

Staff Report 23

LESSEE:

Sacramento Area Flood Control Agency

APPLICANT:

Central Valley Flood Protection Board

PROPOSED ACTION:

Termination and Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land within a portion of Assessor's Parcel Number 024-0081-019 and an unnumbered parcel west of Riverside Boulevard, Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use, maintenance, and right-of-way for access and staging purposes associated with rehabilitation of the Sacramento River East Levee.

TERM:

20 years, beginning August 23, 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:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees to obtain necessary permits from all applicable regulatory agencies prior to the proposed use.

- Lessee agrees and acknowledges that the hazards associated with sea level rise may require additional maintenance or protection strategies to ensure safe use of the lease premises.

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 February 28, 2020, the Commission authorized a General Lease – Public Agency Use to the Sacramento Area Flood Control Agency for use, maintenance, and right-of-way for access and staging purposes associated with rehabilitation of the Sacramento River East Levee ([Item 33, February 28, 2020](#)). That lease will expire on February 27, 2025. The Applicant is now applying for termination of the existing lease and issuance of a new General Lease – Public Agency Use, for the aforementioned activities.

The Applicant is responsible for ensuring that levees are maintained in a manner that reduces the risk of flooding. In cooperation with the U.S. Army Corps of Engineers, Department of Water Resources, and the Sacramento Area Flood Control Agency, the Applicant is rehabilitating the Sacramento River East Levee. The project is referred to as the American River Common Features 2016 and includes the Sacramento River East Levee. The U.S. Army Corps of Engineers is the project manager and requires a lease between state agencies rather than a lease between a state agency and a county agency. Over the past few years, rehabilitation of the levee has resulted in the addition of erosion protection at several locations.

Rehabilitation of the levee will not occur within the lease premises. The access and staging areas are within the lease premises and located near the areas of rehabilitation. The lease premises are required for continuing the project work over the next several years. Upon completion of the project, the Applicant would use the access and staging areas to maintain the levee. In addition, the Applicant's use of the lease premises would help ensure the levee continues to provide erosion protection.

The Applicant's proposed use of the lease premises would not have a significant impact on Public Trust resources. Parcel 1 of the lease area includes a gate that allows access to the levee. The gate is located on the landside of the levee and

adjacent to a street in a residential neighborhood. Parcel 2 of the lease premises is located on the waterside of the levee and allows the Applicant a site for staging materials and equipment. During rehabilitation of the levee, public access to the area may be limited due to safety concerns. Maintenance of the rehabilitated levee would occur as needed and have minimal impact on public access, as the maintenance would be on an as needed basis.

The proposed lease has a limited term of 20 years, does not permanently alienate the State's fee simple interest, or grant the lessee exclusive rights to the lease premises, nor does the lease permanently impair any public rights. Furthermore, the proposed lease requires the lessee 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 activities are located adjacent to 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.

Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events and 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 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 proposed Project activities are specifically to improve the Sacramento River East Levee to support the broader purpose of reducing flood risk associated with the Sacramento River. If the levee is not improved, it would remain at heightened risk of failure from through-seepage, and much of Sacramento, including Interstate 5 (I-5) and the California State Capitol, could be significantly damaged during a future flood event. Activities on State lands would be limited term and consist of access routes and staging areas for the Project. Although there are no facilities proposed on State lands that would be impacted by climate change, the access and staging areas may be impacted by climate change as noted above.

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 the effects of climate change, including sea level rise.

CONCLUSION:

For all the reasons stated above, staff believes that issuance of 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; 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. 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. **Termination of the lease:** Termination of the lease 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. **Issuance of a new lease:** An Environmental Impact Report (EIR) and Supplemental EIR, State Clearinghouse No. 2005072046, were prepared for this project by the Central Valley Flood Protection Board and certified on April 22, 2016, and November 22, 2019, respectively. As part of its project approval, the Central Valley Flood Protection Board made a Statement of Facts and Findings and Statement of Overriding Considerations and adopted a Mitigation Monitoring and Reporting Program.

