

Memorandum

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: August 10-11, 2011

Reference No.: 2.4c.
Action Item

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: Brent L. Green
Chief
Division of Right of Way
and Land Surveys

Subject: **AIRSPACE LEASE – CONCEPTUAL APPROVAL OF LEASE TERMS – SACRAMENTO MUNICIPAL UTILITIES DISTRICT (SMUD)**

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) conceptually approve lease terms of two airspace leases between the Department and Sacramento Municipal Utilities District (SMUD) in support of solar development within operating right of way.

SUMMARY:

The two airspace parcels targeted for solar panel development are located within the Highway 50 corridor in Sacramento County. See attached Exhibits B & C for location and airspace parcel mapping. The Commission approved Direct Negotiations in July 2010 and granted a six-month extension to subject negotiations at the June 2011 Commission meeting.

SMUD, in conjunction with a private partner that will be selected via a competitive bid process, proposes to develop, finance, construct, own, operate and maintain solar photovoltaic (PV) facilities within the Highway 50 corridor in the Sacramento area. This proposal serves as a demonstration project for SMUD to establish the feasibility and best method of placing utility-scale solar PV power installations on Department property. This is a design-build project. This project serves as an evaluative pilot for the Department for installation of future solar PV facilities in operating right of way throughout the State.

Direct Negotiations have resulted in the following lease terms and conditions applicable to both parcels:

Use:	Solar Panel Power Generation
Term:	25 years
Negotiated Rent:	\$4,500 combined minimum annual base rent for both parcels or a 6 percent return on gross income, whichever is greater. Construction phase lease rate of \$50 per month.
Escalations :	None.

Lease Terms and Conditions Discussion:

Term: The term of subject lease is set for 25 years because this is the normal economic life for subject facilities.

Negotiated Rent: Comparable sales data provided by Bender Rosenthal, Incorporated, a respected California based appraisal firm, demonstrate that the current market lease rates can vary between 5 to 7 percent of gross income for lease of land for solar power generation purposes. The Department negotiated a 6 percent mid-range of this comparable sales income percentage number. In addition, the Department negotiated a provision for application of a nominal base rent during the construction period because no income will be generated during this time.

Reevaluation: The Department proposes both the Department (Lessor) and SMUD (Tenant) have the option to request reevaluation at both the one-year and 10-year anniversaries of the solar panel commercial operation. This would be a check and balance to ensure fair market rent is applied throughout the lease term.

Escalations: A Consumer Price Index adjustment was not included in the lease term provisions because attracting capital investment from the private sector during this downward economic cycle is seen as a potential problem for construction of this proposed solar facility. Future cost variables relative to this project may make construction financing either unavailable or prohibitively expensive. Given that the lease rate is based on a percentage of gross revenue, inflationary adjustments are already taken into account in the lease rate.

Other Terms: a) Safety Considerations – Provisions for safety hazard elimination, mitigation, and solar panel facility removal are included in the lease terms as methods to respond to safety issues, dependent on safety issue severity. All costs associated with subject hazard elimination, mitigation or removal will be borne by Tenant.

b) Solar Facility Removal/Relocation – As stated above under “Safety Considerations”, Tenant will bear all costs associated with removal of the solar panels due to a safety-driven cause. If the cause of solar panel removal is due to a new transportation-related need for a lease area during the first 20 years of the lease period, Lessor will be responsible for the costs to remove or relocate the solar improvements. If the relocation option is exercised by Tenant, Tenant will be responsible for locating and acquiring an environmentally cleared alternative site. Under both the removal and relocation scenario due to transportation project impact, Lessor will not pay a penalty or provide compensation for lost revenue.

In addition to the specific issues discussed above relative to lease terms, negotiated lease terms also dictate Tenant’s compliance with Lessor’s siting criteria for protection of the traveling public and the operating facility. Subject siting criteria is included (Exhibit A) to the negotiated lease terms.

