

STAFF REPORT

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04/29/20
Lease 4376.1
M. Schroeder

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

Port of Stockton

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Burns Cutoff at Daggett Road, Rough and Ready Island, Stockton, San Joaquin County.

AUTHORIZED USE:

Caretaker status of a non-operational swing bridge.

LEASE TERM:

6 years, beginning January 1, 2019.

CONSIDERATION:

\$1,963 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance: In an amount no less than \$1,000,000 per occurrence.
- No later than December 31, 2023, Lessee shall submit to Lessor a plan detailing the proposed removal of the swing bridge and restoration of the Lease Premises, or a complete application and minimum expense deposit for a new lease for the continued use of the Lease Premises.
- No later than December 31, 2023, Lessee shall submit to Lessor staff an engineering report, stamped and signed by a licensed structural engineer, detailing the removal cost estimate and plan. Lessee is required to remove all Improvements at the expiration of the lease unless Lessor authorizes a new lease.

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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 January 7, 1970, the Commission authorized Lease No. PRC 4376.9, a General Lease – Public Agency Use, to the U.S. Department of the Navy for a concrete fixed vehicular bridge to replace the existing steel swing vehicular bridge known as the Old Daggett Road bridge serving the U.S. Naval Communication Station located on Rough and Ready Island ([Item 8, January 1, 1970](#)). However, the concrete fixed bridge was not constructed, and the swing bridge remained. The swing bridge was taken out of service in the 1970s and has been left in the open position (parallel to the waterway) since 1974. On December 9, 2004, the Commission authorized assignment of the lease from the U.S. Department of the Navy to the Port of Stockton for the existing swing bridge and issuance of Lease No. PRC 8589.9 to the Port of Stockton for construction of a new fixed bridge ([Item 58, December 9, 2004](#)). Lease No. PRC 4376.9 expired December 31, 2018, and Lease No. PRC 8589.9 will expire on December 8, 2029.

The steel swing bridge was constructed in the early 1900s, as a pin-connected steel bridge that pivots on a central point. The cylinder and the bridge approach both rest on piles wrapped in galvanized sheet steel. This type of movable span bridge was designed to allow railroad or highway traffic to proceed across a navigable river under most conditions as well as allowing waterborne traffic to proceed unimpeded whenever the need arose. In the 1960s, it was determined to be functionally obsolete. As mentioned above, although the original plan in the 1970s was to replace the swing bridge with a concrete fixed bridge in the same location, that fixed bridge was never constructed, and the non-operational swing bridge remains. The swing bridge is the oldest existing movable highway bridge in California.

In the early 2000s, the Applicant determined the need for a concrete fixed bridge over Burns Cutoff at Daggett Road as an additional access to Rough and Ready Island. Subsequently, in approximately 2006, a new concrete fixed bridge was constructed, the Port of Stockton Expressway. The bridge was built for modern trucking standards providing four lanes for traffic including a sidewalk for pedestrians.

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The Applicant applied for a new short-term lease to place the non-operational swing bridge in caretaker status. The short-term lease provides for the Applicant to continue to be responsible for the swing bridge and to develop a long-term plan for the future of the bridge. Possible plans could include removal and disposal of the bridge, maintenance of the bridge as a historic property, or other plans yet to be determined. The new lease will require the Applicant to maintain the swing bridge, including submittal of an application with plans for the future use or removal of the bridge no later than 1 year prior to the expiration of the lease.

Staff reviewed environmental justice data from CalEnviroScreen that indicated high pollution burdens to the surrounding communities. The data indicates that the surrounding communities also experience higher rates of asthma and cardiovascular disease compared to other census tracts in the State. Furthermore, the data revealed the neighboring communities are disadvantaged as defined by SB 535 and low-income as defined by AB 1550. As part of an environmental justice outreach effort, staff contacted several environmental justice organizations in San Joaquin County to provide notification of the proposed lease. The letter included a brief description of the lease and a staff person as a point of contact. Staff has not received any comments regarding this proposed lease. Staff believes that the proposed short-term lease will not exacerbate existing burdens.

The swing bridge is out of service, meaning nothing can cross the bridge; however, boats can continue to travel through Burns Cutoff. Thus, the bridge does not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease. The swing bridge 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 6-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 premises to their original condition. Additionally, the proposed lease requires the lessee to insure the lease premises and 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

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facilities are located on the Burns Cutoff (a branch of the San Joaquin River), in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise. The lease premises consist of the Daggett Road Bridge and associated infrastructure.

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.