Staff has reviewed such documents and previously adopted an independent Mitigation Monitoring Program, Findings and the Statement of Overriding Considerations on February 28, 2020 ([Item 33](#)).

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such 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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Issuance of a new lease: Find that EIR and Supplemental EIR, State Clearinghouse No. 2005072046, was prepared for this project by Central Valley Flood Protection Board and certified on April 22, 2016, and November 22, 2019, respectively and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgement, 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.

The Commission previously adopted a Mitigation Monitoring Program, Findings, and Statement of Overriding Considerations on February 28, 2020 ([Item 33](#)).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that termination of the lease and issuance of 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 lease; and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Terminate, effective August 22, 2023, Lease Number PRC 9607, a General Lease – Public Agency Use, issued to the Lessee.
2. Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning August 23, 2022, for a term of 20 years, for the use, maintenance, and right-of-way for access and staging purposes associated with rehabilitation of the Sacramento River East Levee, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being 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; liability insurance in an amount no less than \$1,000,000 per occurrence; Applicant may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.

EXHIBIT A

LEASE 9607

LAND DESCRIPTION

Two parcels of real property situate in the City of Sacramento, County of Sacramento, State of California, described as follows:

PARCEL 1

Being a portion of the lands of State of California as said lands are described in that certain Deed recorded in Document # 199807080806, Official Records of Sacramento County, also being in projected Section 22, Township 8 North, Range 4 East, M.D.M, being more particularly described as follows:

COMMENCING at a 2-1/4" bronze disc stamped "California Division of Highways" as designated as 24-630 on the California Division of Highways Monument Map, District 3, County SAC, Route 5, Post Mile 18.6 to 21.8, dated July 1976, as shown on sheet 8 of 16; thence South 56°09'12" West 3823.54 feet to the southeasterly corner of said lands and being the **POINT OF BEGINNING**; thence from said point of beginning along the south line of said lands South 69°34'57" West 27.98 feet to a point on the easterly line of a levee easement being identified as "Deed 12865" on sheet 57 of that certain unrecorded record of survey prepared by State of California Department of Water Resources entitled "Record of Survey Maintenance Area 9" dated July 2015, a copy of which resides in the office of the Sacramento County Surveyor, said point being North 64°35'56" East 30.00 feet from a 3/4 inch iron pipe with cap stamped "CALIF DEPT WATER RES ST1U1" as shown on said unrecorded survey; thence along said easterly levee easement, North 21°50'11" West 81.32 feet to the beginning of a non-tangent curve, concave northerly, having a radius of 30.00 feet whose radius bears North 68°14'57" East; thence leaving the easterly line of said levee easement along said curve through a central angle of 88°40'00", an arc distance of 46.42 feet; thence South 20°25'03" East 52.00 feet to the **POINT OF BEGINNING**.

Containing 1,670 square feet (0.038 acres), more or less.

PARCEL 2

Being a portion of the lands of the State of California as said lands are described in that certain Boundary Line Agreement and Compromise Settlement Agreement recorded in Book 880429 of Official Records at Page 1986, Sacramento County Records, also being in the projected Section 27, Township 8 North, Range 4 East, M.D.M, being more particularly described as follows:

COMMENCING at a 3/4 inch iron pipe and aluminum cap stamped "LM 2.0 SR1317" as shown on sheet 53 of that certain unrecorded record of survey prepared by the State of

