

**STAFF REPORT
07**

A 4

S 3

04/29/20
Lease 7708.9
A. Franzoia

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

City of Napa

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Napa River, adjacent to Assessor Parcel Number 046-450-018, near John F. Kennedy Park, Napa, Napa County.

AUTHORIZED USE:

Continued use and maintenance of an existing 48-inch-diameter reinforced concrete stormwater outfall, concrete headwall, adjustable closure gate, fish screen, and rock riprap.

LEASE TERM:

25 years, beginning August 1, 2018.

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:

1. Lessee shall submit a current set of "as-built" plans showing the pipeline's alignment.
2. Lessee shall conduct external inspections of the lease facilities on an annual basis and when warranted by extraordinary circumstances.

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. **07** (CONT'D)

Public Trust and State's Best Interests Analysis:

On September 9, 1993, the Commission authorized a General Lease – Public Agency Use to the Applicant for placement of rock riprap and a 48-inch-diameter stormwater outfall with slide/flap gate to promote wildlife enhancement ([Item C06, September 9, 1993](#)). The lease expired on July 31, 2018, and the Applicant has submitted an application for a new lease.

The constructed stormwater outfall is located at the end of an inlet along the easterly bank of the Napa River and consists of a 48-inch-diameter reinforced concrete pipe, concrete headwall, adjustable closure gate, metal fish screen, and rock riprap. The outfall discharges to the Napa River and includes a rock riprap pad, approximately 12 feet by 28 feet, below the outfall to dissipate the water flow and reduce scouring.

This stormwater outfall is used to enhance and restore low-lying wetlands adjacent to the Napa River at the John F. Kennedy Park and to manage the frequency and duration of ponding in the park wetlands. The remaining useful life of the outfall pipeline and appurtenant structures is 25 years.

The proposed lease requires the Applicant to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from the Applicant's activities within the lease premises. The stormwater outfall and rock riprap have existed for many years at this location and do not significantly alter the land. 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. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

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 Napa River, a tidally influenced site that is vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise. Facilities within the lease premises consist of a concrete stormwater outfall pipe, concrete headwall, adjustable closure gate, fish screen, and rock riprap.

STAFF REPORT NO. 07 (CONT'D)

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 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 structures within the lease premises during the term of the lease. While several of the structures could continue to function when submerged and would be adaptable to variable water levels, all facilities could require more frequent maintenance to avoid dislodgement and ensure continued function during and after storm seasons. In addition, the outfall may experience periodic or continuous inundation with rising water levels and more frequent flooding, potentially affecting the structure’s ability to control ponding in the adjacent wetlands. Finally, the riprap is at risk of accelerated deterioration or dislodgement

STAFF REPORT NO. 07 (CONT'D)

from higher and stronger currents and floods. Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to effects of climate change, including sea-level rise.

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 proposed 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. If the Commission denies the application, the Applicant may be required to remove the stormwater outfall, appurtenant facilities, and rock riprap and restore the 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 protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction and with Strategy 1.3 of the Commission's Strategic Plan to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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).

STAFF REPORT NO. 07 (CONT'D)

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 issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or 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 best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning August 1, 2018, for a term of 25 years, for the continued use and maintenance of an existing 48-inch-diameter reinforced concrete stormwater outfall, concrete headwall, adjustable closure gate, fish screen, and rock riprap, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: the public use and benefit, with the State reserving the right at any time to set a monetary rent, as specified in the lease, if the Commission finds such action to be in the State's best interests.

EXHIBIT A

PRC 7708.9

LAND DESCRIPTION

One parcel of tide and submerged land situated in the bed of the Napa River, lying adjacent to Swamp and Overflow Lands Survey 80, patented March 26, 1863, County of Napa, State of California, more particularly described as follows:

All those lands underlying an existing 48" outfall, lying adjacent to that parcel described Quitclaim Deed recorded December 29, 1965 as Document Number AG9834 in Volume 737 at Page 210 in Official Records of Napa County.

ALSO TOGETHER WITH that land lying immediately beneath any riprap protection structure lying adjacent to said deed.

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/30/2018 by the California State Lands Commission Boundary Unit.





