

**STAFF REPORT
C06**

A 10
S 3

04/05/19
PRC 3987.9
M.J. Columbus

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

City of Petaluma

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to Assessor's Parcel Numbers 007-121-006, 007-142-026; 006-282-019, 022, and 006-284-019, City of Petaluma, Sonoma County.

AUTHORIZED USE:

Continued use and maintenance of an existing vehicular bridge crossing, known as the Washington Street Bridge, previously authorized by the Commission; use and maintenance of existing City-operated utility conduits: 12-inch-diameter main water line, 12-inch-diameter stormwater outfall, and 10-inch-diameter stormwater outfall; and bank protection; not previously authorized by the Commission.

LEASE TERM:

25 years, beginning October 26, 2016.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

Lessee shall not place, attach, or authorize the placement of any utilities or other improvements on the Bridge or within the Lease Premises without the Lessor's prior review and approval. Separate leases or subleases are required and shall be obtained for all utilities not operated by Lessee.

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.

STAFF REPORT NO. **C06** (CONT'D)

Public Trust and State's Best Interests Analysis:

On July 17, 1968, the Commission authorized a Public Agency Right-of-Way Permit to the City of Petaluma (City) for the construction, use, and maintenance of the Washington Street Bridge (Bridge) ([Item 3, July 17, 1968](#)). That lease expired on October 25, 2016. The City has applied for a new General Lease – Public Agency Use.

On June 30, 2015, the Bridge was inspected by the California Department of Transportation (Caltrans). The inspection identified no significant defects, and no work recommendations were made by Caltrans.

While processing the application, staff noticed utility conduits attached to the Bridge, two owned and operated by Pacific Gas and Electric (PG&E), one by AT&T, one by Sonoma Marin Area Rail Transit (SMART), and three by the City. The utilities were placed on the Bridge sometime after the Bridge was constructed in 1969. The existing utilities are not currently authorized by the Commission. Staff has requested applications for the PG&E utilities. Staff will request separate applications from AT&T and SMART.

Staff has received a separate application for an 8-inch-diameter natural gas pipeline owned and operated by PG&E that is attached to the Bridge and in use. The City has a Franchise Agreement in place with PG&E dated June 19, 1953, ordinance number 282. PG&E submitted an application for an Indemnification Agreement to the Commission for the natural gas pipeline that was not previously authorized by the Commission. PG&E's application is on the April 5, 2019 Commission meeting agenda (Item C 05). The other PG&E utilities attached to the Bridge include four 5-inch-diameter electrical conduits in 6-inch-diameter sleeves, and an application has been requested from PG&E for the electrical conduits. The City has a Franchise Agreement in place for the electrical conduits with PG&E dated June 19, 1953, ordinance number 283. Staff has not received Franchise Agreements for the AT&T facilities consisting of two 3.5-inch-diameter telephone ducts in 5-inch-diameter sleeves, and the SMART utility consisting of one 2-inch-diameter railroad signal conduit.

The City understands that separate applications for separate leases must be submitted for the existing utilities not owned and operated by the City.

Based on review of the bridge plans staff believes the pipelines, cables, conduits, outfalls, and casings are attached in a fashion that does not

STAFF REPORT NO. C06 (CONT'D)

interfere, inhibit, or cause an unreasonable risk to public access or navigation on sovereign land.

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 (9 Stat. 452, Sept. 9, 1850), and a responsibility of all involved public agencies pursuant to the common law Public Trust Doctrine. Bridges are often the most logical location for the public to access a waterway because kayakers, rafters, and others may legally utilize the public access easements around bridges to enter and exit navigable waterways. Furthermore, bridges and roads are critical infrastructure that are necessary to facilitate the movement of goods, people, and services throughout the State. The movement of goods is a critical part of local, state and national commerce; and the creation and maintenance of the instrumentalities of commerce is essential to a thriving economy. While the existing Bridge does not currently facilitate water-dependent activities, the existing Bridge does not interfere with navigation, water-dependent recreation, or other Public Trust uses along the Petaluma 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 County 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 limited to a 25-year term, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on the Petaluma River, in a tidally influenced site. This area is vulnerable to flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea-level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was

STAFF REPORT NO. **C06** (CONT'D)

used for the projected sea-level rise scenario for the lease area as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. In addition, 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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could increase the likelihood of damage to the fixed components. During the next 25 years, the Bridge-related structures in the Petaluma River would probably be subject to more frequent inundation because they are fixed and would not be able to move up as the water levels rise. Therefore, additional bank protection may also be needed under the bridge when water levels rise. The increased water levels in Petaluma River might reduce clearance under the Bridge for members of the public in canoes, kayaks, or boats passing the Bridge.