This effect could increase the San Joaquin River’s inundation levels within the lease area, and this risk of flood exposure is likely to increase with time. 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 as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease

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premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the bridge infrastructure. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards related to the lease area structures.

The proposed 6-year lease will result in a plan for either bridge removal or continued maintenance. If the bridge is not removed, all the bridge infrastructure may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events and further climate change impact analyses would be assessed at that time, based on projected sea-level rise and climate change scenarios. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation for the next 5 years.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not under lease) are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes that the issuance of the proposed lease will not substantially impair the public rights to navigation, fishing, and commerce; 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.

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 swing bridge 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.

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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. 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 impair the public rights to navigation, fishing, and commerce; 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning January 1, 2019, for a term of 6 years, for caretaker status of an existing non-operational swing bridge, as described on Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,963, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4376.1

LAND DESCRIPTION

A parcel of tide and submerged land, situate in the bed of the Burns Cutoff (Branch of the San Joaquin River), lying adjacent to Swamp and Overflowed Lands Survey 398, patented March 27, 1877, and Swamp and Overflowed Lands Survey 357, patented May 5, 1870 County of San Joaquin, State of California, more particularly described as follows:

COMMENCING at the southeast corner of a 12.17 acres parcel shown on that certain Record of a Survey entitled "A portion of Sections 18, T1N, R6E, MDB&M" filed August 26, 2009 in Book 37 of Surveys, Page 59, Records of San Joaquin County, said point also being on the prolongation of the northerly right-of-way line of the Atchison, Topeka and Sante Fe Railroad; thence along the easterly line of said parcel North 06°35'55" East 130.87 feet; thence North 00°01'02" East 2279.09 feet; thence leaving said easterly line North 59°36'08" East 102.15 feet to the POINT OF BEGINNING; thence the following four (4) courses:

- 1) North 13°51'01" West 189.51 feet;
- 2) South 70°16'11" West 206.96 feet;
- 3) South 13°18'28" East 180.86 feet;
- 4) North 72°41'34" East 207.96 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left and right banks of the said Burns Cutoff.

BASIS OF BEARINGS is that certain Record of Survey entitled "A portion of Sections 18, T1N, R6E, MDB&M" filed August 26, 2009 in Book 37 of Surveys, Page 59 recorded in the office of the Recorder of San Joaquin County

END OF DESCRIPTION

Prepared 01/11/2020 by the California State Lands Commission Boundary Unit.



