

Staff Report 04

APPLICANT:

City of Petaluma

PROPOSED ACTION:

Acceptance of a Lease Quitclaim Deed and Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to Assessor's Parcel Numbers 006-284-019, 006-284-037 thru 006-284-043, City of Petaluma, Sonoma County.

AUTHORIZED USE:

Continued use and maintenance of an existing retaining wall and roadway previously authorized by the Commission, and proposed construction, use, and maintenance of a pedestrian sidewalk.

TERM:

20 years, beginning February 25, 2022.

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 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. Lessee expressly accepts the hazards involved in using or improving such lands.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed. Lessor shall then replace

Exhibit A, Land Description, and Exhibit B, Site and Location Map, to the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by the Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.

- Lessee shall comply with the Mitigation Monitoring Program for the Project as contained in Exhibit C, adopted by Lessor and by reference made a part of this Lease, except as modified by specific provision of this Lease or as modified by Lessor as permitted by law. In the event of any conflict between the provisions of the Mitigation Monitoring Program and this Lease, the provisions of the Lease shall prevail.

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 August 8, 2005, the Commission authorized a 25-year General Lease – Public Agency Use to the City of Petaluma ([Item 46, August 8, 2005](#)) for the construction and maintenance of a retaining wall and roadway as part of the Petaluma River Trail Enhancement Project. That lease will expire on August 7, 2030. The Applicant is now applying for acceptance of a lease quitclaim deed and issuance of a new General Lease – Public Agency Use, for the continued use and maintenance of the existing retaining wall and roadway, and proposed construction, use, and maintenance of a pedestrian sidewalk.

On December 17, 2015, a Dedication of Public Right of Way was dedicated to the Applicant for portions of the uplands adjoining the lease premises. The retaining wall and roadway (North Water Street) have existed at this location for several years and are owned and maintained by the Applicant. The proposed construction of a pedestrian sidewalk is part of public improvements for the North River Apartment Project as requested by the City of Petaluma from the developer, North River Apartments, LLC.

The pedestrian sidewalk project (Project) will be on the east side of North Water Street and will also serve as a Class I bike trail along the Petaluma River. The proposed sidewalk will provide access to the North River Apartments located at the

intersection of Petaluma Boulevard and Oak Street (Assessor's Parcel Numbers 006-163-040, 041). The Project will allow for safe public access along Water Street and is part of the Applicant's Petaluma River Trail. The Petaluma River Trail (Trail) is a local trail that is a vital connection to many regional amenities and various other trails.

The Project will take a few months to complete, and the equipment to be used will be a skip loader, vibrio-plate compactor, and a water truck to place and compact the aggregate base for the proposed sidewalk. The Project will include new storm drains, and silva cells will be placed within the pavement around the street trees to improve stormwater drainage. The roadway provides access to the Trail and the Petaluma River. The retaining wall will maintain and improve the integrity of the river channel, which will help protect the Public Trust resources 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 20-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 all improvements from State land. The proposed lease also requires the lessee to 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 located on the Petaluma River, in a tidally influenced site that is vulnerable to shallow coastal flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea level rise. This sea level rise analysis is for a 20-year lease and further sea level rise analysis for future longer-term leases will be evaluated at a later date.

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.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. 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 tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Near-coastal areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced. Finally, in tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. The facilities in the leased area will be submerged or will have to withstand flooding events and will likely need continued maintenance in the near future to ensure the sidewalk, retaining wall, and roadway continue to withstand higher levels of flood exposure and storm activity. In addition, the adjacent upland may experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public safety hazard.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation to the upland structures. Pursuant to the proposed lease, the Applicant acknowledges that the Lease Premises and adjacent upland 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 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 would not be allowed to construct the pedestrian sidewalk. 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 “Meeting Evolving Public Trust Needs” and the “Leading Climate Activism” Strategic Focus Areas of the Commission’s 2021-2025 Strategic Plan.
3. Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. A Mitigated Negative Declaration, State Clearinghouse No. 2017082027, and a Mitigation Monitoring Program (MMP) for this project were prepared by the City of Petaluma and adopted on January 9, 2018. Staff reviewed these documents and prepared an independent MMP (attached, Exhibit C) incorporating the City of Petaluma’s document and recommending adoption by the Commission.
5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but the activity will not affect those significant lands. Based upon staff’s consultation with the persons nominating such lands and through the CEQA review process, it is staff’s opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

California Department of Fish and Wildlife
San Francisco Bay Regional Water Quality Control Board

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigated Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2017082027, and a Mitigation Monitoring Program were prepared by the City of Petaluma and adopted on January 9, 2018, for this project and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit C.

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:

1. Authorize acceptance of a lease quitclaim deed, effective February 24, 2022, of Lease Number PRC 8632, a General Lease – Public Agency Use, issued to the City of Petaluma.

2. Authorize issuance of a General Lease – Public Agency Use to the Applicant, beginning February 25, 2022, for a term of 20 years, for the continued use and maintenance of an existing retaining wall and roadway previously authorized by the Commission, and proposed construction, use, and maintenance of a pedestrian sidewalk, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration is 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; such permitted activity is contingent upon Applicant’s compliance with applicable permits, recommendations, or limitations issued by federal, state, and local governments.

