

# Staff Report 18

## **APPLICANT:**

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City of Sacramento

## **PROPOSED ACTION:**

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Issuance of a General Lease – Public Agency Use

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

Sovereign land in the American River, adjacent to Howe Avenue, Sacramento, Sacramento County.

## **AUTHORIZED USE:**

Continued use and maintenance of an existing bridge, known as the Howe Avenue Bridge.

## **TERM:**

25 years, beginning February 23, 2021.

## **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:**

- Lessee shall not place, attach, or authorize placement or attachment of any utilities or other improvements on the Bridge or within the Lease Premises without the Commission's prior review and approval. Separate leases or subleases are required and shall be obtained for all utilities not operated by Lessee.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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:**

On April 25, 1968, the Commission authorized a 49-year Public Agency Permit (Right-of-Way) to the City of Sacramento for the construction of a bridge in the American River ([Item C11, April 25, 1968](#)). That permit expired on March 31, 2017. The Applicant is now applying for a General Lease – Public Agency Use, for the continued use and maintenance of an existing bridge crossing the American River.

The bridge, known as the Howe Avenue Bridge, was constructed as an eleven-span continuous reinforced concrete box girder (4-cell) structure. Completed in 1969, the bridge crosses State-owned sovereign land in the American River. The Howe Avenue Bridge is used for vehicle transportation and pedestrians and is a significant North-South connector with public use of the bridge as an alternate route for state highways, such as California Business Loop 80. The average daily traffic on the bridge is 48,300 vehicles. The proposed lease would require the City to maintain the bridge.

The existing utilities at the site are owned by the Sacramento Municipal Utility District (SMUD) and cross the river adjacent to the existing bridge. The utilities are authorized by the Commission under a separate lease, Lease 4113 ([Item C17, December 19, 1968](#)). SMUD understands that it must maintain a separate lease for the utilities.

The American River at this location is wide and adjacent to the Howe Avenue River Access and the Jedediah Smith Memorial Multi-Use Trail. The public can use the American River for recreational boating and other activities. Promotion of public access and use of California's navigable waters is a mandate of the California Constitution (article X, section 4), a condition of statehood in the Act of Admission of the State of California into the Union (9 Stat. 452, Sept. 9, 1850), and a responsibility of all involved public agencies pursuant to the common law Public Trust Doctrine. The surrounding American River Parkway provides the public access to the American River. In addition, visitors may legally utilize public access easements around the bridge to access the American River. The proposed lease includes certain provisions protecting the public use of the proposed lease area. Furthermore, the proposed lease will not substantially impede or impair Public Trust

uses in this area because the bridge height allows for recreational users to safely pass below the bridge.

Staff reviewed environmental justice data that indicated high pollution burdens to the surrounding communities. These burdens may result in impacts to health such as asthma and cardiovascular disease. In addition, the same data showed high burdens in air quality. Furthermore, the data revealed the neighboring communities are disadvantaged. Staff believes that the lease for the continued use and maintenance of the bridge will add to the current air quality burden. The impact will be continuous, limited to the emissions associated with vehicles moving across the bridge, and will dissipate through the larger air basin. As part of an environmental justice outreach effort, staff contacted via letter several environmental justice organizations in Sacramento, Yolo, and San Joaquin Counties providing notification of the proposed lease and other public agency use crossings for vehicular bridges. The letter included a brief description of the bridge and included the name of a staff person as a point of contact. No comments have been received as a result of the environmental justice outreach.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 25-year term and does not grant the lessee exclusive rights to the lease premises. Furthermore, the Howe Avenue Bridge is critical infrastructure that is necessary to facilitate the movement of goods, people, and services throughout the State. Staff believes this use of State land, by a public agency, for a public benefit is in the best interests of the State.

### **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 adjacent to and over the American 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 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 region as listed in Table 1.

**Table 1. Projected Sea-Level Rise for San Francisco**

<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: Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the American River's inundation levels adjacent to the lease area. 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 to bridge-related structures such as the fixed cement pilings and bank protection. During the next 25 years, these structures may be subject to more frequent inundation. Therefore, monitoring of their condition and additional bank protection may be needed.

