN	OWNER	LANDUSE CATEGORY	LANDUSE DESCRIPTION	TOTAL PARCEL AREA	FPLE	STAGING	TOTAL EASEMENTS
				ACRES	ACRES	ACRES	ACRES
015-180-260	CITY OF SOUTH SAN FRANCISCO	Vacant Land	Industrial	30.8	0.06	-	0.06
015-180-180	CITY OF SOUTH SAN FRANCISCO	Misc.	Industrial	14.8	0.06	-	0.06
096-070-040	CITY OF SOUTH SAN FRANCISCO	Misc.	Misc.	963.4	0.12	0.33	0.45
Pump Station #4A							
015-135-200	CITY OF SOUTH SAN FRANCISCO	Vacant Land	Industrial	0.23	0.03	-	0.03
				Totals	0.27	0.33	0.60

Lower Colma Creek CAP Section 103 Project Real Estate Plan

EXHIBIT C NONFEDERAL SPONSOR ASSESSMENT

LOWER SAN JOAQUIN RIVER FEASIBILITY STUDY OCTOBER 2013 ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE ACQUISITION CAPABILITY

Sponsors: City of South San Francisco
SSF/SB Water Quality Control Plant

I. Legal Authority:

a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? Yes/No

Please cite the authority: [California Chapter 345 Statutes of 1913](https://www.slc.ca.gov/Programs/Granted_Lands/G14_San_Mateo/G14-05_City_of_South_San_Francisco/S1913_Ch345.pdf)
https://www.slc.ca.gov/Programs/Granted_Lands/G14_San_Mateo/G14-05_City_of_South_San_Francisco/S1913_Ch345.pdf

b. Does the sponsor have the power of eminent domain for this project? Yes/No Code of Civil Procedure §§1230.010-1273.050

c. Does the sponsor have "quick-take" authorities for this project? Yes/No Code of Civil Procedure § 1255.410

d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? Yes/No

e. Are any of the lands or interests in land required for the project owned by an entity whose property the sponsor cannot condemn? Yes/No

II. Human Resource Requirements:

a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? Yes/No

b. If the answer to II. a. is "yes," has a reasonable plan been developed to provide such training? Yes/No

c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? Yes/No

d. Is the sponsor's project in-house staffing level sufficient considering its other workload, if any, and the project schedule? Yes/No

e. Can the sponsor obtain contractor support, if required, in a timely fashion? Yes/No

f. Will the sponsor likely request U.S. Army Corps of Engineers (USACE) assistance in acquiring real estate? Yes/No

Lower Colma Creek CAP Section 103 Project Real Estate Plan

EXHIBIT C NONFEDERAL SPONSOR ASSESSMENT (continued)

III. Other Project Variables:

a. Will the sponsor's staff be located within reasonable proximity to the project site?
Yes/No

b. Has the sponsor approved the project/real estate schedule/milestones? Yes/No

IV. Overall Assessment:

a. Has the sponsor performed satisfactorily on other USACE projects? Yes/No/N/A

b. With regard to this project, the sponsor is anticipated to be: Capable – Highly
Capable – Not Capable, etc.)

V. Coordination:

a. Has this assessment be coordinated with the sponsor? Yes

b. Does the sponsor concur with the assessment? Yes

Prepared by:



Signature

Date: 04/26/2023

Jason Hallare

Printed Name

Senior Civil Engineer

Title

Lower Colma Creek CAP Section 103 Project Real Estate Plan

EXHIBIT D CALIFORNIA STATUATE 1913 CHAPTER 345 & Memo

STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

CA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

May 11, 2023

JENNIFER LUCCHESI, Executive Officer
916.574.1800 Fax **916.574.1810**
California Relay Service TDD
800.735.2929
from Voice Phone **800.735.2922**
Contact Phone: 916.574.0450

File Ref: 14-05

Jason Hallare
City of South San Francisco
315 Maple Street
South San Francisco, CA 94080

Re: **Jurisdictional Determination for the Construction Floodwalls to Protect
Critical Infrastructure of the South San Francisco/San Bruno Water
Quality Control District and North Bayside System Unit Facilities,
Located in South San Francisco.**

Dear Mr. Hallare:

This letter is in response to your request for a determination by the California State Lands Commission whether it asserts a sovereign title interest in the parcel in the above-referenced project.

As background, the Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways.

California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for Public Trust purposes, which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the state's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the state holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high-water mark, except where the boundary has been fixed by agreement or a court. The boundaries may not be apparent from present day site inspections.

Since 1851, the Legislature has periodically transferred portions of the state's prime waterfront lands to local governments for management purposes. The Commission has certain residual and review authority legislatively granted tidelands and submerged lands. All tidelands and submerged lands, granted or ungranted, are subject to common law Public Trust Doctrine protections.

After review of in-house records, staff has determined that any State interest at the project location has been granted to the City of South San Francisco pursuant to chap. 345, stats.