3. Authorize the Executive Officer or designee to update and replace Exhibit A (Land Description) and Exhibit B (Site and Location Map), upon completion of project and receipt of “as-built” plans for the facilities occupying state lands, to accurately reflect the final location of the authorized improvements.

EXHIBIT A
LAND DESCRIPTION

Being a portion of the 2021 Channel of the Petaluma River in lying within Section 33, Township 5 N., Range 7 W., Mount Diablo Meridian, City of Petaluma, County of Sonoma, State of California and, said portion is more particularly described as follows:

Commencing an angle point in the centerline of East Washington Street, said angle point being marked by Monument 24 as shown that Record of Survey filed in Book 778 of Maps at Page 15, Sonoma County Records, and as shown on the unrecorded "Official Re-Survey" of City of Petaluma Limit Lines and Street Centerlines, by George E. Pearson, dated 1953 from which the center of Monument 17 bears North $67^{\circ}56'57''$ East 1122.48 feet (being N $68^{\circ}08'26''$ E 1122.48 feet as shown on said Record of Survey), thence leaving said Monument 24 along the centerline of East Washington Street North $22^{\circ}31'29''$ West 3.96 feet; thence South $67^{\circ}28'31''$ West 149.59 feet to a point, said point being marked by Monument 26 as shown on said Record of Survey, thence leaving said centerline North $22^{\circ}29'06''$ East 49.51 feet to the most southerly corner of Lot 371 as shown on the "Map of the City of Petaluma" prepared by Jas T. Stratton, dated December 1865, on filed in the Office of the Sonoma County Recorder, said corner being the intersection of the northerly right-of-way of East Washington Street and the easterly right-of-way of Petaluma Boulevard North as shown on said Record of Survey; thence along said northerly right-of-way of East Washington Street North $67^{\circ}28'31''$ East 168.00 feet to the most easterly corner of said Lot 371 as shown on said Record of Survey; and being the POINT OF BEGINNING of the herein described portion; thence leaving said northerly right-of-way, along the easterly boundaries of Lot 371, Lot 372, Lot 373 and a portion of Lot 374, said easterly boundary being the historic right bank of the Petaluma River as shown on said "Map of the City of Petaluma" prepared by Jas T. Stratton, the following two courses: North $16^{\circ}01'29''$ West 99.41 feet; thence North $8^{\circ}23'31''$ East 60.04 feet to a point of intersection of said easterly boundary and historic right bank with the waterward face of an existing river wall; thence leaving said easterly boundary and historic right bank, along the face of said river wall North $0^{\circ}35'16''$ West 49.15 feet to a point on the southerly boundary of that Dedication of Public Right-of-Way to the City of Petaluma recorded under Document Number 2015-107204, Sonoma County Records; thence along said southerly boundary North $71^{\circ}05'31''$ East 1.34 feet to a point of intersection of said southerly boundary with the easterly plan line of Water Street as described in City of Petaluma Ordinance Number 2216 N.C.S. "An Ordinance Establishing A Precise Plan Line for the Reservation of Future Rights-Of-Way for Water Street North Between Washington Street and Lakeville Street"; thence leaving said point of intersection, along said easterly plan line, along a non-tangent curve to the left, the radius point of which bears North $89^{\circ}13'14''$ East 400.00 feet, through a central angle of $0^{\circ}17'48''$, for a length of 2.07 feet; thence South $1^{\circ}04'34''$ East 95.28 feet; thence South $11^{\circ}21'47''$ East 65.47 feet; thence South $10^{\circ}44'04''$ East 42.29 feet to said northerly right-of-way of East Washington Street; thence leaving said easterly plan line, along said northerly right-of-way South $72^{\circ}45'55''$ West 4.90 feet to the POINT OF BEGINNING.

Containing 1,379 square feet more or less.

END OF DESCRIPTION

EXHIBIT A
LAND DESCRIPTION

The basis of bearings for this description is that certain Record of Survey filed in Book 210 of Maps at Page 8, Sonoma County Records.

Prepared by Cinquini & Passarino, Inc.


