

# Staff Report 05

## APPLICANT:

The City of Petaluma

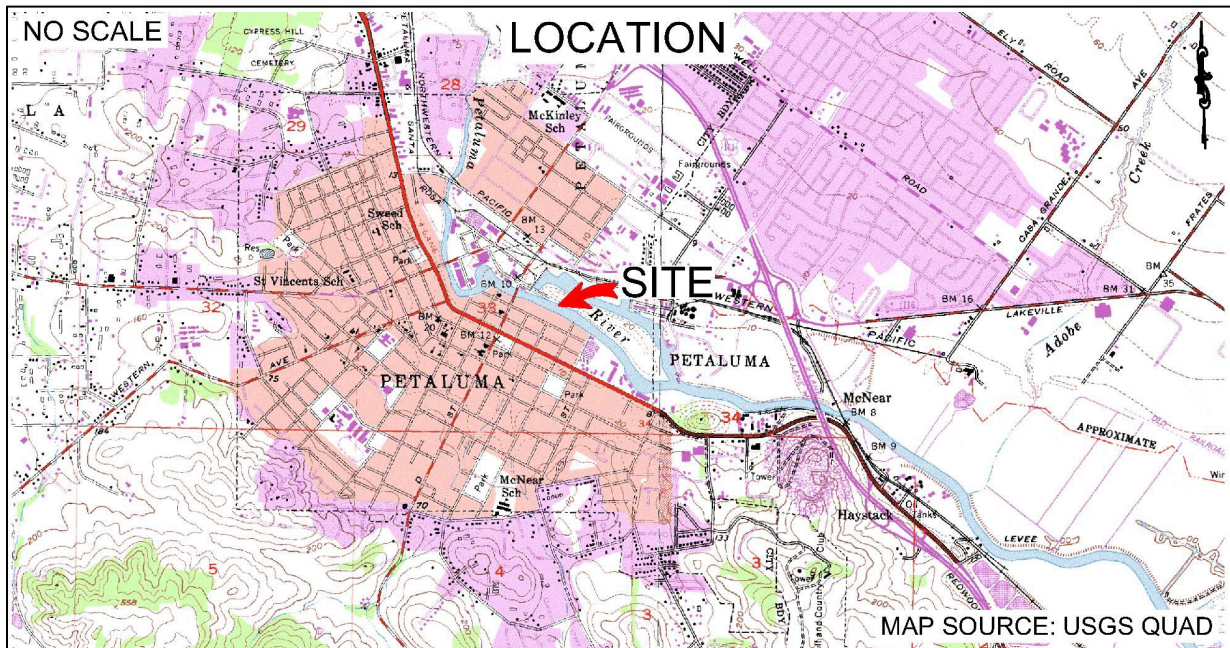
## PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use

## AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to 6 Copeland Street, Petaluma, Sonoma County (as shown in Figure 1).

