

Staff Report 13

APPLICANT:

Sierra Health Foundation, a California nonprofit public benefit corporation

PROPOSED ACTION:

Issuance of a General Lease – Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Sacramento River, adjacent to 1321 Garden Highway, Assessor's Parcel number 274-0050-034, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of existing bank protection.

TERM:

10 years; beginning March 31, 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 agrees and acknowledges that the hazards associated with sea-level rise 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.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On May 12, 1997, the Commission authorized a 25-year General Lease – Protective Structure Use to The Sierra Health Foundation, a California nonprofit public benefit corporation, for the construction of riverbank protection for purposes of stabilization, revegetation, and maintenance of the river slope ([Item 25, May 12, 1997](#)). That lease expired on March 30, 2021. The original lease included Assessor's Parcel Numbers (APN) 274-0050-034 and 274-0050-035. On November 20, 2017, APN 274-0050-035 was deeded to Tower Garden Highway, LLC, a Delaware limited liability company. The Applicant is now applying for a General Lease – Protective Structure Use, for the continued use and maintenance of existing bank protection adjacent to APN 274-0050-034. Staff has contacted Tower Garden Highway, LLC, to request a lease application for the existing bank protection adjacent to APN 274-0050-035.

The Applicant owns the upland adjoining the lease premises, and the bank protection has existed at this location for several years. The bank protection is privately owned and maintained. The bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resources of the river for recreational and navigational use by the public.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the Lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

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 facilities are on the Sacramento 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

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

This effect could increase the Sacramento River's inundation levels within the lease area over the term of the lease. 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 existing bank protection may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the effects of climate change, including sea-level rise.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for a new lease 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 has no right to a new lease or a renewal of any previous lease.
2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas 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 and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning March 31, 2021, for a term of 10 years, for the continued 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, as specified in the lease, 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 7951

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Section 26, Township 9 North, Range 4 East, Mount Diablo Meridian, State of California and more particularly described as follows:

BEGINNING at a point, said point bears S 69° 28' 27" W 126.39 feet from the southeast corner of PARCEL 1 as shown on that certain Parcel Map recorded in Book 141 of Parcel Maps at Page 19, Records of Sacramento County; thence running along the south line of said PARCEL 1 N 69° 28' 27" E 9.95 feet; thence the following fifteen (15) courses:

1. S 20° 39' 36" W 25.30 feet;
2. N 69° 20' 24" W 20.00 feet;
3. N 71° 42' 05" W 97.08 feet;
4. N 55° 18' 14" W 28.86 feet;
5. N 47° 05' 28" W 23.77 feet;
6. N 73° 19' 51" W 43.10 feet;
7. N 73° 29' 59" W 55.15 feet;
8. N 72° 38' 31" W 52.09 feet;
9. N 69° 56' 13" W 48.00 feet;
10. N 68° 46' 01" W 50.00 feet;
11. N 59° 28' 27" W 46.69 feet;
12. N 62° 12' 54" W 56.44 feet;
13. N 66° 28' 39" W 50.06 feet;
14. N 73° 20' 39" W 50.12 feet;
15. N 60° 56' 51" W 24.80 feet; thence leaving said south line the following fourteen (14) courses:

1. N 00° 23' 00" E 13.16 feet;
2. S 76° 25' 58" E 26.58 feet;
3. S 70° 16' 28" E 45.21 feet;
4. S 70° 02' 08" E 112.91 feet;
5. S 68° 16' 16" E 179.25 feet;
6. S 75° 47' 29" E 69.38 feet;
7. S 71° 12' 10" E 60.02 feet;
8. S 46° 52' 12" E 45.51 feet;

9. S 73° 51' 40" E 26.44 feet;
10. N 72° 15' 23" E 61.59 feet;
11. S 74° 12' 26" E 20.10 feet;
12. S 07° 35' 13" W 19.54 feet;
13. S 14° 30' 10" W 30.39 feet;
14. S 54° 51' 57" E 1.65 feet to the POINT OF BEGINNING.

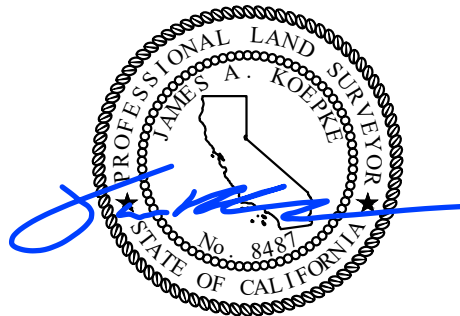
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

ALSO EXCEPTING THEREFROM any portion lying westerly of the southerly prolongation of the westerly line of said PARCEL 1 of said Parcel Map.

END OF DESCRIPTION

The above description is based on that original description prepared by CSLC Boundary Division on July 2, 1996 as found in PRC 7951 (W 25340) file, Calendar Item 25.

Revised 07/15/2021 by the California State Lands Commission Boundary Unit.