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

### **CONCLUSION:**

For the reasons stated above, staff believes the approval of the proposed lease will not substantially impair the public rights to navigation, fishing, or other 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:**

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1. Approval of 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 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.
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:**

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

## **RECOMMENDED ACTION:**

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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 February 23, 2021, for a term of 25 years, for the continued use and maintenance of an existing bridge, known as the Howe Avenue Bridge, 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.

## EXHIBIT A

LEASE 3927

### LAND DESCRIPTION

A parcel of submerged land situated in the bed of the American River, lying adjacent on the left bank to Section 10, Township 8 North, Range 5 East, M.D.B. & M. approved on April 22, 1865, and on the right bank to Lot 37 of the Rancho Del Paso surveyed on March 1857, County of Sacramento, State of California and more particularly described as follows:

BEGINNING at the northeast corner of that certain Record of Survey titled "Portion of Sections 10 & 15, T. 8 N., R. 5 E., M.D.B.&M.", recorded in the office of the Recorder of Sacramento County in Book 24 of Surveys at Page 11; thence from said point along the northerly boundary of said Record of Survey, South 75° 56' 25" West 32.26 feet; thence living said line North 01° 49' 30" East 305.04 feet to a point located on the southerly boundary of that certain Amended Record of Survey titled "Portion of Sec. 67, 64 & Sec. A of Rancho Del Paso", recorded in the Office of said Recorder in Book 21 of Surveys, at Page 4; thence along the southerly boundary of said last mentioned Record of Survey, North 83° 01' 40" East 111.31 feet; thence South 01° 49' 30" West 308.04 feet to a point located on the southerly edge of water as located on February 12, 1965; thence along said southerly edge of water the following two (2) courses:

- 1) South 80° 51' 25" West 48.10 feet;
- 2) North 81° 03' 35" West 32.00 feet to the POINT OF BEGINNING.