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, including sea-level rise.

STAFF REPORT NO. **C06** (CONT'D)

Conclusion:

For the reasons stated above, staff believes 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 proposed lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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 and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

2. 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).

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 proposed lease; and is in the best interests of the State.

STAFF REPORT NO. C06 (CONT'D)

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the City of Petaluma beginning October 26, 2016, for a term of 25 years, for the continued use and maintenance of an existing vehicular bridge crossing, known as the Washington Street Bridge, previously authorized by the Commission; and use and maintenance of existing City-operated utility conduits: 12-inch-diameter main water line, 12-inch-diameter stormwater outfall, and 10-inch-diameter stormwater outfall; and bank protection; not previously authorized by the Commission; as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

EXHIBIT A

PRC 3987.9

LAND DESCRIPTION

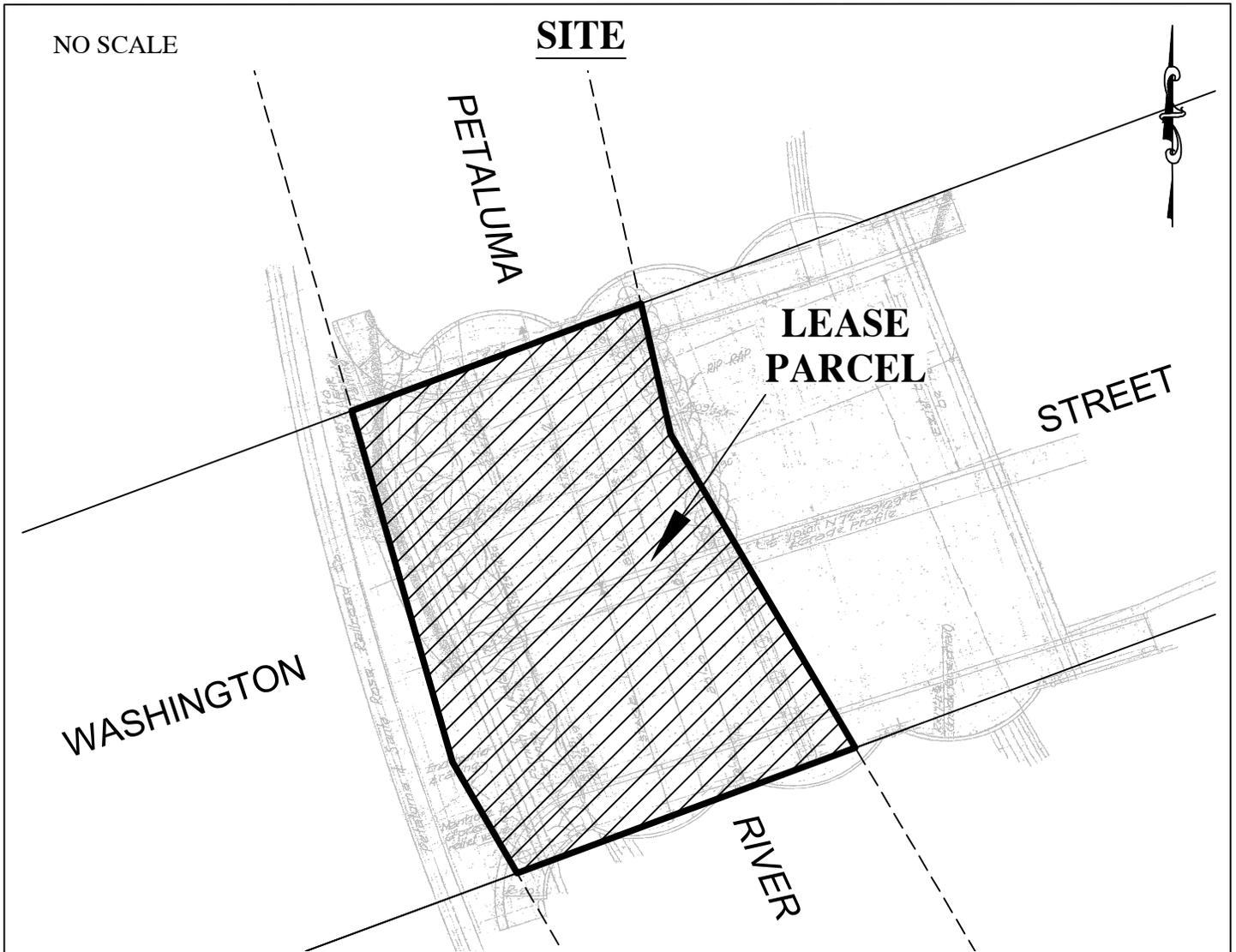
A parcel of tide and submerged land in the natural bed of the Petaluma River situated in the City of Petaluma, County of Sonoma, State of California described as follows:

Commencing at a monument located at the intersection of the center lines of Washington Street and Petaluma Boulevard North in the City of Petaluma; thence along the center line of Washington Street N 68° 01' 35" E 149.55 feet; thence N 69° 40' 11" E 47.67 feet to the true point of beginning, which point is located at the intersection of the center line of Washington Street with the westerly boundary of the State-owned lands in the Petaluma River and has a coordinate of N 208,005.45, E 1,816,329.84 on the California Coordinate System, Zone II; thence N 15° 59' 29" W 30.09 feet, thence N 69° 40' 11" E 56.49 feet; thence S 12° 51' 29" E 24.62 feet; thence S 30° 28' 43" E 66.63 feet; thence S 69° 40' 11" W 66.09 feet; thence N 30° 06' 49" W 23.57 feet; thence N 15° 59' 29" W 36.88 feet to the true point of beginning.

Containing 0.125 acre, more or less.

END OF DESCRIPTION

The above description is based on that original description prepared by CSLC Boundary Unit on 07/17/1968 as found in PRC 3987 file, Calendar Item 1.



WASHINGTON STREET BRIDGE CROSSING PETALUMA RIVER, PETALUMA

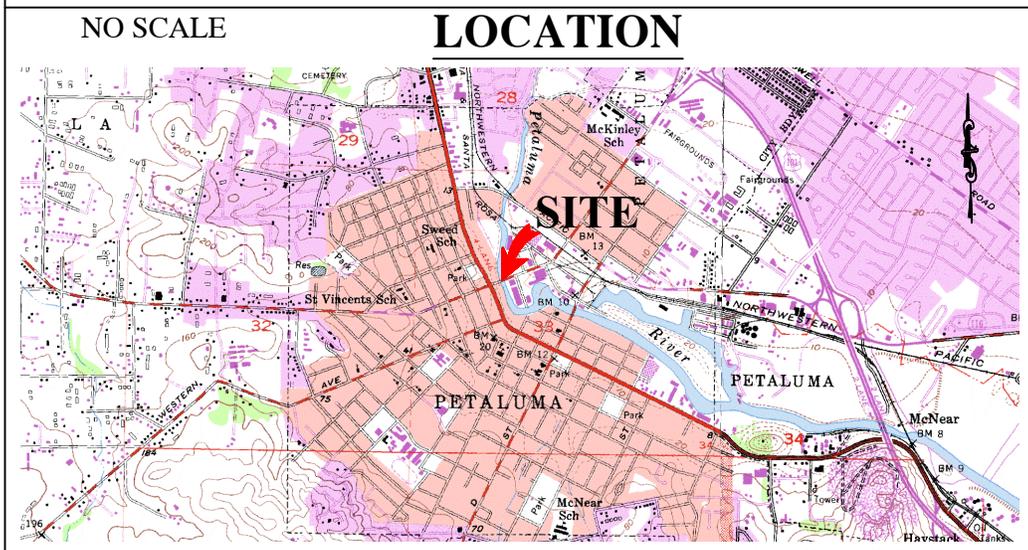


Exhibit B
 PRC 3987.9
 CITY OF PETALUMA
 APN: MULTIPLE
 GENERAL LEASE -
 PUBLIC AGENCY USE
 SONOMA COUNTY



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.