

Staff Report 18

APPLICANT:

Sacramento Municipal Utility District

PROPOSED ACTION:

Issuance of a General Lease – Right-of-Way Use

AREA, LAND TYPE, AND LOCATION:

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

AUTHORIZED USE:

Continued use and maintenance of two 6-inch-diameter 12 kilovolt (kV) power-line conduits attached to the Watt Avenue Bridge.

TERM:

25 years, beginning August 25, 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:

- Liability insurance in an amount no less than \$1,000,000 per occurrence; Lessee may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the lease.

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:

On June 19, 1968, the Commission authorized a 49-year Public Agency Permit (Right-of-Way), to Sacramento Municipal Utility District for the installation of a conduit for transmission of electricity to the Watt Avenue Bridge ([Item C42, June 19, 1968](#)). That permit expired May 31, 2017. The Applicant has applied for a new lease. The lease is subordinate to rights, terms, and conditions of the lease for the Watt Avenue Bridge.

On September 19, 2000, the Commission authorized amendment of General Lease – Right-of-Way Use, Lease Number PRC 2404, to the County of Sacramento, extending the lease term from 3 years to 49 years, for the construction, operation, and maintenance of the Watt Avenue Bridge ([Item C16, September 19, 2000](#)). The bridge was constructed in 1961 and widened in 2002. The Applicant's electrical conduits are within the bridge. The Applicant has a right to use the upland adjoining the lease premises.

The California Legislature has identified, through Public Resources Code section 6221, that public use made of sovereign land by any instrumentality, district, agency, or political subdivision of the state shall be permitted consistent with other laws. In the present case, the Applicant is a publicly owned utility district, and the two 6-inch-diameter 12 kilovolt (kV) power-line conduits cross sovereign land overlying the American River providing public electric utility service to the bridge and to the surrounding region. As such, Commission staff believes this use of public land, by a public agency, for a public benefit is consistent with the common law Public Trust doctrine.

The lines are located within the existing Watt Avenue Bridge and are not visible from the outside of the bridge, thus they do not interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease. The lease does not alienate the State's sovereign interest, or permanently impact public rights.

The lease term is limited to a 25-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:

The American River at this location 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 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. Because the electrical conduits are attached within the bridge at a high elevation, they are unlikely to be subject to climate change-related riverine processes, such as storm events of increased intensity and frequency.

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:

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 also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
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 – Right-of-Way Use to the Applicant beginning August 25, 2021, for a term of 25 years, for the continued use and maintenance of two 6-inch-diameter 12 kilovolt (kV) power-line conduits within Watt 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 interest; liability insurance in an amount no less than \$1,000,000 per occurrence; and Applicant may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the lease.

EXHIBIT A

LEASE 3967

LAND DESCRIPTION

A 5-foot-wide strip of submerged land situate in the bed of the American River, Sacramento County, State of California, and lying 2.5 feet on each side of the following described centerline:

COMMENCING at a point on the southerly boundary of Lot 321 of the certain subdivision titled "Sierra Oaks Unit No. 10" as shown upon that certain map filed in Book 66 of Maps, Map No. 21, Sacramento County Records, said point lying North 79°52'20" West 200 feet from the southeast corner of said Lot 321; thence along the southerly boundary of said Lot 321, South 79°52'20" East 200 feet to the southeast corner of said Lot 321; thence leaving said southerly boundary, South 38°00'43" East 373.92 feet to a point on a line located equidistant between the centerlines of two existing electrical conduits within the Watt Avenue Bridge, said point being the POINT OF BEGINNING; thence along said line, South 04°03'40" East 300 feet to the terminus of said centerline.

The sidelines of said strip shall be lengthened or shortened to terminate on the low water marks on the left and right banks of the American River.

EXCEPTING THEREFROM any portions lying landward of the low water marks on the left and right banks of the American River.