Attachments:

Exhibit A: Siting Criteria

Exhibit B: Location Maps

Exhibit C: Airspace Parcel Maps

Exhibit A

Site Criteria for SMUD's Solar Project on Highway 50

I. General

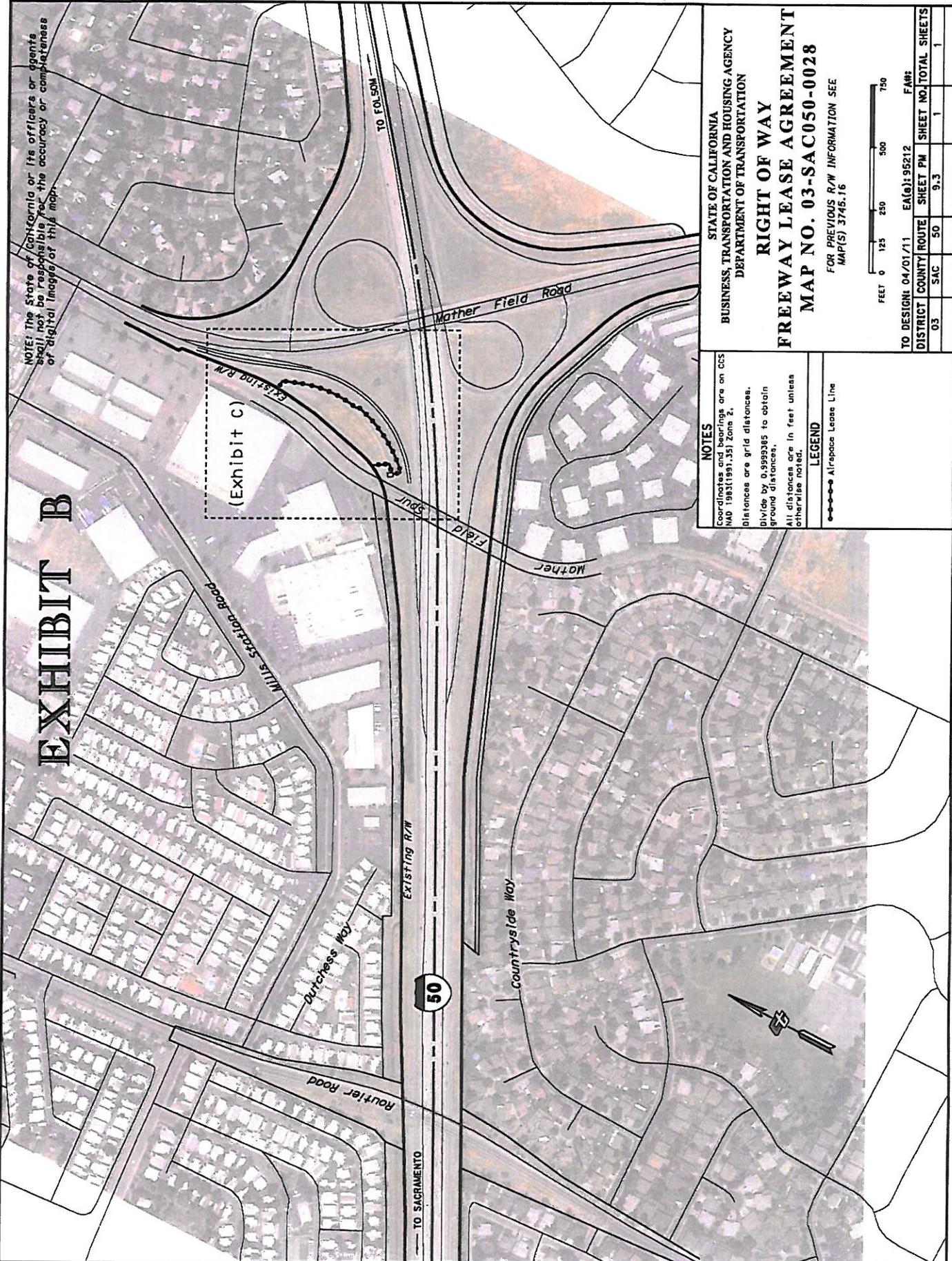
1. The locations for the SMUD installations were negotiated between Caltrans and SMUD in late 2008 and early 2009. The locations were conceptually agreed to in April 2009 for further study.
2. There are no adverse affects to highway safety and traffic operations anticipated.
3. The present use and future plans for these locations on Highway 50 have been reviewed. No interference to facility operations is anticipated by the construction of the proposed SMUD Solar project.
4. An endorsement letter from the City of Rancho Cordova and the City of Sacramento will be used to document local jurisdictional support of the concept of the solar installation. An agreement was reached between Jody Jones and Terry Abbott on March 30, 2011 to accept a letter of support from the locals instead of a resolution for the proposed SMUD project.
5. SMUD will return the highway right of way to a self sustainable condition at the end of the lease period.