California Department of Water Resources titled "Record of Survey Maintenance Area 9", dated July 2015, a copy of which resides in the office of the Sacramento County Surveyor; thence from said point of commencement North 46°17'50" West 737.97 feet to the Southwest corner of the lands of Sacramento Area Flood Control Agency as said lands are described in that certain Deed recorded in Document No. 201803150701, Sacramento County Records and being the **POINT OF BEGINNING**; thence from said point of beginning along said South line of said Lands of Sacramento Area Flood Control Agency, South 88°48'32" East 211.73 feet to a point on the Agreed Boundary Line of said Boundary Line Agreement; thence along said Agreed Boundary Line South 45°53'03" East 327.32' to the Southwest corner of Parcel B of that certain Certificate of Compliance recorded in Book 881223 of Official records at Page 331, Sacramento County Records; thence along the westerly prolongation of the south line of said Parcel B South 87°42'28" West 254.50 feet to point on the west line of that certain Record of Survey recorded in Book 7 of Surveys, Map no. 30, Sacramento County Records; thence along said West line North 38°26'04" West 309.49 feet to the **POINT OF BEGINNING**.

Containing 55,403 square feet (1.272 acres), more or less.

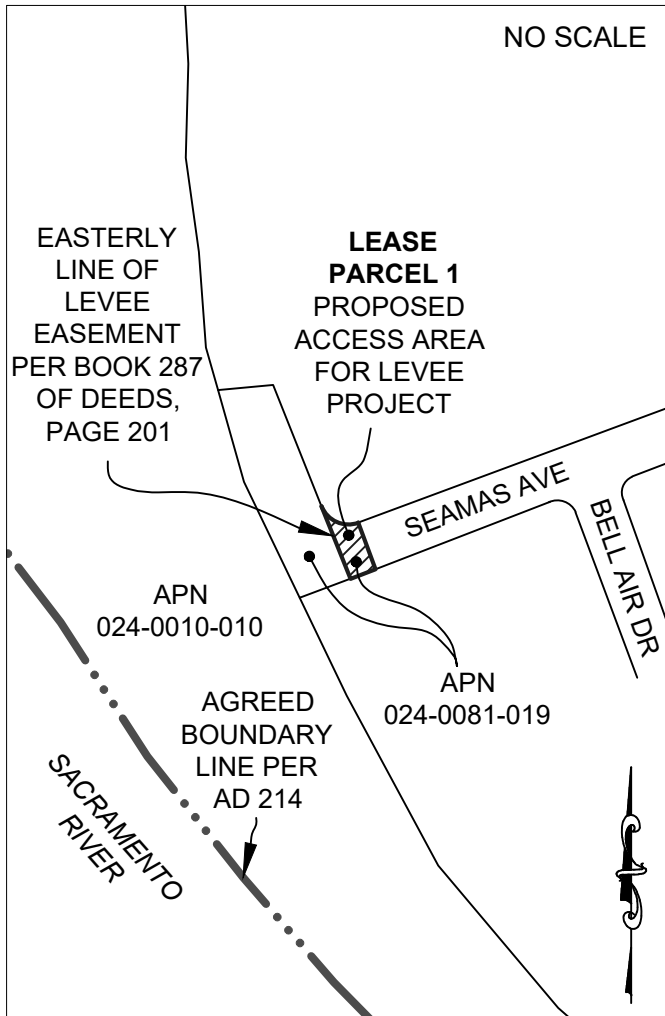
The basis of bearings for this description is NAD 83, California Coordinate System (CCS83), Zone 2 (2007.00 epoch date) as shown on that certain record of survey of G.P.S. Static Survey filed for record in Book 92 of Surveys, Page 7, Sacramento County Records. All distances cited herein are grid values which are the basis for the areas shown hereon. To obtain ground values multiply the distances by 1.000032

