

STAFF REPORT

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10/24/19
PRC 505.1

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A2133
A. Franzoia

AMENDMENT OF LEASE

LESSEE:

Shasta County Department of Public Works

AREA, LAND TYPE, AND LOCATION:

0.88 acres of sovereign land in the Sacramento River, near the city of Anderson, Shasta County.

AUTHORIZED USE:

The use and maintenance of a vehicular and pedestrian bridge and subleases for installation of a natural gas pipeline and five telecommunication conduits on the bridge.

LEASE TERM:

25 years, beginning May 10, 2007.

CONSIDERATION:

Annual rent of \$853, for a natural gas pipeline and telecommunication conduits.

The public use and benefit, for a vehicular and pedestrian bridge; 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 remove Pacific Gas and Electric Company (PG&E) as a sublessee; revise the annual rent from \$853 to \$523, effective on the next anniversary date of the lease; and replace the existing Exhibit B, Site and Location Map with the attached Exhibit B, Site and Location Map (for reference purposes only). All other terms and conditions of the lease shall remain in effect without amendment.

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.

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Public Trust and State's Best Interests Analysis:

On January 18, 1960, the Shasta County Department of Public Works (County) granted a franchise to PG&E, by Ordinance No. 416, for the installation, maintenance and use of pipes and appurtenances for the purpose of conveying and distributing gas to the public for any and all purposes.

On May 10, 2007, the Commission authorized a General Lease – Public Agency Use to the County to demolish and remove the existing Airport Bridge and piers, and construct, use, and maintain a new vehicular and pedestrian bridge, crossing the Sacramento River ([Item C34, May 10, 2017](#)). Utilities on the existing bridge were relocated to the new bridge. The new bridge, with utilities attached, is located 1.5 miles north of the city of Anderson.

On January 29, 2009, the Commission authorized a sublease to PG&E for the installation of an 8-inch-diameter natural gas pipeline in a 12-inch-diameter casing on the bridge ([Item C26, January 29, 2009](#)). On June 21, 2018, the Commission approved the revision of rent from \$341 to \$853, effective May 10, 2018 ([Item C23, June 21, 2018](#)). The County paid annual rent through May 9, 2020.

In 2013, a question arose regarding the Commission's authority to require a lease or sublease from PG&E for pipelines installed on city or county-maintained rights-of-way. The pipelines were installed pursuant to a locally granted utility franchise which, for a franchise fee, provides broad authority to install utility infrastructure within city or county rights-of-way. After considering the broad franchise rights granted to municipalities under California Public Utilities Code section 6201 et seq. and issues of administrative efficiency, Commission staff and PG&E agreed, in lieu of a lease or sublease, to enter into indemnification agreements for utility bridge crossings. Accordingly, the annual rent associated with the PG&E pipelines is being removed from the lease to the County. Additionally, the County has applied to remove PG&E as a sublessee from the lease and PG&E has concurrently applied for an indemnification agreement in consideration of Ordinance 416. Consideration of the indemnification agreement is on the agenda for this same Commission meeting.

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 its activities within the lease premises. The lease does not grant the County exclusive rights to the lease premises

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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 lease amendment does not alienate the State's fee simple interest, or permanently impair public rights. The lease requires the County to indemnify the State for any liability incurred as a result of the County's activities thereon. The lease also has a limited term of 25 years, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time.

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 has no right to a new lease or to renewal of any previous lease.
2. This proposed 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. The amendment of the lease to remove a sublessee from the lease and revising the rent is not a project as defined by the California Environmental Quality Act because they are administrative actions that will not result in direct or indirect physical changes in the environment.

Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

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AUTHORIZATION:

Authorize the amendment of Lease No. PRC 505.1, a General Lease-Public Agency Use, effective August 23, 2019, to remove PG&E as a sublessee; revise the rent from \$853 to \$523 per year effective on the next anniversary date of the lease; and replace the existing Exhibit B, Site and Location Map, with the attached Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 505.9

LAND DESCRIPTION

A parcel of submerged land in the bed of the Sacramento River, located in the NE $\frac{1}{4}$ of Section 10, T.30N., R.4W., M.D.M., in the County of Shasta, State of California, being a strip of land 110.00 feet wide, the centerline of which is described as follows:

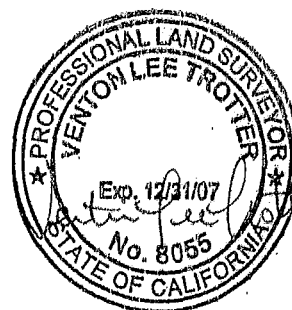
Commencing at an NGS bronze disk stamped "CA-HPGN-DENSIFICATION STA. 02-GH 1996" having a California Coordinate System of 1983, Zone 1 coordinate of N=2,066,102.50 and E=6,457,066.93; thence South $61^{\circ}26'33''$ East 25,390.38 feet to a brass disk stamped "SHASTA COUNTY SURVEYOR" as shown on 56 LS 5 of official records, said disk being Engineer's Station 11+76.42 and the beginning of a curve concave to the East having a radius of 1,950.00 feet, to which a radial line bears South $88^{\circ}46'14''$ West; thence Northerly 493.76 feet along said curve through a central angle of $14^{\circ}30'28''$ to a brass disk stamped "SHASTA COUNTY SURVEYOR" as shown on 56 LS 5 of official records; thence North $13^{\circ}16'42''$ East 260.33 feet to the beginning of a tangent curve concave to the Southeast having a radius of 2500.00 feet; thence Northeasterly 404.49 feet along said curve through a central angle of $9^{\circ}47'15''$ to the Southerly Bank of said river and the **POINT OF BEGINNING** of this description; said Bank also being Engineer's Station 23+35; thence continuing along said curve Northeasterly 259.97 feet through a central angle of $5^{\circ}26'27''$; thence North $28^{\circ}30'24''$ East 290.03 feet to the Northerly Bank of said river, said Bank also being Engineer's Station 28+85.

The sidelines of said strip shall be prolonged or shortened to terminate at the Low Water Mark of said river.

EXCEPTING THEREFROM any portion of land lying landward of the Low Water Mark of said river.