END OF DESCRIPTION

Prepared 08/02/2021 by the California State Lands Commission Boundary Unit



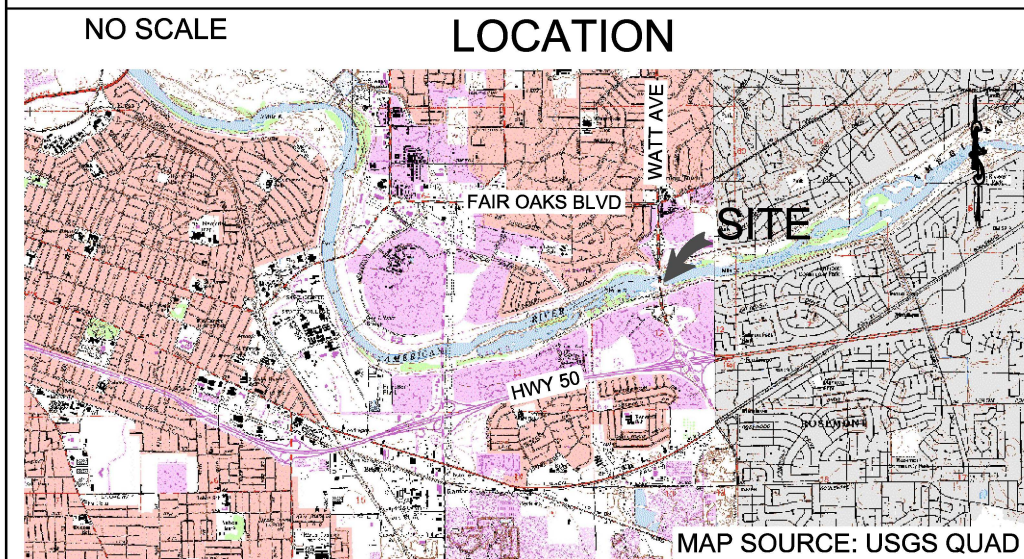
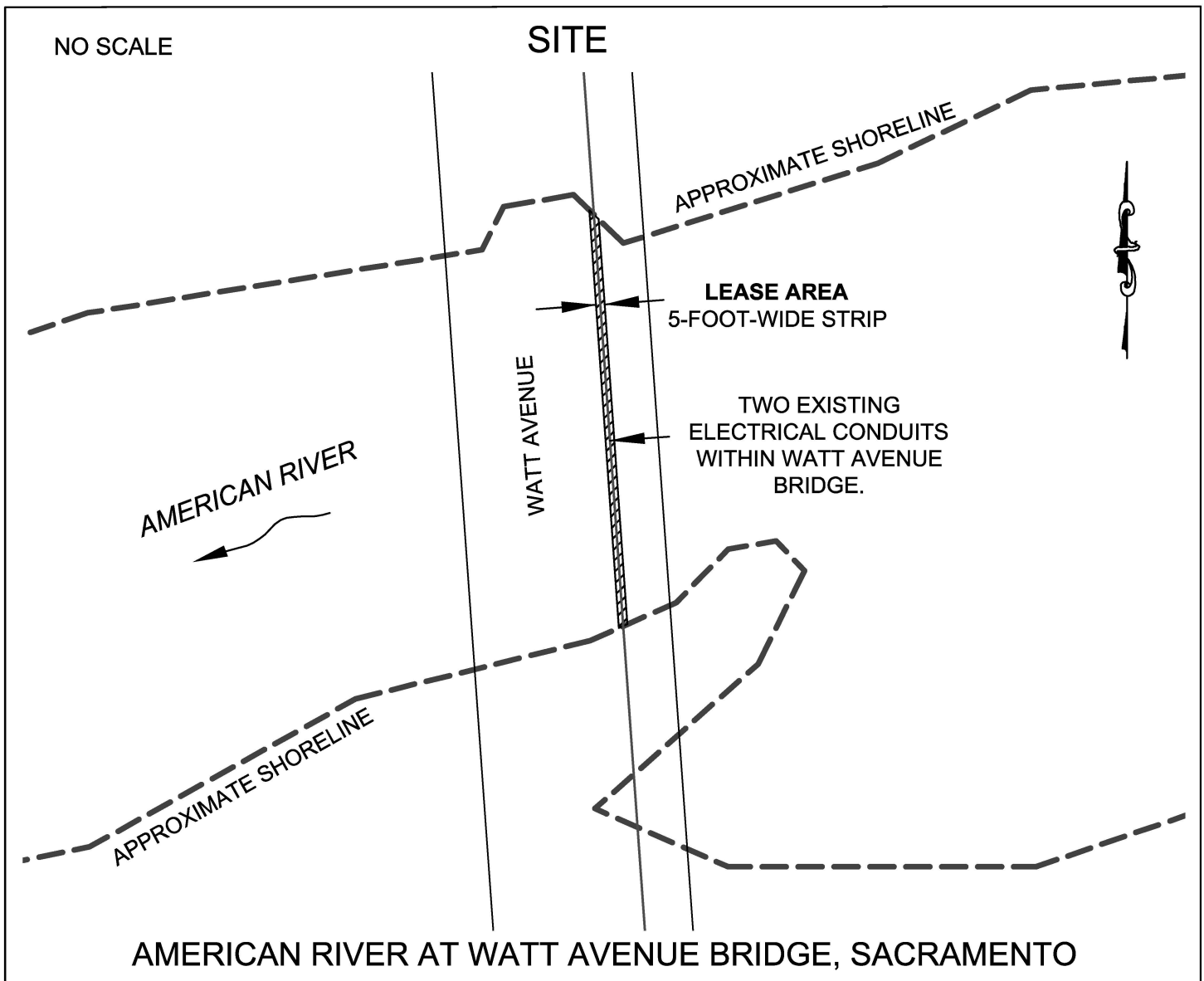


EXHIBIT B

LEASE 3967
SACRAMENTO MUNICIPAL
UTILITY DISTRICT
GENERAL LEASE -
PUBLIC AGENCY USE
SACRAMENTO 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.