End of Description

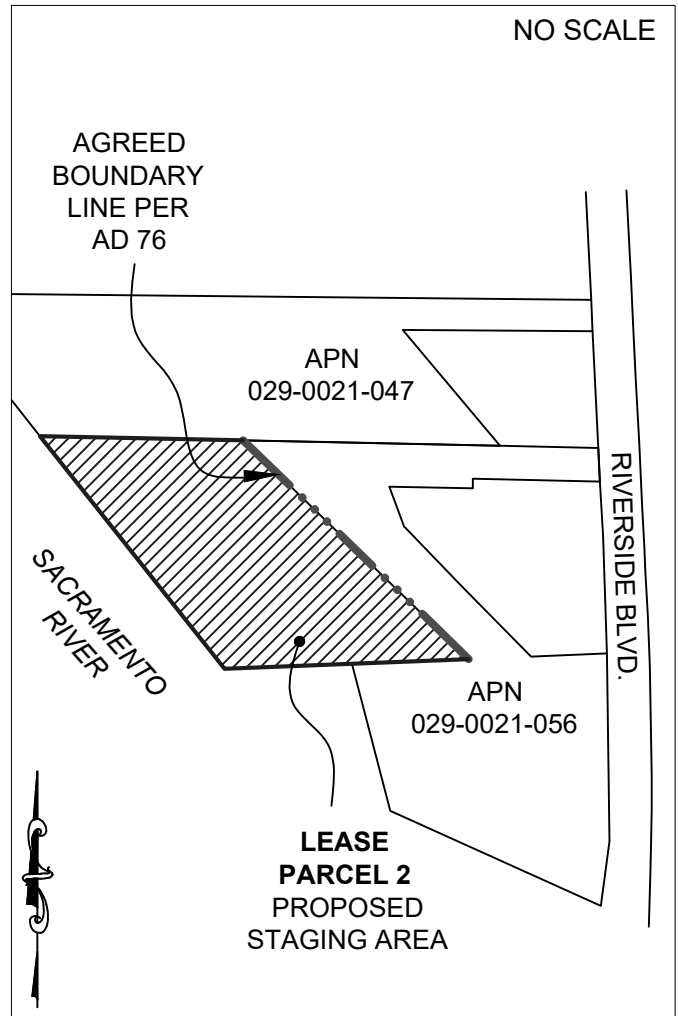

Daniel J. Forgey, CA. LS No. 8303



SITE 1



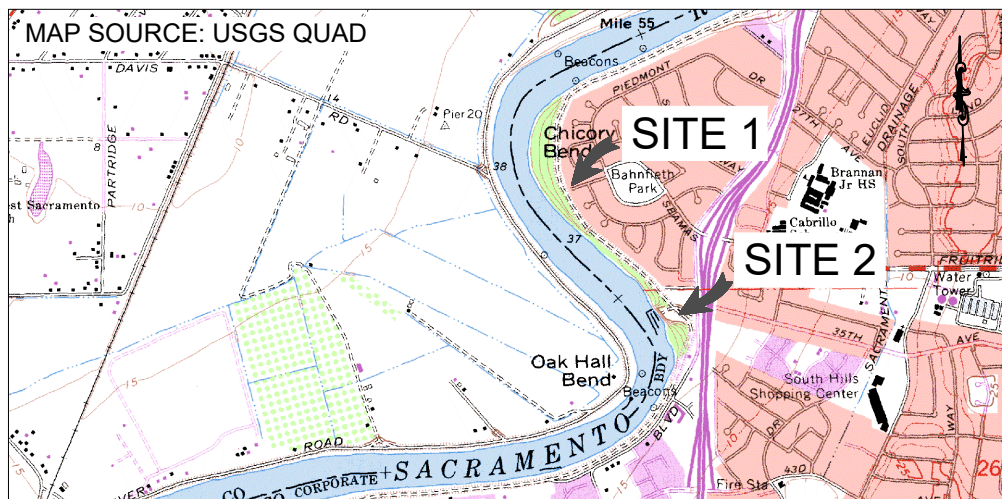
SITE 2



SACRAMENTO RIVER, CITY OF SACRAMENTO

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 9607
CENTRAL VALLEY FLOOD PROTECTION BOARD
APN 024-0081-019
GENERAL LEASE - PUBLIC AGENCY USE
SACRAMENTO COUNTY



JWP 6/13/2022