

## STAFF REPORT

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### GENERAL LEASE – PROTECTIVE STRUCTURE USE

#### APPLICANT:

Sacramento Waldorf School Association, Inc.

#### PROPOSED LEASE AREA:

##### *AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the American River, adjacent to 3750 Bannister Road, Fair Oaks, Sacramento County.

##### *AUTHORIZED USE:*

The use and maintenance of existing bank protection.

##### *LEASE TERM:*

10 years, beginning August 1, 2019.

##### *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:*

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.

#### STAFF ANALYSIS AND RECOMMENDATION:

##### **Authority:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 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 September 25, 1984, the Commission authorized issuance of a General Permit – Protective Structure to Sacramento Waldorf School Association, Inc., beginning August 1, 1984 ([Item C11, September 25, 1984](#)). On June 28, 2010, the Commission authorized an issuance of a General Lease – Protective Structure Use to Sacramento Waldorf School Association, Inc., for existing bank protection and retention of additional bank protection ([Item C27, June 28, 2010](#)). That lease expired on July 31, 2019.

The proposed lease is for a strip of land at the bank of the American River that has been subject to scouring and erosion due to heavy rains and high river flows. The bank protection has existed for many years, and in 1998, the Applicant received approval by the U.S. Army Corps of Engineers to place additional rock riprap and topsoil fill at a repair site within the lease premises. The repair work was funded by the Federal Emergency Management Agency. The bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resource of the river, for recreational and navigational purposes by the public.

The bank protection has existed for more than 35 years at this location. The proposed lease does not alienate the State's fee simple interest, nor does it permanently impair public rights. The proposed lease also includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. 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 keep and maintain the protective structure in good order and repair, insure the lease premises, and indemnify the State for any liability incurred as a result of the lessee's activities thereon.

### **Climate Change:**

The lease premises include an existing sloping rock revetment on the American River near Bannister Road in Sacramento County. This section of the river is not tidally influenced and would not be subject to sea-level rise. 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, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and

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water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow. Runoff will likely increase scour, decreasing bank stability at a faster rate.

Due to these potential changes, the existing, fixed rock revetment may need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. Because the rock revetment is fixed, it will experience variable water levels resulting from flooding or drought and may require more frequent maintenance or replacement to ensure continued function during and after storm seasons or to avoid dislodgement. However, the sloping rock revetment is dynamic, in that it is constructed with rock materials of different size (i.e., large boulders on the outside for armoring, and smaller rocks for internal stability) that are designed with some ability to shift in place for energy dissipation and to minimize deflection of wave energy. 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 are located in an area that may be subject to effects of climate change.

### **Conclusion:**

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with the 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.

### **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 bank protection 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.

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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 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 – Protective Structure Use to Sacramento Waldorf School Association, Inc., beginning August 1, 2019, for a term of 10 years, for the use and maintenance of existing bank protection, 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 if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 6728.9**

**LAND DESCRIPTION**

A strip of submerged land of varying width in the bed of the American River, County of Sacramento, State of California, lying immediately beneath riprap used for bank protection, being approximately 410 feet in length running parallel with and adjacent to the right bank of the American River and being southwesterly of Parcel 1 as said parcel is shown on that map filed for record September 6, 1973 in Book 14 of Parcel Maps, Page 33.

EXCEPTING THEREFROM any portion lying landward of the ordinary low water mark of the American River.

