

**STAFF REPORT
C24**

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08/17/17
W 27117
M. Schroeder

GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

Pacific Gas and Electric Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Feather River, adjacent to 2nd and 5th Street, city of Yuba City, Sutter County and River Front Park, city of Marysville, Yuba County.

AUTHORIZED USE:

Relocation, use and maintenance of existing less-than-60-kV electric distribution lines and related facilities.

LEASE TERM:

20 years, beginning August 17, 2017.

CONSIDERATION:

\$1,912 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent on the 10th anniversary of the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance: Liability insurance in an amount no less than \$5,000,000 per occurrence. Applicant may satisfy all or part of the insurance requirements through maintenance of a staff approved self-insurance program as outlined in the Lease.

Bond: Surety bond or other security in the amount of \$7,500.

Other: The lease contains various provisions, some of which are described as follows:

1. The lease contains a provision involving levels of staff review of non-routine maintenance and operation activities, emergency repairs, maintaining deactivated distribution

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line crossings, permanent removal of crossings, reporting of emergency incidents; and procedures and approval requirements for sale of electric distribution lines.

2. Where the lease calls for the approval of the Lessor, that approval, except as provided hereafter, may be given by the Commission's Executive Officer or his/her designee and such approval shall not be unreasonably withheld. If the Executive Officer or his/her delegate denies approval, except as provided hereafter, Pacific Gas and Electric Company (PG&E) may appeal that denial to the Commission at the Commission's next available noticed public meeting. Commission's Executive Officer shall not have the delegated authority to approve increases or decreases in the base rent, adjustments in bond and insurance coverage, nor the authority to approve any assignment.
3. Lessee shall place warning signage and/or buoys, clearly visible from the shore and in the water, both upstream and downstream of the construction site, to provide notice of the electric distribution lines and related facilities relocation project and to advise the public to exercise caution. Lessee shall place and maintain such signage at all times during the electric distribution lines and related facilities relocation and construction activities, and shall notify the California Department of Parks and Recreation's Division of Boating and Waterways of the location, description, and purpose of such signage upon its installation and removal.

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 Analysis:

PG&E (Applicant) has applied for a General Lease – Right-of-Way Use for the relocation, use and maintenance of an existing less-than-60-kV electric distribution lines and related facilities.

The Applicant's existing electric distribution lines and related facilities have crossed overhead of the Feather River for many years, but were not previously authorized by the Commission. Applicant has a right to use the

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uplands adjoining the lease premises. This is a component of the larger Fifth Street Feather River Bridge (No. 18C-0012), also known as the Twin Cities Memorial Bridge project to demolish, remove, and construct a new Fifth Street Feather River Bridge, authorized by the Commission on October 13, 2016 ([Item C11, October 13, 2016](#)).

The Project proposes to relocate the existing electric distribution lines north of their existing location. The relocation is required as the current location is in direct conflict with the proposed new Fifth Street Feather River Bridge. The relocation project work includes removal of three standard wood poles replacing them with four wood poles to provide better alignment and spacing over soccer fields in the adjacent River Front Park. The pole relocation work will take place outside of the Commission's jurisdiction. Only the electric distribution lines extend over sovereign land. Project work is expected to begin in late summer to early fall of 2017.

The Applicant will also request approval from the California Public Utilities Commission for the less-than-60-kV electric distribution lines and related facilities.

The existing electric distribution lines and related facilities have existed for many years at this location. Furthermore, the existing and proposed electric distribution lines do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs 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, lessee may be required to remove all improvements from State land. The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

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

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. A Mitigated Negative Declaration (MND), State Clearinghouse No. 2013082011, was prepared by the City of Yuba City and adopted on

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August 19, 2014. Staff reviewed such document and the Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency. The Commission considered the MND at its October 13, 2016, meeting ([Item C11, October 13, 2016](#)) for the 5th Street Bridge Replacement Project. As part of the Commission's approval of the lease to the City of Yuba City, the Commission adopted a Mitigation Monitoring Program made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096), as contained in Exhibit C to Item C11 at the October 13, 2016, meeting.