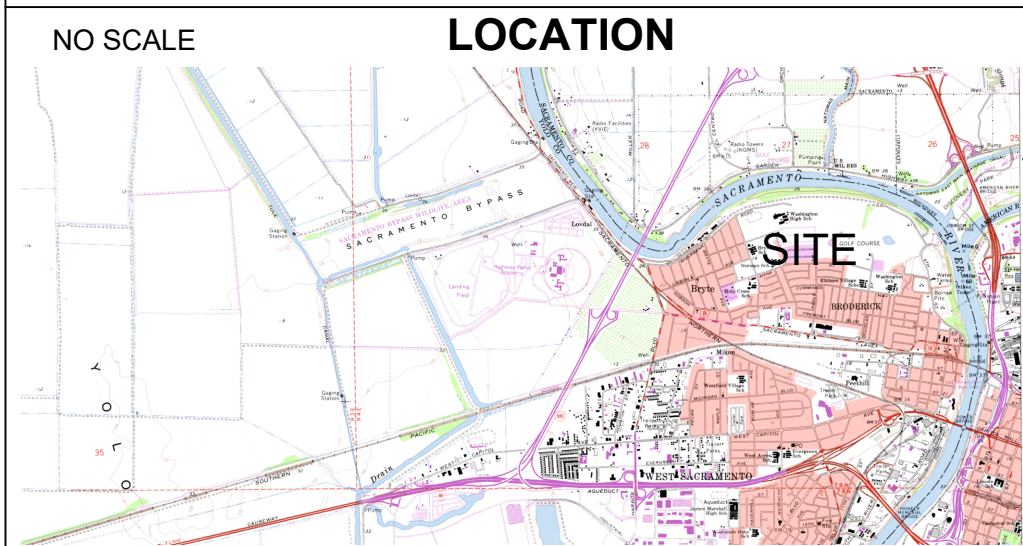
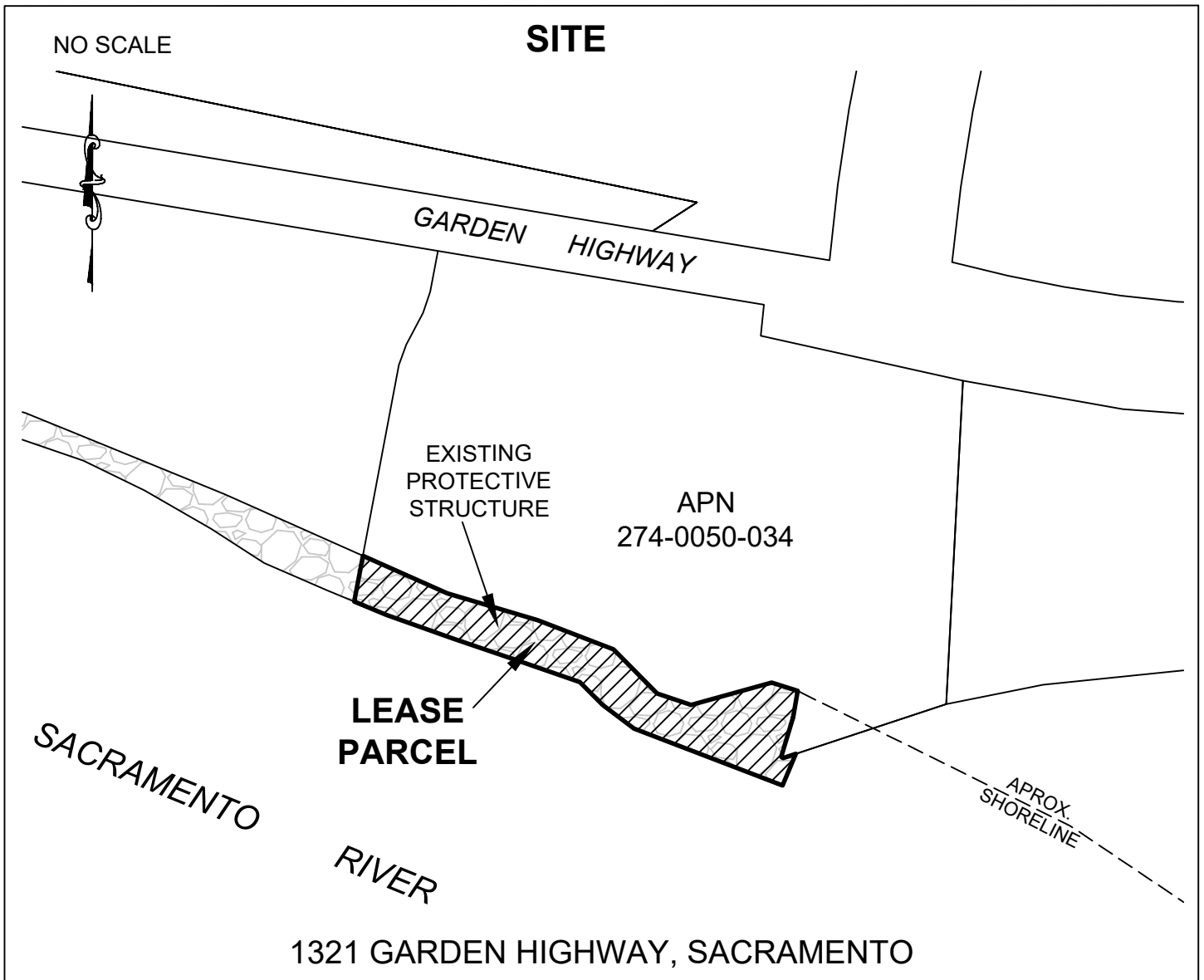
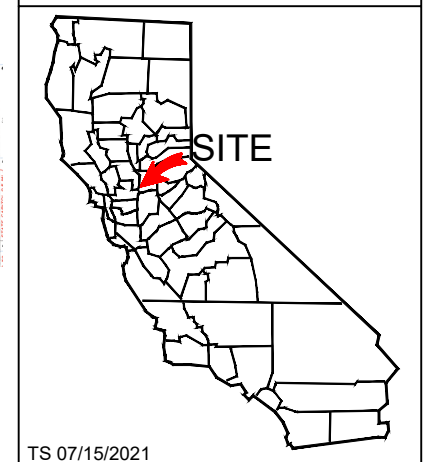


EXHIBIT B
LEASE 7951
SIERRA HEALTH FOUNDATION
APN: 274-0050-034
GENERAL LEASE-
PROTECTIVE
STRUCTURE USE
SACRAMENTO COUNTY



TS 07/15/2021

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.