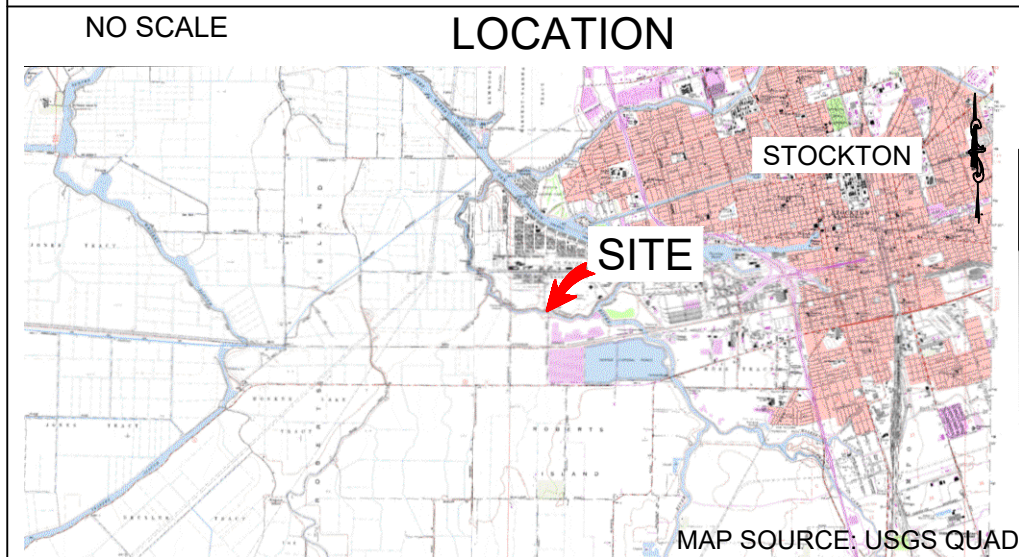
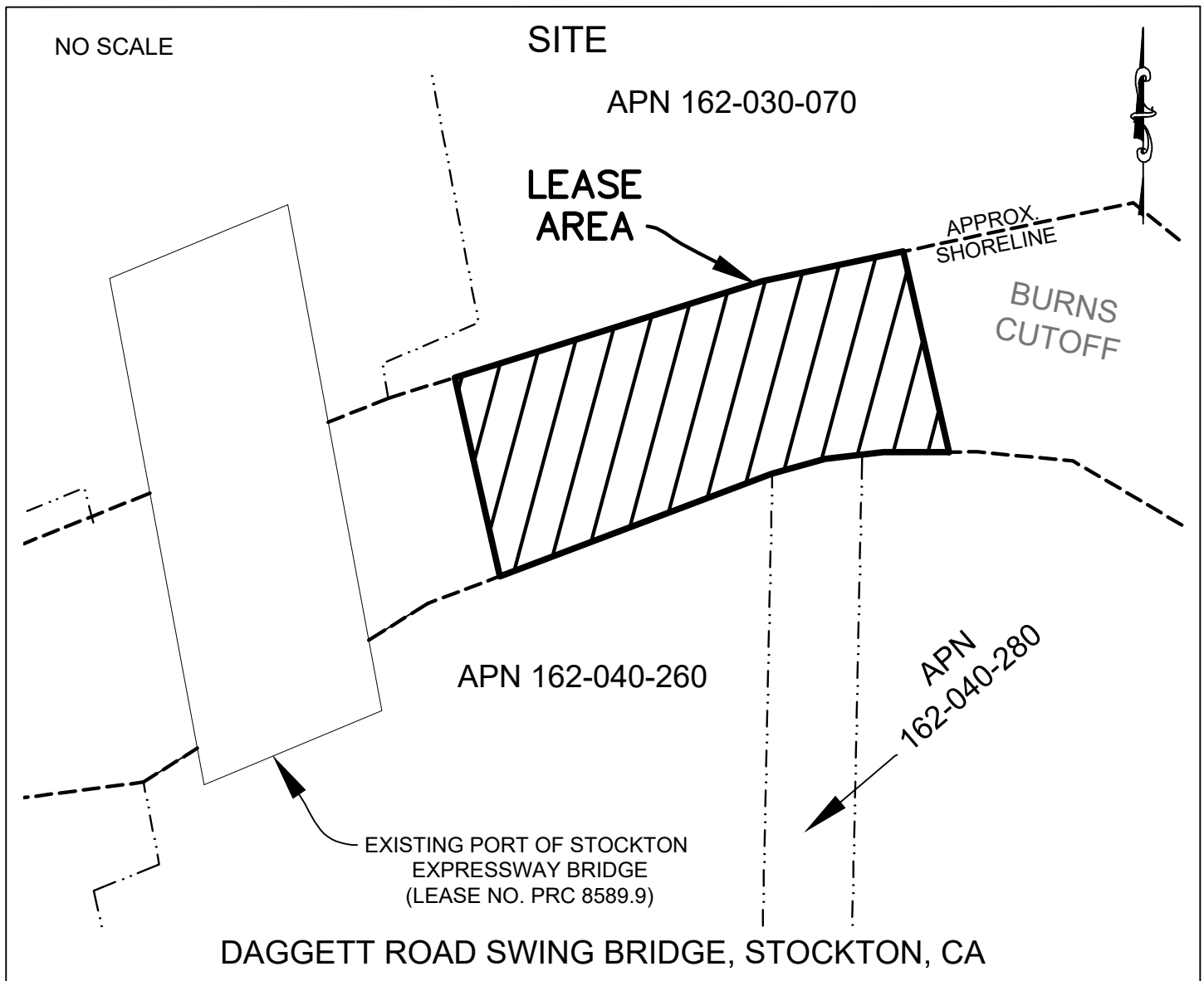
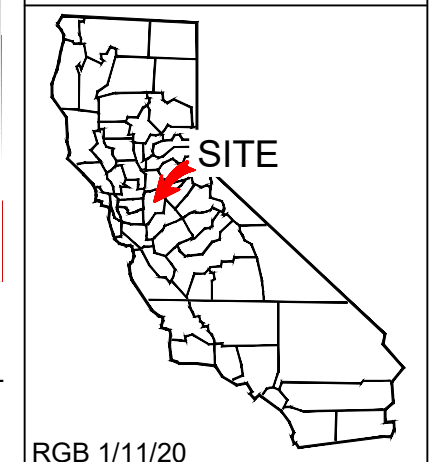


EXHIBIT B

LEASE 4376.9
 PORT OF STOCKTON
 APN 162-030-070 & 162-040-260
 GENERAL LEASE -
 PUBLIC AGENCY USE
 SAN JOAQUIN 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.