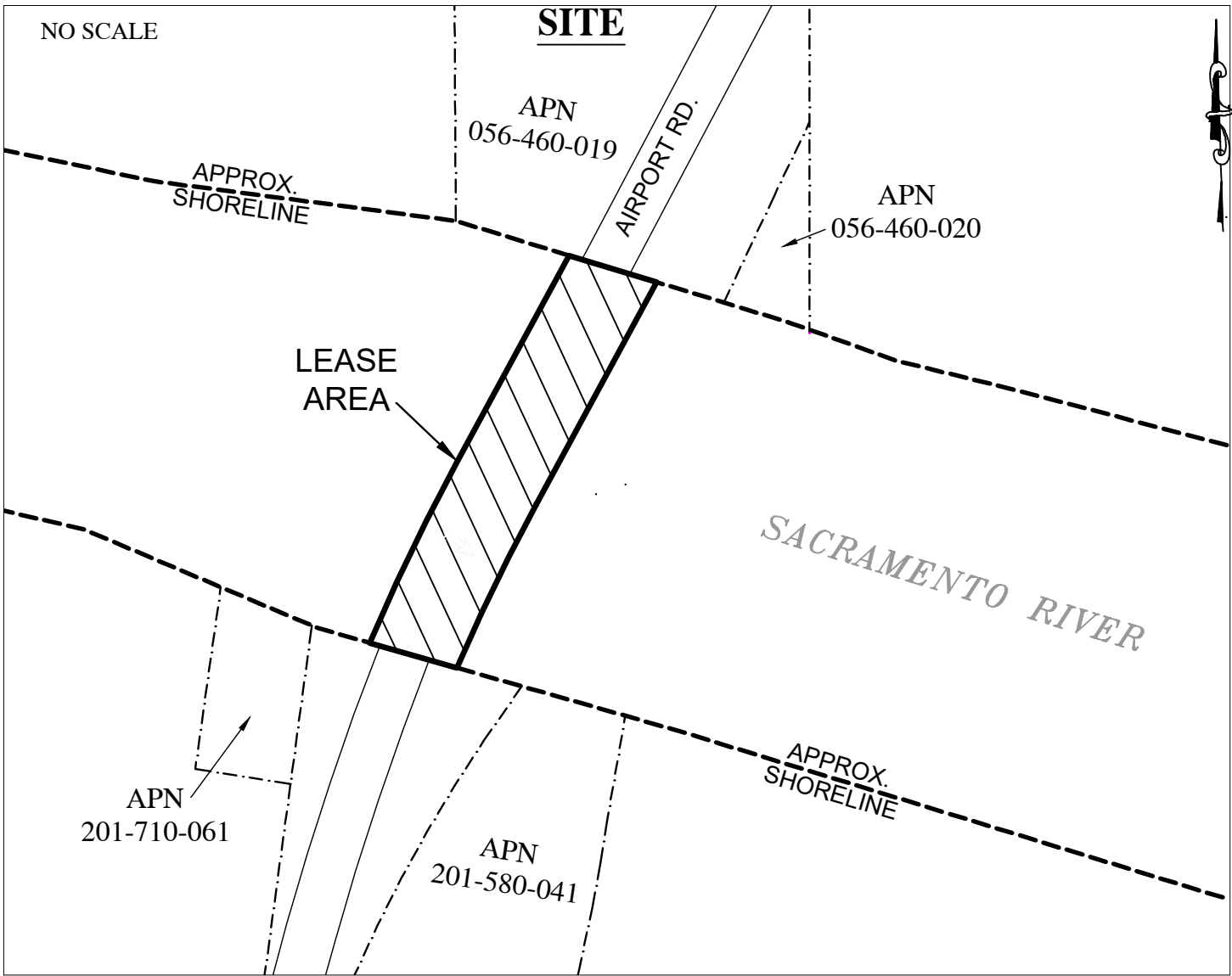
The basis of bearings for this description is the California Coordinate System of 1983, Zone 1. All bearings shown are grid. All distances shown are ground and feet. To convert to grid multiply distances shown by 0.99989883.

END OF DESCRIPTION



NO SCALE

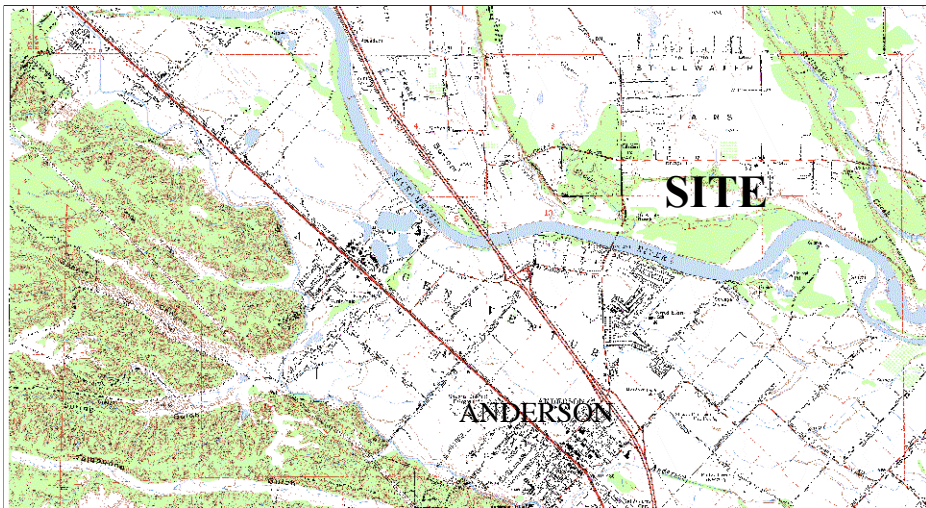
SITE



AIRPORT ROAD, NORTH OF ANDERSON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 505.9

SHASTA COUNTY DEPT.
OF PUBLIC WORKS
GENERAL LEASE -
PUBLIC AGENCY USE
SHASTA 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.