3. Staff reviewed the less-than-60-kV electric distribution lines and related facilities relocation project activities and determined that the associated direct and indirect impacts are fully contemplated within the MND and the Greenhouse Gas and Climate Change Analysis found in [Item C11, October 13, 2016](#), and thus no additional CEQA analysis is required as specified in Public Resources Code section 21166 and section 15162, subdivision (a) of the State CEQA Guidelines.
4. 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.

APPROVAL REQUIRED:

California Public Utilities Commission

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2013082011, and a Mitigation Monitoring Program were prepared by the City of Yuba City and adopted on August 19, 2014, for this Project 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

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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.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease for the relocation, use, and maintenance of the existing improvements 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, or 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:

Authorize issuance of a General Lease – Right-of-Way Use, to Pacific Gas and Electric Company beginning August 17, 2017, for a term of 20 years, for the relocation, use, and maintenance of existing less-than-60-kV electric distribution lines and related facilities, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$1,912 per year, with an annual Consumer Price Index adjustment; and self-insurance or third-party liability insurance in an amount no less than \$5,000,000 per occurrence; and a surety bond in the amount of no less than \$7,500.

EXHIBIT A

W 27117

LAND DESCRIPTION

A strip of submerged land 30.00 feet wide, in the bed of the Feather River, Sutter and Yuba Counties, California, lying 15.00 feet on each side of the following described centerline:

COMMENCING at Height Modernization Survey Station "K 1435" (NGS PID: KS1971), with a CCS83, Zone 2 (Epoch 2010.00), U.S. Survey Foot coordinate of N: 2,173,621.18, E: 6,674,279.18;

thence N 22°11'36" W, 3,484.7 feet to the center of an existing Pacific Gas & Electric Company electric distribution lattice steel pole, being the POINT OF BEGINNING;

thence, along said centerline, N 68°02'05" E, 535.6 feet to a wood pole, being the POINT OF TERMINATION.

EXCEPTING THEREFROM all portions of said strip lying landward of the low water marks of the left and right banks of said Feather River.

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 2. Distances are U.S. Survey Foot grid distances.

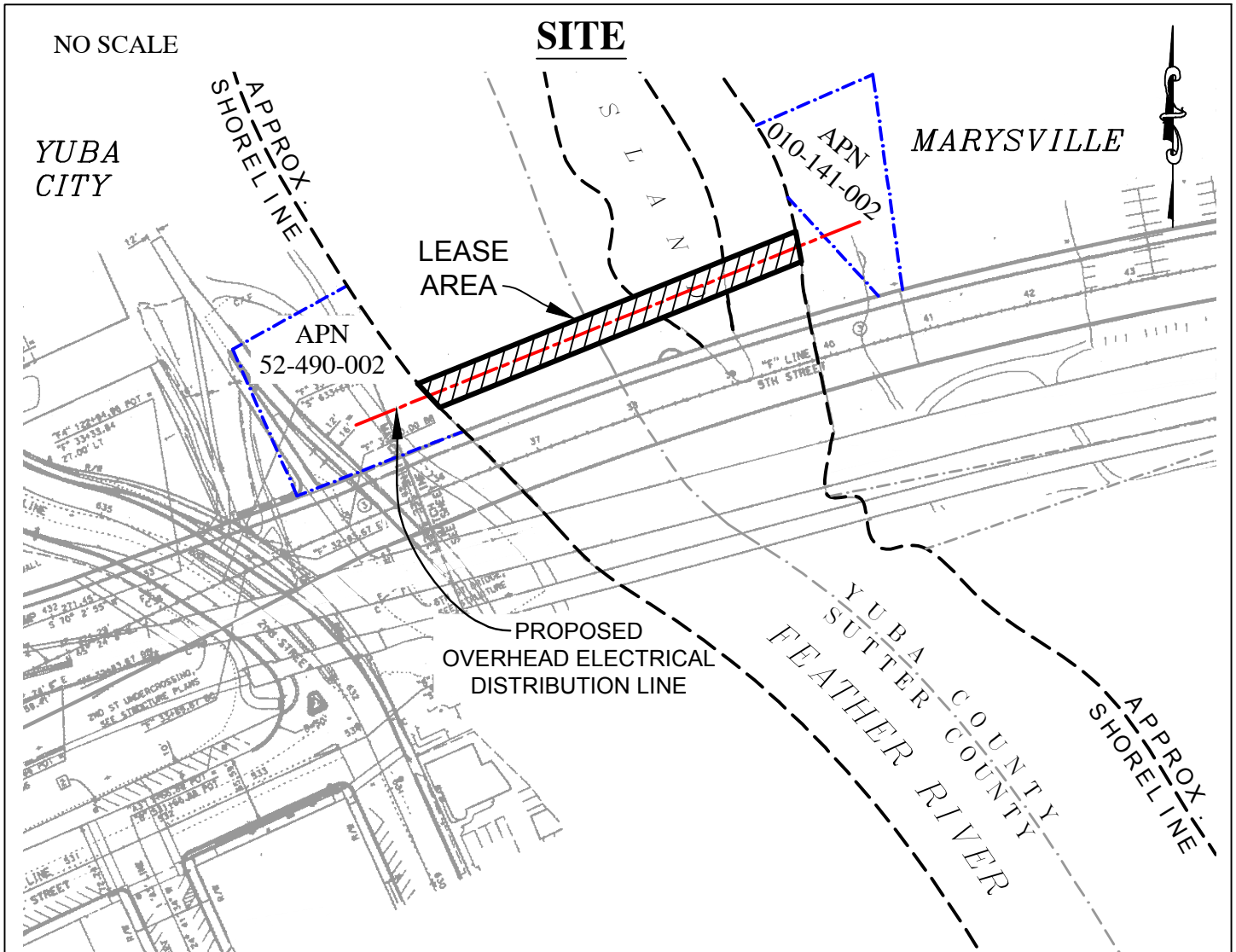
This real property description has been prepared by me in conformance with the Professional Land Surveyors Act on July 6, 2017.