II. Design and Placement Standards

1. SMUD's proposed solar installations meet all of the following requirements:
 - a. Provides a minimum clear recovery area of 52 feet or a minimum 8 foot vertical distance up-slope from the edge of travelled way.
 - b. Does not introduce any new guardrail or other shielding devices to reduce the minimum clear recovery area requirements.
 - c. Uses local roads or frontage roads for maintenance access from outside the access control limits
 - d. Will use best management practices to control potential erosion and minimize storm water pollution.
 - e. Is not being installed on a Scenic Highway/Scenic Byway.
 - f. Is not placed in the median.
 - g. Is not placed in any gore areas.
 - h. Designed to be self supporting and not affixed to highway structures or roadway fixtures (rails, barriers, signs, light standards, etc.)
 - i. Is not being placed on the outside of curved highway alignments.
 - j. Is not being placed inside a loop ramp or between a slip ramp and the through lanes of controlled access facilities.
 - k. Does not interfere with official traffic control devices or interfere with the operational right of way above the roadway.
 1. Will mitigate for the removal of existing trees.
2. SMUD's proposed solar installations will be developed during the detailed design phase to meet the following requirements:
 - a. Require low maintenance to minimize exposure risks to maintenance workers and others.
 - b. Maintain sight distance and visibility of highway signage.
 - c. Account for existing highway facilities and features (signs, drainage patterns).
 - d. Minimize effects to the design, construction, operation, maintenance, or stability of the highway facility.
 - e. Will not contain displays of any sort, advertising, decorative banners, or flags.
 - f. Minimize or avoid the use of area lighting. Some lighting may be necessary for security.

EXHIBIT B

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.



NOTES
 Coordinates and bearings are on CCS
 MAP 1983(1971,25) Zone 2,
 Distances are grid distances.
 Divide by 0.9999385 to obtain
 ground distances.
 All distances are in feet unless
 otherwise noted.

LEGEND
 Airspace Lease Line

STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY
FREEWAY LEASE AGREEMENT
MAP NO. 03-SAC050-0028
 FOR PREVIOUS R/W INFORMATION SEE
 MAP(S) 3745.16