N A P A
R I V E R

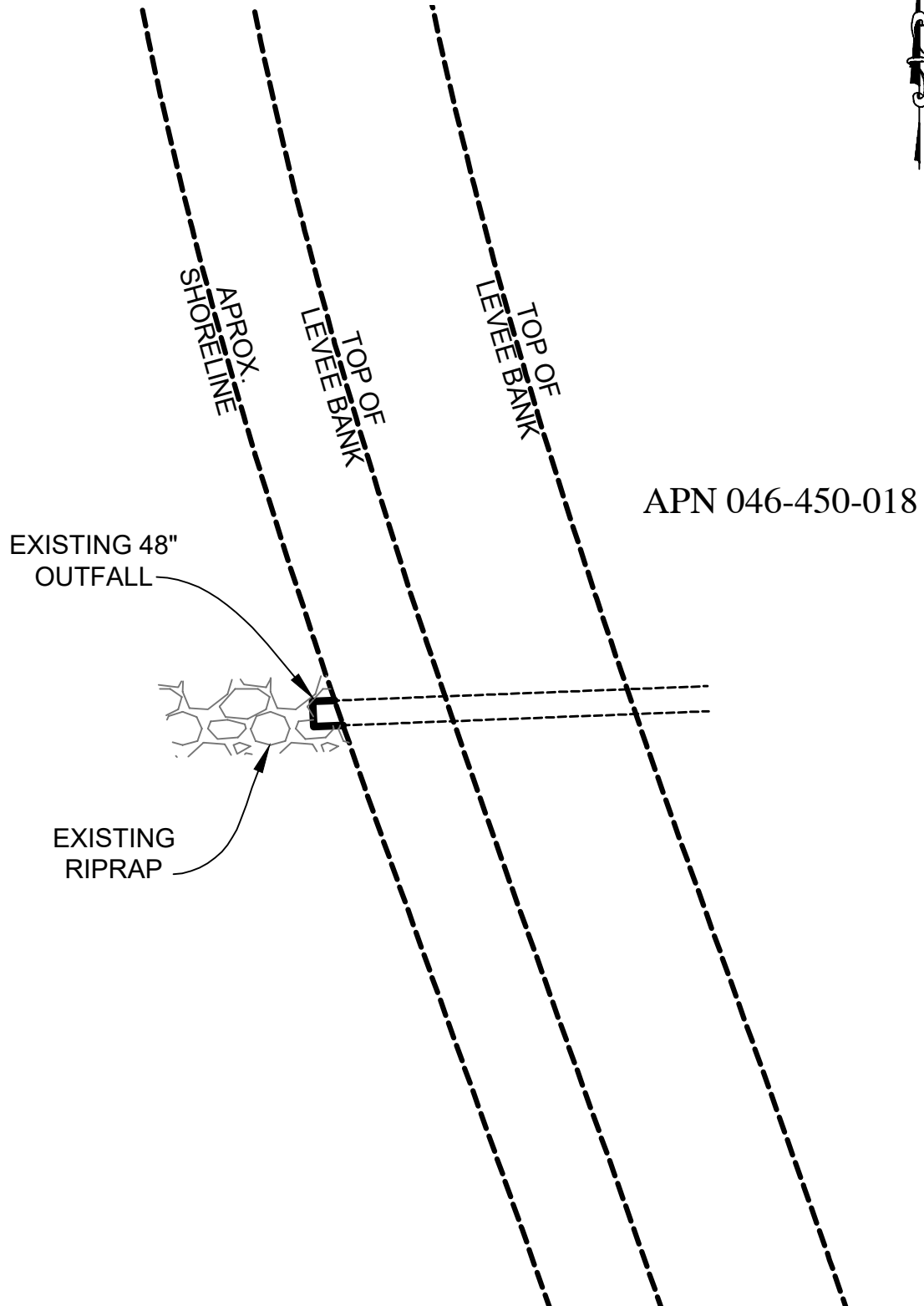


EXHIBIT A

Page 2 of 2

RGB 10/30/18

LAND DESCRIPTION PLAT
PRC 7708.9, CITY OF NAPA
NAPA COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

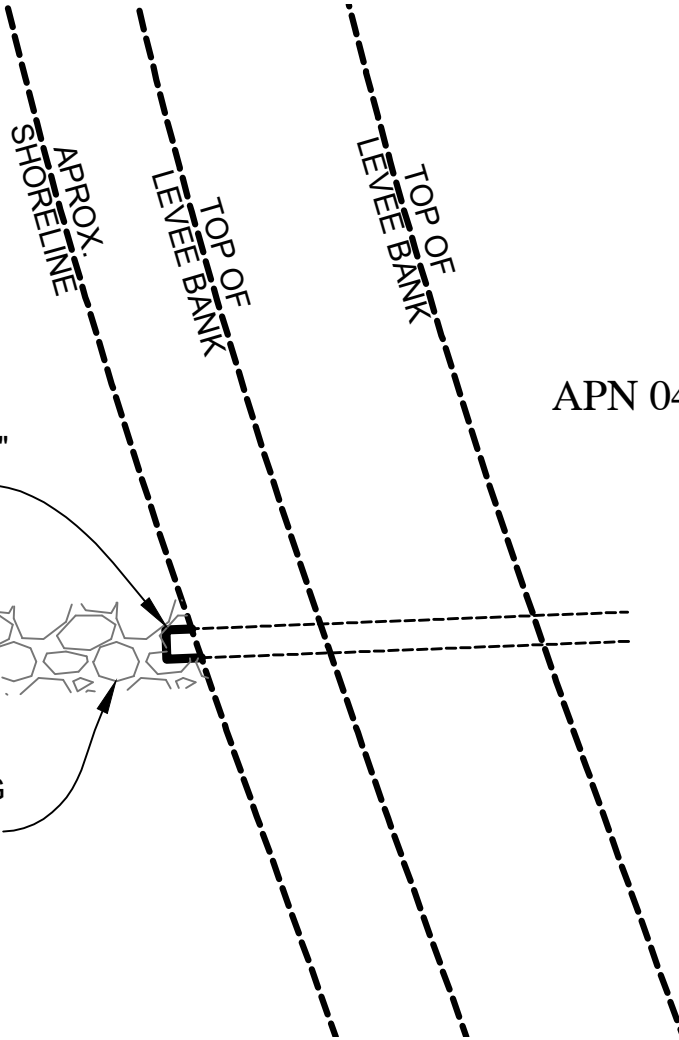
SITE

N
A
P
A

R
I
V
E
R