EXHIBIT D
CALIFORNIA STATUTE 1913 CHAPTER 345 & Memo (continued)

Mr. Jason Hallare
May 11, 2023
Page 2

1913 and as amended, no minerals were reserved. All tidelands and submerged lands, granted or ungranted, are subject to common law Public Trust Doctrine protections. Except for certain statutory authorizations, the Commission is not involved in day-to-day management operations for legislatively granted public trust lands. The Commission has certain residual and review authority legislatively granted tidelands and submerged lands. The trustee (City) is responsible for administering the trust and managing the trust lands. Because this is a City project, the City is not required to issue a lease for the project.

This determination is without prejudice to any future assertion of state ownership or public rights, should circumstances change additional information come to our attention. This letter is not intended, nor should it be construed as, a waiver or limitation of any right, title, or interest of the state of California in any lands under its jurisdiction.

If you have questions, please contact me at 916.574.0450 or Reid.Boggiano@slc.ca.gov.

Sincerely,



Reid Boggiano
Granted Lands Program Manager

EXHIBIT D
CALIFORNIA STATUATE 1913 CHAPTER 345 (continued)

CHAPTER 345.

An act granting to the city of South San Francisco the salt marsh, tide and submerged lands of the State of California, including the right to wharf out therefrom to the city of South San Francisco and regulating the management, use and control thereof.

[Approved June 11, 1913. In effect August 10, 1913.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby granted to the city of South San Francisco, a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California, held by said state by virtue of its sovereignty, in and to all the salt marsh, tide and submerged lands, whether filled or unfilled, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific ocean, or of any harbor, estuary, bay or inlet within said boundaries, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions following, to wit: That said lands shall be used by said city and its successors, solely for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation and said city or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatever; *provided*, that said city, or its successors, may grant franchises thereon, for limited periods, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods for purposes consistent with the trusts upon which said lands are held by the State of California and with the requirements of com-

Tide lands
granted to
South San
Francisco.

Conditions
of grant.

City may
grant
franchises
for
wharves,
etc.

EXHIBIT D
CALIFORNIA STATUTE 1913 CHAPTER 345 & Memo (continued)

702

STATUTES OF CALIFORNIA.

Persons in
possession
to have
first right
to lease.

Right of
state to
use
wharves
reserved.

Right to
fish
reserved.

merce or navigation at said harbor, for a term not exceeding twenty-five years, and on such other terms and conditions as said city may determine, including a right to renew such lease or leases for a further term not exceeding twenty-five years or to terminate the same on such terms, reservations and conditions as may be stipulated in such lease or leases, and said lease or leases may be for any and all purposes which shall not interfere with navigation or commerce, with reversion to the said city, on the termination of such lease or leases of any and all improvements thereon, and on such other terms and conditions as the said city may determine, but for no purpose which will interfere with navigation or commerce; subject also to a reservation in all such leases or such wharfing out privileges of a street, or of such other reservation as the said city may determine for sewer outlets, and for gas and oil mains, and for hydrants, and for electric cables and wires, and for such other conduits for municipal purposes, and for such public and municipal purposes and uses as may be deemed necessary by the said city; *provided, however*, that each person, firm or corporation or their heirs, successors or assigns now in possession of land or lands abutting on said lands, within the boundaries of the city of South San Francisco, shall have the right to obtain a lease for a term of twenty-five years from said city of said land and wharfing out privileges therefrom with a right of renewal for a further term of twenty-five years pursuant to the provisions of this act and on such terms and conditions as said city may determine and specify, subject to the right of said city to terminate said lease at the end of the first twenty-five years or refuse to renew the same, or to terminate the lease so renewed during the term of such renewed lease on such just and reasonable terms for compensation for improvements at the then value of said improvements as said city may determine and specify. Upon obtaining such lease and wharfing out privileges such person, firm or corporation, their heirs or assigns, shall quitclaim to said city any right they or any of them may claim or have to the said lands hereby granted. This grant shall carry the right to such city of the rents, issues and profits in any manner hereafter arising from the lands or wharfing out privileges hereby granted. The State of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the State of California. No discrimination in rates, tolls or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors in the management, conduct or operation of any of the utilities, structures or appliances mentioned in this section. There is hereby reserved in the people of the State of California the right to fish in the waters on which said lands may front with the right of convenient access to said waters over said lands for said purpose.

EXHIBIT D
CALIFORNIA STATUTE 1913 CHAPTER 345 & Memo (continued)

FORTIETH SESSION.

703

SEC. 2. The foregoing conveyance is made upon the condition that the city of South San Francisco shall, within five years from the approval of this act, exclusive of such time as said city may be restrained from so doing by injunction issued out of any court of this state or of the United States, and exclusive of such further delay as may be caused by unavoidable misfortune or great public or municipal calamity, issue its bonds for harbor improvement purposes in an amount of money of not less than two hundred and fifty thousand dollars, and shall, within five years after the approval of this act, exclusive of the time in this section hereinbefore mentioned, commence the work of such harbor improvement, and the said work and improvement shall be prosecuted with such diligence that not less than two hundred and fifty thousand dollars shall be expended thereon within five years from the approval of this act exclusive of the time in this section hereinbefore mentioned. If said bonds be not issued or said work be not prosecuted and completed as and in the manner herein provided, then the lands by this act conveyed to the city of South San Francisco shall revert to the State of California.

Must expend two hundred and fifty thousand dollars within five years.

Lands may revert to state.