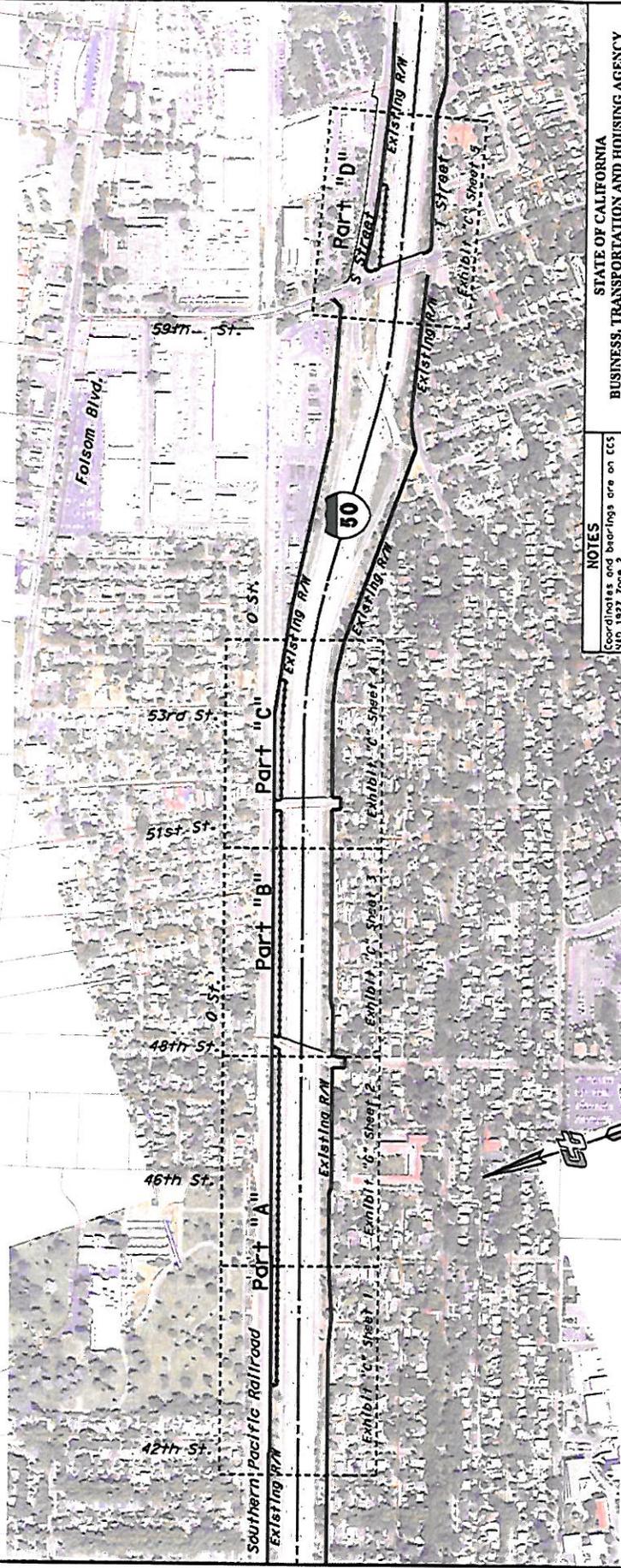


TO DESIGN:	04/01/11	EA(0):	95212	FA#:	
DISTRICT:	03	COUNTY:	SAC	ROUTE:	50
SHEET NO.:	1	TOTAL SHEETS:	1		

Exhibit B

EXHIBIT B

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.



NOTES
 Coordinates and bearings are on CCS
 NAD 1983 Zone 2.
 Distances are grid distances.
 Divide by 0.9999335 to obtain
 ground distances.
 All distances are in feet unless
 otherwise noted.

LEGEND
 ----- Air-space Lease Line

STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY
 FREEWAY LEASE AGREEMENT
 MAP NO. 03-SAC050-0027**

FOR PREVIOUS R/W INFORMATION SEE
 MAP(S) R-3744.4-R3744.7, R-3744.8N

FEET 0 100.5 315 750 1125

TO DESIGN	08/30/10	EA(G)195212	FAB1
DISTRICT	03	COUNTY	50
ROUTE	50	SHEET	1.2 - 2.2
SAC	50	SHEET NO.	1
		TOTAL SHEETS	1

EXHIBIT C

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or consistency of digital images of this map.

Southern Pacific Railroad

Existing R/W

S 71°02'39" E
POB

N 18°57'21" E
31.00'

320.00'

31.00'

942.80'

622.80'

Part "A" - 55,050 Sq. Ft.

Part "A"

8' AREA - 12,870 Sq. Ft.

TO SACRAMENTO



TO RANCHO CORDOVA

Existing R/W

43rd St.

42nd St.

NOTES

Coordinates and bearings are on CCS NAD 1983(2002.00) Zone 2. Distances are grid distances. Divide by 0.999976 to obtain ground distances. All distances are in feet.

LEGEND

--- Alameda Lease Line
POB Point of Beginning

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION
**RIGHT OF WAY
FREeway LEASE AGREEMENT
MAP NO. 03-SAC050-0027**

FOR PREVIOUS R/W INFORMATION SEE
MAP(S) H-3744-4



TO DESIGN: 03/21/11	EA(0): 95212	FAB:
DISTRICT: 03	COUNTY: SAC	ROUTE: 50
SHEET NO: 1.2	SHEET NO: 1	TOTAL SHEETS: 5

EXHIBIT C

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.

N 18°57'21" E 5.00' Southern Pacific Railroad

S 71°02'39" E 998.72' Existing R/W

N 71°02'39" W 1,609.66'

Part "A" - 55,050 Sq. Ft.

Part "A"

8' AREA - 12,870 Sq. Ft.

TO SACRAMENTO



TO RANCHO CORDOVA

Existing R/W

46th St.

NOTES

Coordinates and bearings are on CCS (NAD 1983) (002.00) Zone 2. Distances are grid distances. Divide by 0.999916 to obtain ground distances. All distances are in feet.

