

**STAFF REPORT
07**

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08/23/19
PRC 9166.9
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AMENDMENT OF LEASE

LESSEE:

County of Sonoma

AREA, LAND TYPE, AND LOCATION:

An 80-foot-wide strip, more or less, of sovereign land in the Russian River, adjacent to Assessor's Parcel Numbers 110-220-003 and 110-220-015, near the city of Santa Rosa, Sonoma County.

AUTHORIZED USE:

Use, maintenance, and proposed seismic retrofitting of an existing bridge known as Wohler Road Bridge.

LEASE TERM:

25 years, beginning December 17, 2014.

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.

PROPOSED AMENDMENT:

Amend the Lease to:

1. Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only), to expand the lease area from an 80-foot-wide strip of submerged land in the bed of the Russian River to a 200-foot-wide strip of submerged land.
2. Require contractor liability insurance in an amount no less than \$10,000,000 per occurrence.

All other terms and conditions of the lease shall remain in effect without amendment.

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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:

On December 17, 2014, the Commission authorized a General Lease-Public Agency Use to the County of Sonoma for the Wohler Road Bridge crossing the Russian River ([Item C13, December 17, 2014](#)). The bridge was constructed in 1921 as a single-lane fixed bridge for vehicular traffic and consists of five spans with three steel truss spans and two short reinforced-concrete approach spans, all on timber pile foundations. The California Department of Transportation completed a bridge inspection report that indicated the bridge was structurally deficient and in need of seismic retrofitting. The project will require construction equipment and materials and a temporary work area near the Wohler Road Bridge piers. The equipment and materials will occupy a portion of sovereign land outside the footprint of the Lessee's existing right-of-way. This proposed amendment is to allow for the additional encroachment by the contractor during the project. The Lessee is now applying for an amendment of General Lease – Public Agency Use to enlarge the lease premises from an 80-foot-wide strip to a 200-foot-wide strip for the Wohler Road Bridge Seismic Retrofitting Project. The expanded lease area is described in the new Exhibit A and depicted in the new Exhibit B.

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, it does not interfere with navigation, water-dependent recreation, or other Public Trust uses along the Russian River in any substantive way. The amendment will allow the Lessee to safely repair and maintain the bridge.

STAFF REPORT NO. 07 (CONT'D)

The existing 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. The proposed expansion on the lease area will not alter these requirements and will not result in any substantial additional interference to the Public Trust needs at this location.

Conclusion:

The lease does not alienate the State's fee simple interest or permanently impair public rights. The recommended action will not substantially interfere with the Public Trust needs at this location, at this time, and for the foreseeable term of the lease. For these reasons, staff recommends finding the proposed action 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. Upon expiration or prior termination of the lease, the 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. A Mitigated Negative Declaration (MND), State Clearinghouse No. 2014082054, was prepared by Sonoma County and adopted on November 24, 2014, for the Wohler Bridge Project. On December 17, 2014, the Commission approved a lease for the Project relying on the adopted MND and mitigation measures. The proposed lease amendment will allow additional State land in the Russian River to be used by the contractor for the Project. Staff reviewed the previously adopted MND and mitigation measures and believes the original document remains valid, and no further documentation is necessary. Mitigation measures made a condition of approval by the Commission in its original approval of the lease remain in effect.

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4. 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 California Environmental Quality Act (CEQA) review process, it is 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 an MND, State Clearinghouse No. 2014082054, and mitigation measures were prepared by Sonoma County and adopted on November 24, 2014; that the Commission has reviewed and considered the information contained therein and that the larger lease area to be authorized by this lease amendment is within the scope of impacts evaluated in the original MND for this project; that in the Commission's independent judgment, the scope of activities to be carried out under the lease amendment to be issued by this authorization have 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 impact has occurred; and, therefore no additional CEQA analysis is required.

Mitigation measures as adopted by the Commission in its December 17, 2014 authorization remain in effect.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment of lease will not substantially interfere with the public's right to navigation and fishing or 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.

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.

STAFF REPORT NO. 07 (CONT'D)

AUTHORIZATION:

Authorize issuance of an amendment of Lease No. PRC 9166.9, a General Lease - Public Agency Use, to the County of Sonoma, effective August 23, 2019, to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); require contractor liability insurance in an amount no less than \$10,000,000 per occurrence; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 9166.9

LAND DESCRIPTION

A 200' wide strip of submerged land lying in the bed of the Russian River, adjacent to the lands of Sonoma County Water agency as shown on Record of Survey of the Westerly Boundary of the Lands of Clarence H. & Laura M. Anderson filed in Book 3528 O.R. 115, Sonoma County Records, filed in Book 352 of Maps, Page 12, Sonoma County Records, State of California, the centerline of which is described as follows:

BEGINNING at a point on the centerline of Wohler Bridge, said point lying distant S 12°16'47" W 12.07 feet from a S.C.W.A. Bronze Monument at the easterly end of Wohler Bridge, as shown on said Record of Survey; thence along said centerline N 78°42'55" W 755.00 feet to the terminus of said strip.