END OF DESCRIPTION

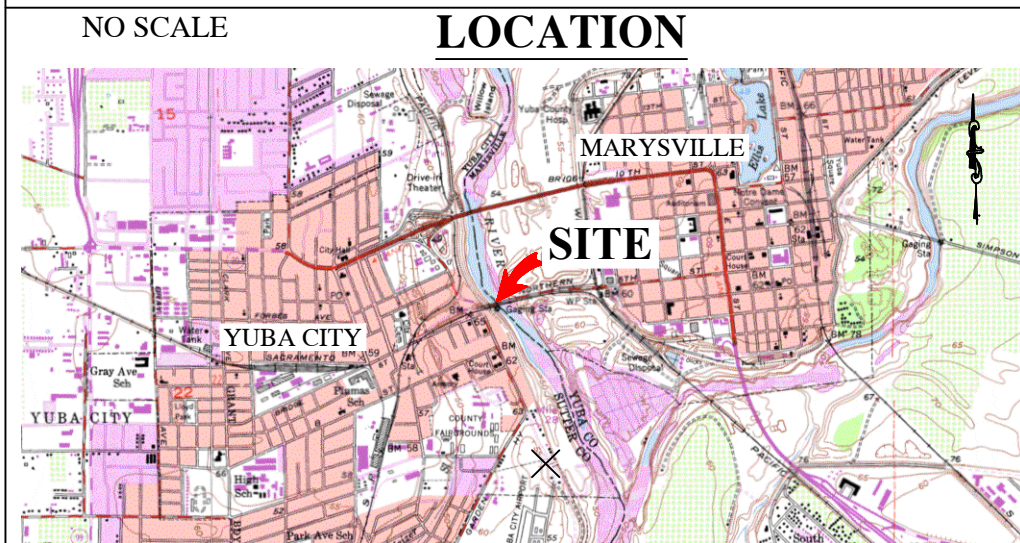


APPROVED AS TO DESCRIPTION

7-6-2017



2ND & 5TH STREET, YUBA CITY & RIVERFRONT PARK, CITY OF MARYSVILLE



MAP SOURCE: USGS QUAD

Exhibit B
 W 27117
 PACIFIC GAS AND ELECTRIC
 APN 52-490-002 &
 APN 010-141-002
 GENERAL LEASE -
 RIGHT - OF - WAY USE
 SUTTER & YUBA 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.