LEGEND

— Allrapsce Lease Line
 POB Point of Beginning

STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION

RIGHT OF WAY

FREEWAY LEASE AGREEMENT
MAP NO. 03-SA C050-0027

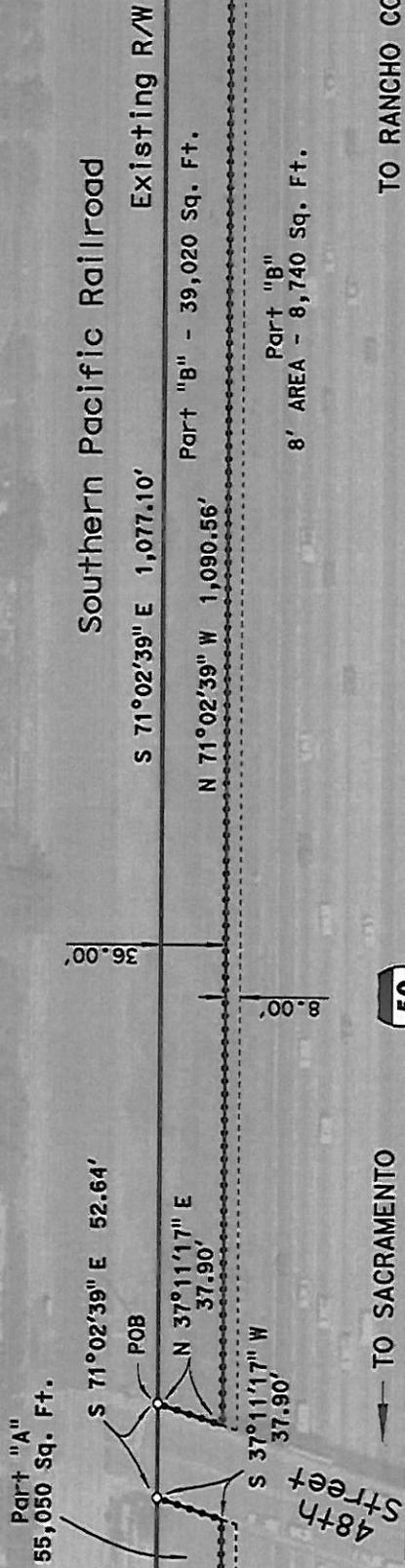
FOR PREVIOUS R/W INFORMATION SEE
 MAP(S) R-3744.5



TO DESIGN: 03/21/11		EAI(01)95212		FAB1	
DISTRICT	COUNTY	ROUTE	SHEET NO.	SHEET NO.	TOTAL SHEETS
03	SAC	50	1-35	2	5

EXHIBIT C

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.



Existing R/W

Discovery Way

NOTES
Coordinates and bearings are on CCS NAD 1983(6092.00) Zone 2. Distances are grid distances. Divide by 0.999876 to obtain ground distances. All distances are in feet.

LEGEND
- - - - - Altrapeze Lease Line
● - Point of Beginning

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY
FREEWAY LEASE AGREEMENT
MAP NO. 03-SAC050-0027**

FOR PREVIOUS R/W INFORMATION SEE
MAP(S) R-3744.5, 3744.6

FEET 0 25 50 100 150

TO DESIGN: 03/21/11		EA(0)195212		FAB#1	
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
03	SAC	50	1.55	3	5

EXHIBIT C

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.

Book 39 SURVEYS Page 37
 -AND-
 Book 71-06-11
 O.R.
 Page 369

Curve Data (A)
 $\Delta = 121^{\circ}20'11''$
 $L = 52.94'$
 $R = 25.00'$

Curve Data
 $\Delta = 04^{\circ}32'45''$
 $L = 160.98'$
 $R = 2,028.95'$

S $59^{\circ}38'13''$ E 239.93'
 (N $59^{\circ}04'26''$ W 239.83')
 (BK39 Surveys Pg37)

S $59^{\circ}38'13''$ E 173.01'
 Part "D" - 15,230 Sq. Ft.

S $64^{\circ}10'58''$ E 458.34'

S $25^{\circ}49'02''$ W 21.26'

S $06^{\circ}04'56''$ W 110.80'

N $0^{\circ}58'28''$ W 23.22'

POB

Part "D"

8' AREA - 3,260 Sq. Ft.

TO SACRAMENTO

50

TO RANCHO CORDOVA

Existing R/W

T Street

59th Street

NOTES

Coordinates and bearings are on CCS (NAD 1983(2002.00) Zone 2). Distances are grid distances. Divide by 0.999876 to obtain ground distances. All distances are in feet.

LEGEND

--- At-rapese Lease Line
 POB Point of Beginning

STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY
 FREEWAY LEASE AGREEMENT**
MAP NO. 03-SAC050-0027

FOR PREVIOUS R/W INFORMATION SEE
 MAP(S) R-3744-SH



TO DESIGN: 03/21/11	EA(0)195212	FA#1
DISTRICT: 03	COUNTY: SAC	ROUTE: 50
SHEET PM: 2-2	SHEET NO: 5	TOTAL SHEETS: 5