EXISTING 48"
OUTFALL

EXISTING
RIPRAP

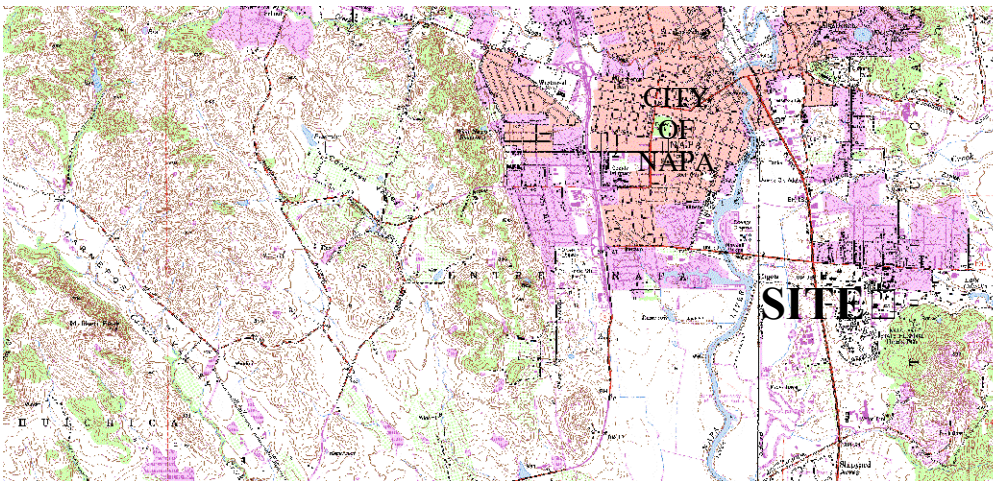


APN 046-450-018

KENNEDY PARK, CITY OF NAPA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

PRC 7708.9
CITY OF NAPA
APN 046-450-018
GENERAL LEASE -
PUBLIC AGENCY USE
NAPA COUNTY



RGB 10/30/18