Anthony G. Cinquini, P.L.S., 8614



1/13/2022
Date

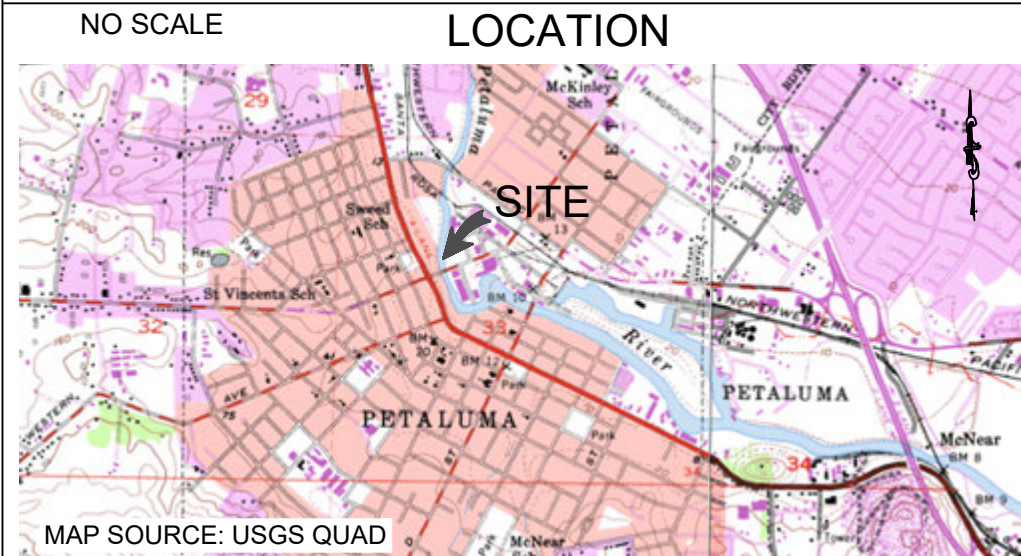
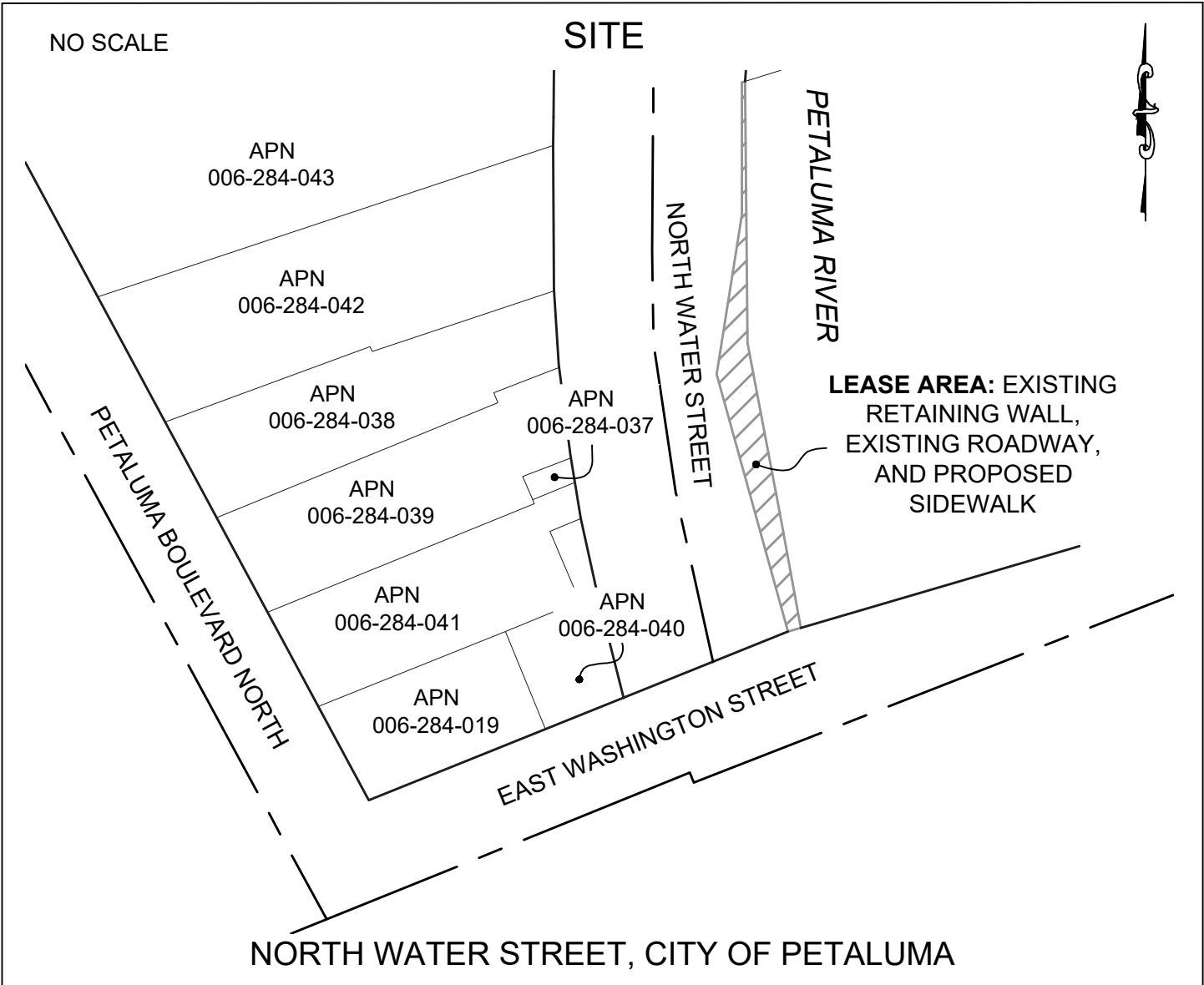


EXHIBIT B

LEASE 8632

CITY OF PETALUMA

APNs 006-284-019, 006-284-037
THRU 006-284-043

GENERAL LEASE -
PUBLIC AGENCY USE
SONOMA 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.