

**STAFF REPORT  
06**

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Lease 3759.9  
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**GENERAL LEASE – PUBLIC AGENCY USE**

**APPLICANT:**

City of Napa

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Napa River, near Napa, Napa County.

*AUTHORIZED USE:*

Continued operation and maintenance of an existing 36-inch-diameter water transmission main.

*LEASE TERM:*

20 years, beginning October 24, 2019.

*CONSIDERATION:*

Public health and safety; 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.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, and 6501.1; California Code of Regulations, title 2, sections 2000 and 2003.

**Public Trust and State's Best Interests Analysis:**

On May 25, 1967, the Commission authorized a 49-year right-of-way permit for a buried 36-inch-diameter municipal water main pipeline (Water Main) crossing under the Napa River, near Suscol Creek, 4 miles south of the city of Napa ([Item C04, May 25, 1967](#)). That permit expired on May 24, 2016. The Applicant is now applying for a General Lease – Public Agency Use.

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Applicant is a charter city and provides water within its water service boundary. This Water Main is a component of the Applicant's Urban Water Management Plan pursuant to the requirements of the Urban Water Management Planning Act (Act). The Act was adopted by the California State Legislature as AB 797 in 1983. Originally signed into law by Governor Deukmejian in 1984 and amended numerous times since then, the Act is contained in the California Water Code, sections 10610 through 10656.

The Act requires all urban water suppliers of a certain minimum size to develop an Urban Water Management Plan (UWMP), and to update it every 5 years. The required contents of an UWMP are set forth in the Act. An UWMP describes and evaluates sources of water supply, projected population and future water demand over a 20-year planning horizon. Water conservation, water service reliability, contingencies for droughts, recycled water usage, and other related subjects are also addressed in an UWMP.

The Act recognizes that water is a limited and renewable resource subject to ever-increasing demands and that the efficient use of this resource is a statewide concern. A long-term reliable supply of water is necessary to protect the productivity of California's businesses and economic climate. The Act also acknowledges that there is no substitute for planning at the local water supplier level. A local water supplier has the experience, knowledge, and ability to consider the unique circumstances of an individual agency in tailoring the planning to local conditions. The UWMP is the vehicle by which water agencies report their strategies to meet future water challenges to both State government and the communities they serve. The overarching goal is to ensure that adequate water supplies are available to meet existing and future demands.

The Applicant provides water service to the lower Napa Valley, outside the current city limits, and other retail customers within the City of Napa Water Service Area. The lease premises contain an existing 36-inch-diameter subsurface Water Main, which extends approximately 300 feet across the Napa River and has been continuously used and maintained by Applicant since its installation in 1967.

The proposed lease would allow for the Applicant's continued use and maintenance of the Water Main used for the delivery of potable water within the lower Napa Valley service area. Moreover, because the Water Main is an integral component of the existing water distribution

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infrastructure, use of the lease premises is essential to its ability to provide necessary potable water to the communities within its service area.

The Applicant maintains a cathodic protection system over the Water Main to protect against metal corrosion and conducts annual inspection and testing of the cathodic protection system. The most recent report currently available (2016) indicated the Water Main met all standards and was in good working condition. The proposed lease requires the lessee to conduct annual inspections and testing of the cathodic protection system.

The Applicant's continued use of the lease premises will not interfere with Public Trust needs and values at this location. The pipeline crossing the Napa River is buried and will not impede surface uses, such as navigation, fishing, recreational boating, or other traditional Public Trust uses.

The pipeline does not significantly alter the land, and the lease does not alienate the State's sovereign interest, or permanently impact public rights. The lease is limited to a 20-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease the lessee may be required to remove any improvements and restore the lease premise to its original condition. Additionally, the proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities under the lease.

**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 buried water pipeline is located under the Napa River, a tidally influenced area that includes salt and brackish water marshes that are vulnerable to flooding at current sea levels and 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. The San Francisco tide gauge was used for the projected sea-level rise scenario for the lease area as listed in Table 1.