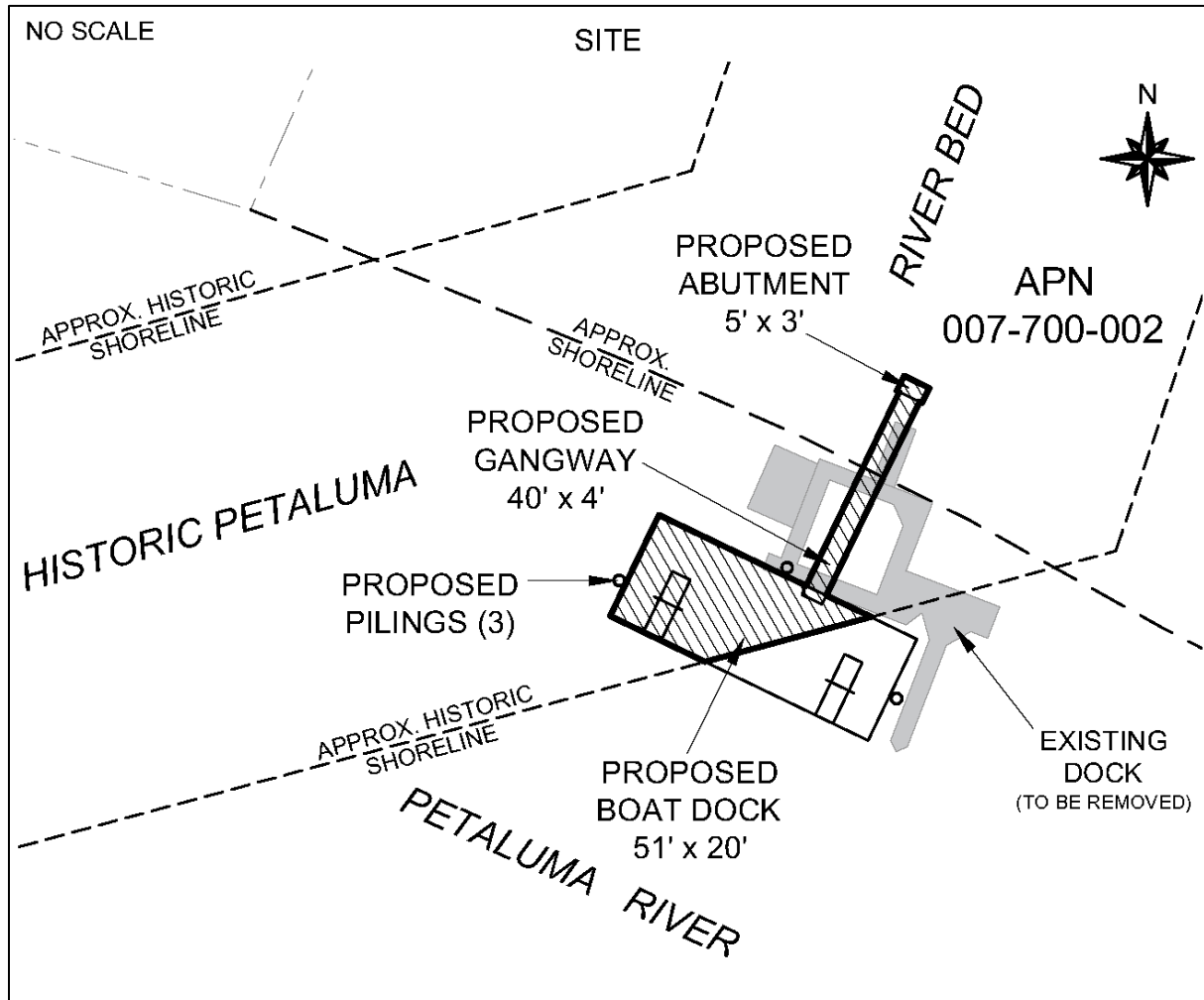
Figure 1. Location



## AUTHORIZED USE:

Removal of an existing partial boat dock, and the construction, use, and maintenance of a new boat dock, gangway, and three pilings (as shown in Figure 2).

**Figure 2. Site Map**



NOTE: This depiction of the lease premises is based on unverified information provided by the applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

**TERM:**

20 years, beginning May 1, 2023.

**CONSIDERATION:**

\$140 per year, with an annual Consumer Price Index adjustment.

**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.
- 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.
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including that the Applicant obtain all necessary permits and authorizations prior to commencing work, including requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

**PUBLIC TRUST AND STATE’S BEST INTERESTS:**

On February 27, 1996, the Commission authorized the approval of a Title Settlement Agreement (Agreement) consisting of approximately 6.4 acres of land in Petaluma, Sonoma County ([Item 73, February 27, 1996](#)). As part of the Agreement, Commission staff was authorized to issue a Public Agency lease to the City for an adjoining parcel of sovereign land within Assessor Parcel Number 007-700-002, known as the Historic Livery Stable, which lies between the McNear Peninsula and the Petaluma River, to be used for a public park and habitat purposes, should the City apply for such a lease. Commission records show that the City never applied for such lease.