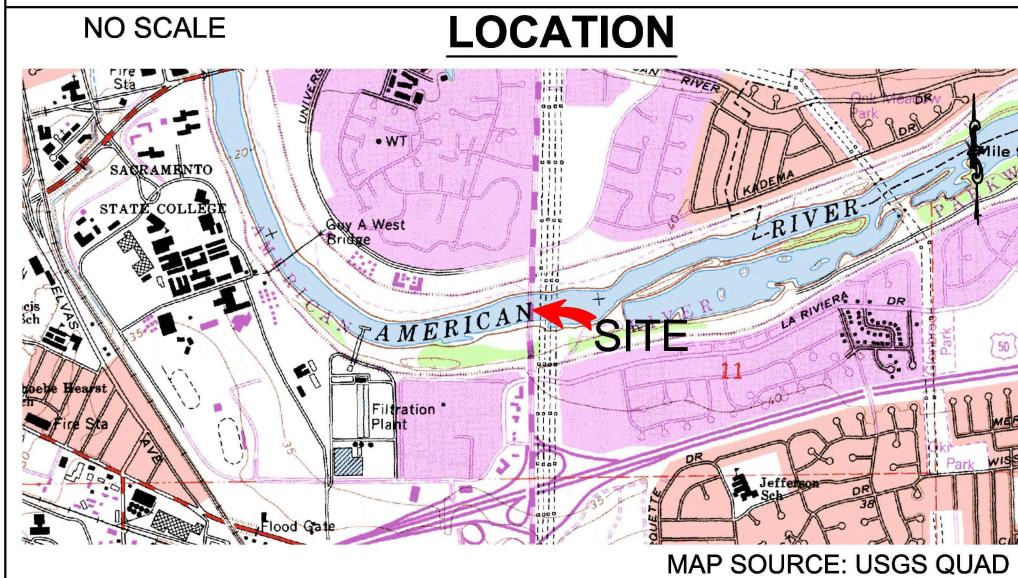
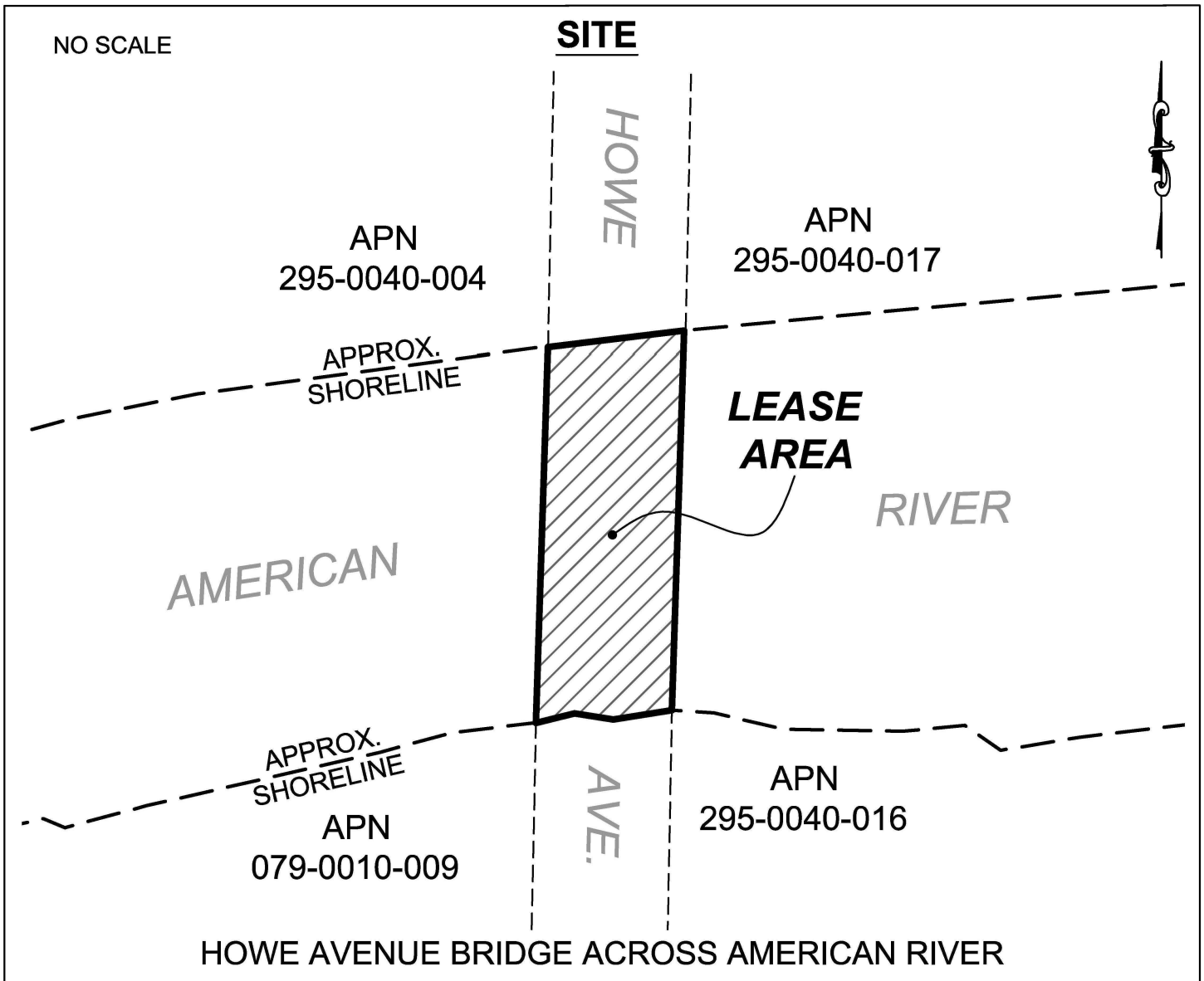
EXCEPTING THEREFROM any portion lying landward of the low water mark of the right and left banks of said river.

### END OF DESCRIPTION

Based on original description prepared by State Lands Commission Boundary Division on April 1, 1968 as found in PRC 3927.9 file, Calendar Item 11.

Revised 11/12/2020 by the California  
State Lands Commission Boundary Unit.





**Exhibit B**

LEASE 3927

CITY OF SACRAMENTO

APNs 295-0040-004, -016, -017  
& 079-0010-009

GENERAL LEASE -  
PUBLIC AGENCY USE  
SACRAMENTO COUNTY



TS 11/12/2020

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.