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**Table 1. Projected Sea-Level Rise for San Francisco<sup>1</sup>**

<b>Year</b>	<b>Projection (feet)</b>
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: <sup>1</sup> 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; however, the buried water pipeline under the river would not be affected by these conditions.

**Conclusion:**

For all the reasons above, staff believes that the issuance of this lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; and is in the State's best interests.

**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. If the Commission denies the application, the Applicant may be required to remove the existing Water Main and restore the lease premises to their original condition. 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

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protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.

3. 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 proposed 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 State's best interests.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning October 24, 2019, for a term of 20 years, for an existing 36-inch-diameter water transmission main, as described on Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: the public health and safety; 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

LEASE 3759.9

### LAND DESCRIPTION

A strip of tide and submerged land 25 feet in width across the bed of the Napa River, situate approximately 4 miles southerly of the City of Napa, Napa County, lying 12 ½ feet of each side of the following described centerline:

COMMENCING at a brass cap monument designated "Suscol Creek 1948" as shown on sheet 8 of 13 of a series of maps of a "Survey of the Ordinary High Water Mark along the Napa River" said maps filed September 14, 1954 under Serial No. 1109 Records of Napa County; thence S 8°46'13" E 63.93 feet; thence S 11°51'47" W 220.30 feet; thence N 74°59'13" W 9.90 feet to a point on the intersection of the centerline of an existing water main pipeline with the left bank of the Napa River, said point also being the POINT OF BEGINNING of the centerline of said strip; thence along the centerline of said water main pipeline N 74°59'13" W 453.32 feet to a point on the right bank of the Napa River, said point being the TERMINOUS of the described centerline.

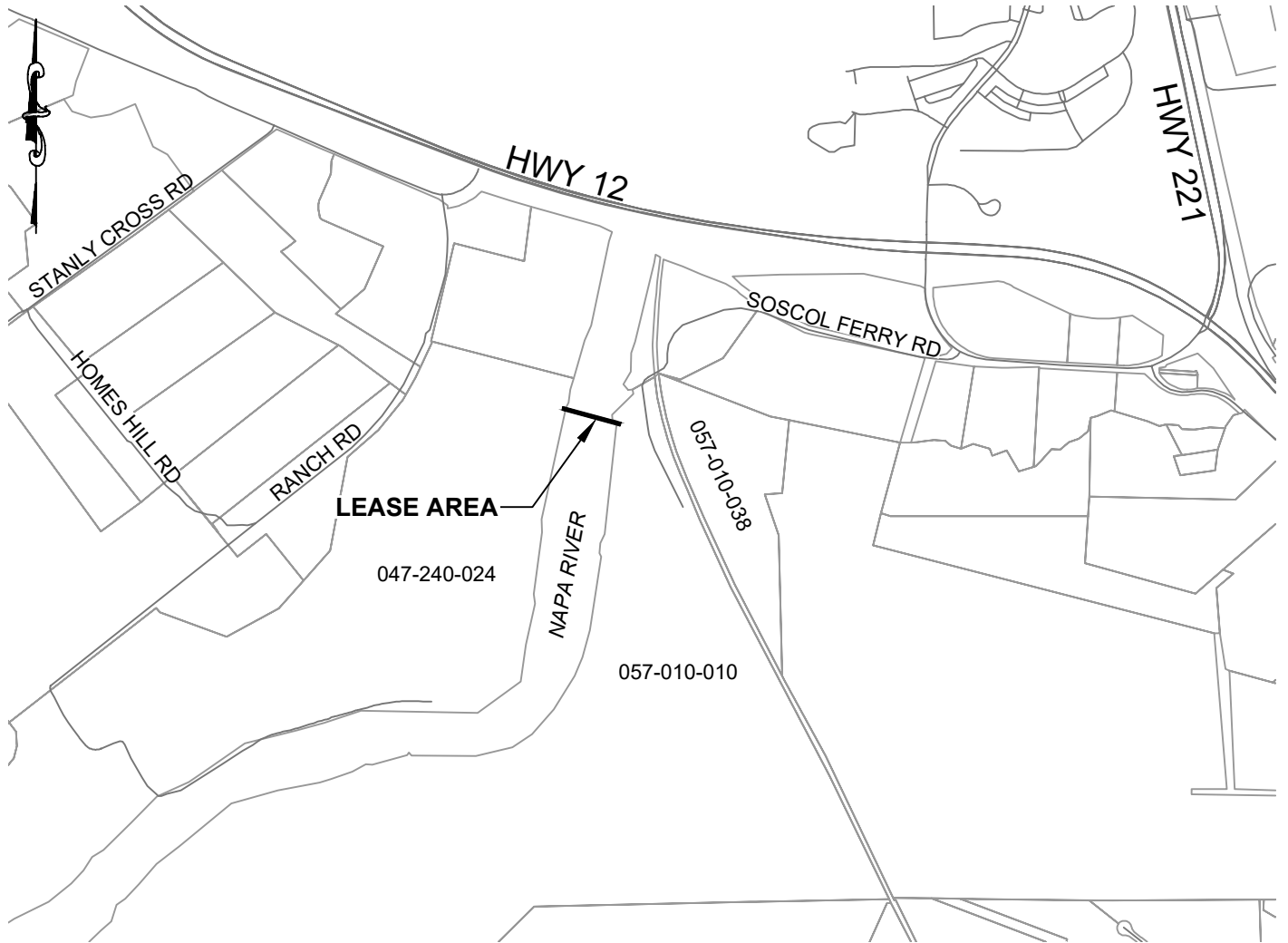
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Napa River.