On May 4, 2009, the Regular City Council/Petaluma Community Development Commission (PCDC) approved Resolution 2009-065 N.C.S, entitled Resolution Concerning Cooperation with Friends of the Petaluma River to Renovate and

Program the Historic Livery Stable as a River Heritage Center, and Directing Staff to Develop Appropriate Implementing Agreements ([Agenda Bill 5.A, May 4, 2009](#)). As part of the Resolution, the City directed its staff to coordinate with the Friends of the Petaluma River, provide program and project oversight, and develop appropriate implementation agreements with the Friends of the Petaluma River and others in order to maximize potential benefits of cooperation.

Friends of the Petaluma River is an organization that operates boating and camp programs on the McNear Peninsula. Historically, a boat dock located on the left bank of the Petaluma River, adjacent to the Historic Livery Stable, facilitated these activities. The boat dock existed for many years at this location partially on sovereign land but was never under lease with the Commission. In 2020, river dredging in the Petaluma River permanently damaged the boat dock, making it unfit for the organization's recreational use. In 2021, a portion of the boat dock was removed.

The Applicant is now applying for a General Lease – Public Agency Use, for the removal of the remaining partial boat dock, and construction, use, and maintenance of a boat dock, gangway, and three pilings. The proposed project will be constructed in approximately the same location, partially in the Commission's jurisdiction.

The proposed boat dock and appurtenant facilities will be operated by the Friends of the Petaluma for seasonal boating camps and managed by the Applicant.

The proposed project includes the removal of the existing boat dock, and construction of a low profile, floating boat dock with three pilings and one 50 Linear Foot gangway. Construction consists of drilling and placing three 16-inch diameter piles that will anchor the dock. A 1,305-square-foot prefabricated floating dock with Americans with Disabilities Act features will also be placed. The dock will be transported by barge to avoid impacting the riparian zone in this area.

Additionally, a gangway will be installed to protect the coastal brackish marsh plants by extending the dock out by 39 feet from the top of the bank, where these plants grow along the edge of the river. A 15-square-foot concrete footing will be used to anchor the 50-foot gangway to the upper bank. The footing will be embedded two feet deep into the bank which will create a lower gradient to accommodate wheelchair use.

Friends of the Petaluma River will conduct restoration and replanting of coastal brackish marsh plants in the area the existing dock once covered. The area planned for restoration is approximately 1,000 square feet. The areas impacted

temporarily by construction at the top bank will be reseeded with a native seed mix to control for erosion of the bank.

The proposed boat dock is owned and maintained by the Applicant and facilitates recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The proposed Project enhances access to Public Trust resources by improving and constructing facilities used for recreation and boating in the Petaluma River, and community engagement activities, and enjoyment of nature and scenic views along the waterway. Recreational facilities that encourage and promote public access, use, and enjoyment of the State's waterways are generally consistent with the common law Public Trust Doctrine.

The proposed lease is limited to a 20-year term, 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 and restore the lease premises to their original condition. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

**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 leased 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.

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 lease area 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.

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 leased structures 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:**

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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. If the Commission denies the application, the Applicant cannot construct the boat dock, gangway, and pilings, and may be required to remove the existing boat dock and restore the premises to their original condition. The lessee 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" and the "Leading Climate Activism" 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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

## **APPROVALS REQUIRED:**

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U.S. Army Corps of Engineers  
California Department of Fish and Wildlife  
Regional Water Quality Control Board  
City of Petaluma

## **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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).

**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 issuance of a General Lease – Public Agency Use to the Applicant beginning May 1, 2023, for a term of 20 years, for the removal of an existing partial boat dock, and construction, use, and maintenance of a boat dock, gangway, and three pilings; annual rent in the amount of \$140, with an annual Consumer Price Index adjustment.
2. Authorize the Executive Officer or designee to replace Exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the improvements following construction.