The sidelines of said strip shall be prolonged or shortened so as to commence at the Low Water mark of the left bank of the Russian River, and terminate at the Low Water mark of right bank of the Russian River.

EXCEPTING THEREFROM any portion lying landward of the Low Water marks of the left and right banks of the Russian River.

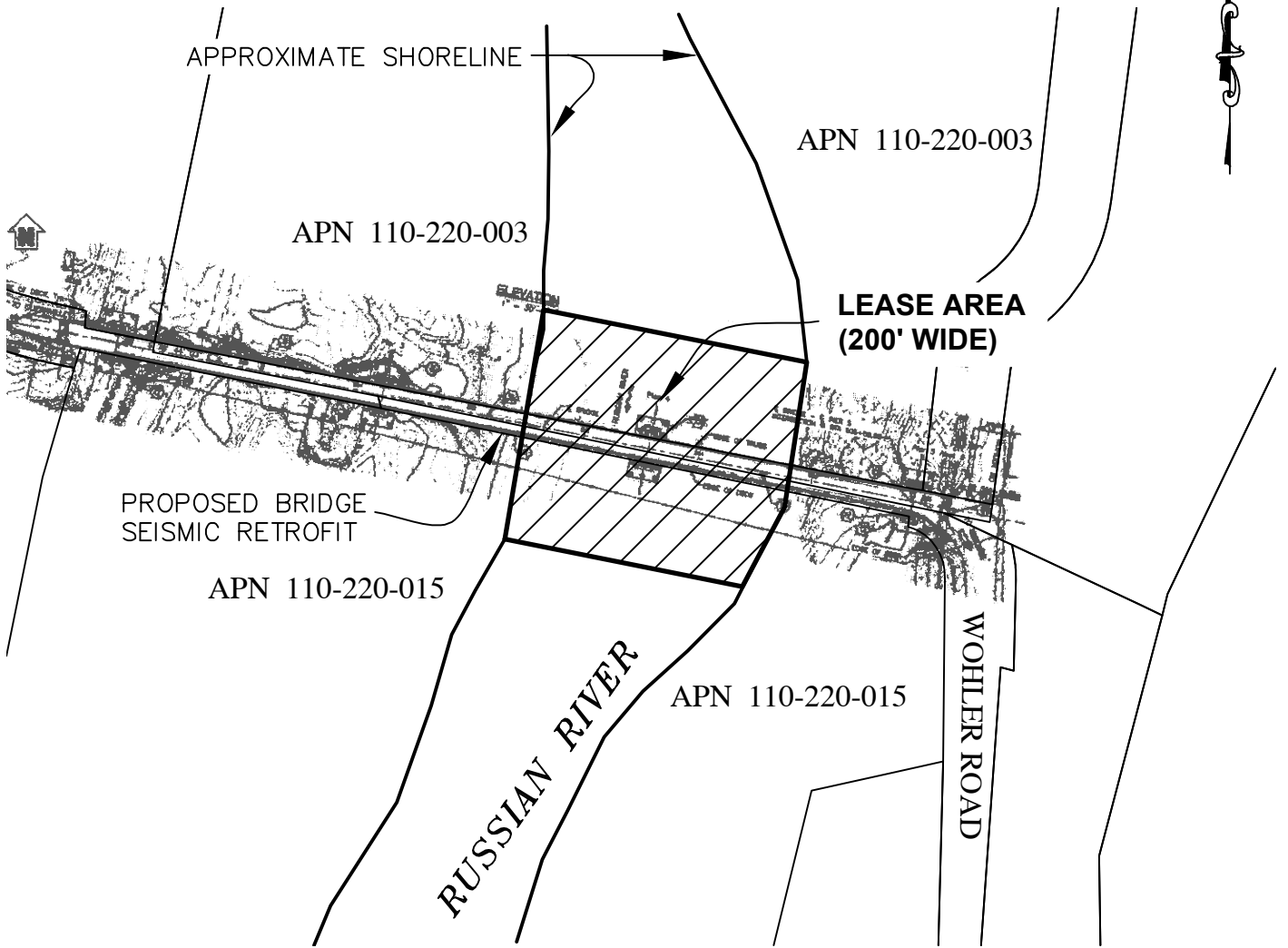
END OF DESCRIPTION

Prepared 7/8/2019 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



WOHLER ROAD BRIDGE, NEAR SANTA ROSA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 9166.9
 SONOMA COUNTY
 APN 110-220-003 & 110-220-015
 GENERAL LEASE - PUBLIC
 AGENCY USE
 SONOMA COUNTY



DJF 7/8/19

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.