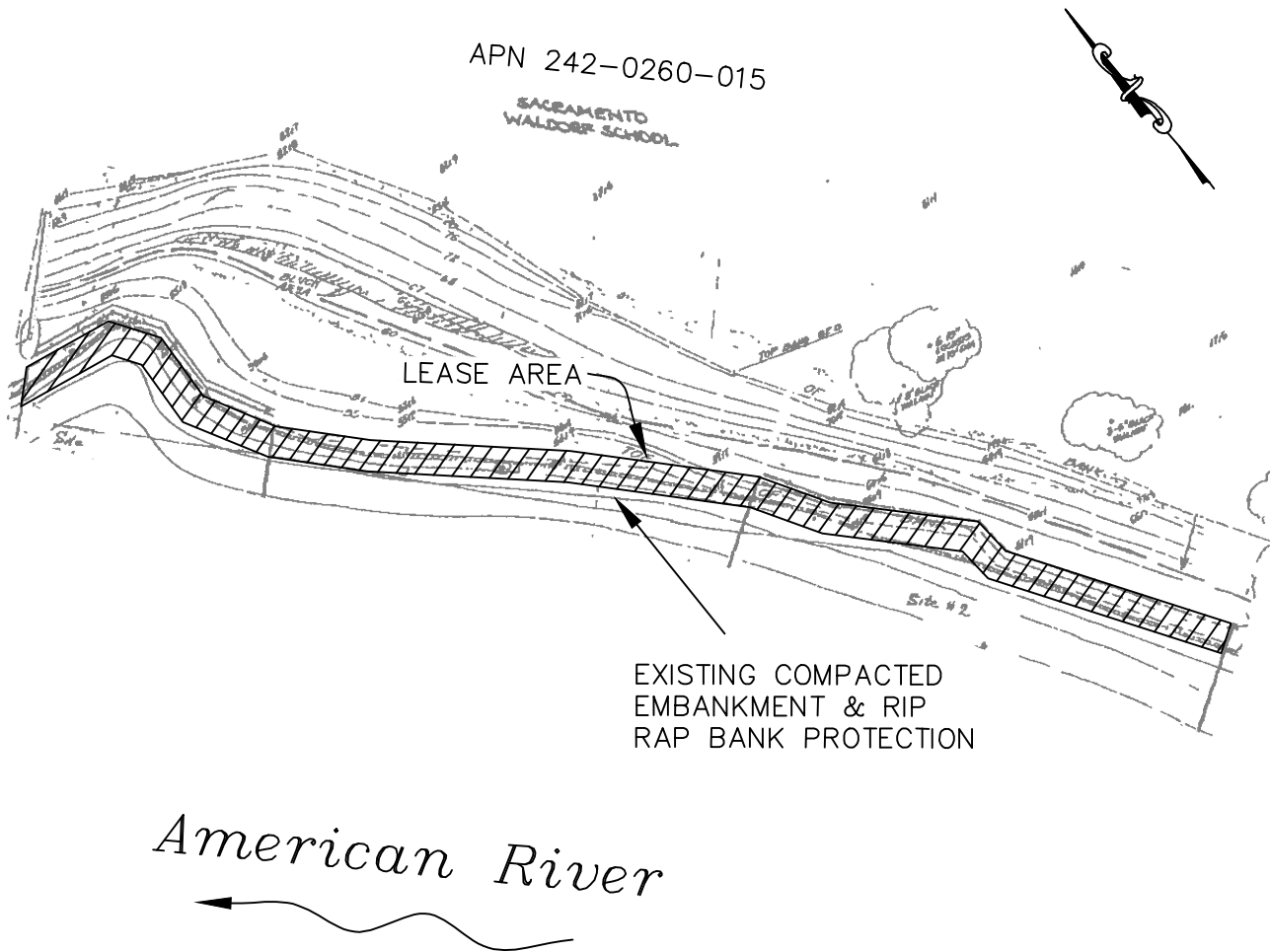
**END OF DESCRIPTION**

Revised 05/13/2010 by the California State Lands Commission Boundary Unit.



NO SCALE

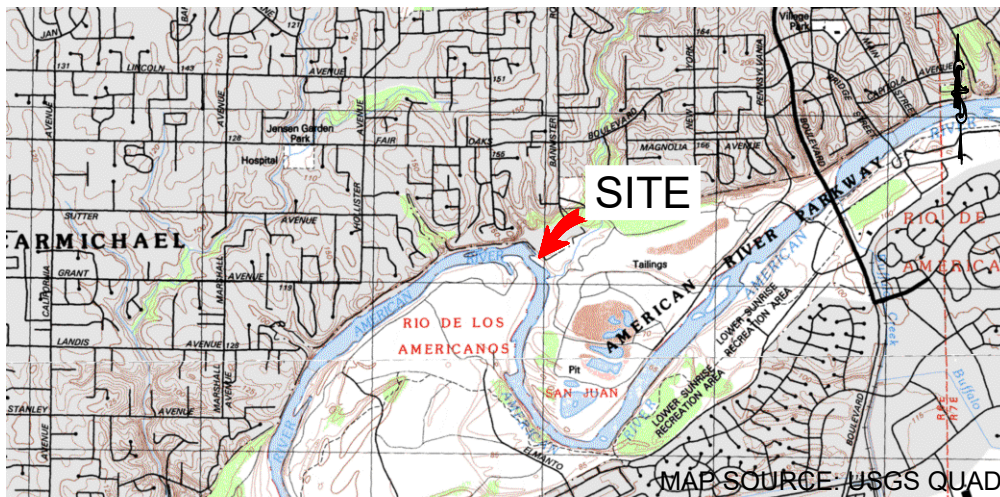
## SITE



3750 BANNISTER ROAD, FAIR OAKS

NO SCALE

## LOCATION



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

LEASE 6728.9  
SACRAMENTO WALDORF  
SCHOOL ASSOCIATION  
APN 242-0260-015  
GENERAL LEASE -  
PROTECTIVE STRUCTURE USE  
SACRAMENTO COUNTY



DJF 3/26/2020