Revised September 5, 2019 by the State Lands Commission Boundary Unit. This description is a revision of that original description found in Lease File PRC 3759 on file in the Sacramento Offices of the California State Lands Commission.



NO SCALE

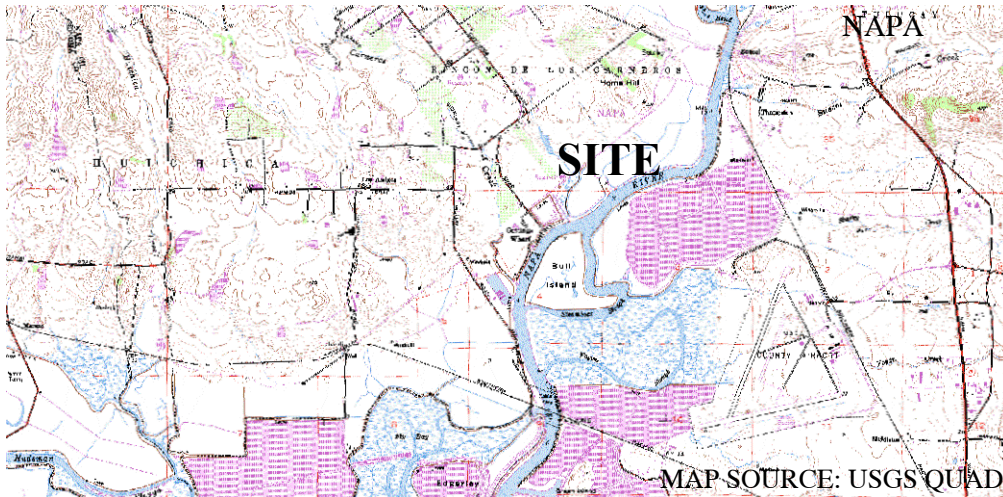
# SITE



36-INCH DIAMETER WATER MAIN UNDER THE NAPA RIVER

NO SCALE

# LOCATION



# EXHIBIT B

LEASE 3759.9  
 CITY OF NAPA  
 APN 047-240-024, 057-010-010,  
 057-010-038  
 GENERAL LEASE -  
 RIGHT-OF-WAY USE  
 NAPA 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.

JAK 9/19