

# **STAFF REPORT**

**DATE:** May 9, 2022

**TO:** Sacramento Regional Transit Board of Directors

**FROM:** Olga Sanchez-Ochoa, General Counsel

**SUBJ:** ROSEVILLE ROAD SAFE PARKING PROGRAM

# RECOMMENDATION

Motion to Approve.

# RESULT OF RECOMMENDED ACTION

Modifying the Delegation of Authority to the General Manager/CEO to finalize a three-party lease agreement for a temporary safe parking program on a portion of the Roseville Road light rail station and adopt the City of Sacramento's Critical Infrastructure Ordinance will authorize the General Manager/CEO to enter into the 3-party lease agreement with the City of Sacramento and Caltrans, wherein the City will enforce its Critical Infrastructure Ordinance and any similar Critical Infrastructure Ordinance the SacRT Board may adopt to the fullest extent permitted by law within the City adopted Public Safety Zone (PSZ) at Roseville Road, but within which the City will not remove unauthorized campers outside of the critical infrastructure zone, unless the individual is engaged in unlawful behavior.

## FISCAL IMPACT

The agreement will be structured so that Sacramento Regional Transit District (SacRT) will incur no costs related to the City's use of the station, and the City will be legally obligated to fully indemnify SacRT to the maximum extent legally permitted.

## **DISCUSSION**

During the October 25, 2021 meeting, the SacRT Board voted to delegate authority to the GM/CEO to negotiate a three-party lease agreement with Caltrans and the City of Sacramento, contingent on Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) approvals. The Board adopted the Program Guidelines and an operational site map (Attachment A) which covers 110 SacRT parking stalls, and as laid out by the City will have room for 70 vehicles and up to 100 guests. Under the Lease, SacRT will be able to refer up to 10 individuals each month to the Roseville Road Safe parking site for temporary housing. However, if there is insufficient space, SacRT will work in conjunction with City staff to find space at other locations within the City. The October Board motion provided direction for staff to seek the largest possible Public Safety Zone that is legally defensible, with the understanding that encampments

and storing of personal property would be prohibited and the City would enforce the prohibition within the PSZ). During negotiations of the lease terms, the City advised that it could not remove unauthorized campers within the PSZ because doing so would violate the holding in the 9<sup>th</sup> Circuit Court decision *Martin v. Boise*. Additionally, Sacramento Police Department officers assigned to SacRT under SacRT's contract with the City advised SacRT's Police Services Department (RTPS) that they could not enforce the City's Critical Infrastructure Ordinance on SacRT's property and they said they would not be able to enforce it at Roseville Road once the 3-Party Lease was in place. This was a significant departure from the deal points the Board authorized the General Manager/CEO to pursue in the final lease.

On April 11, 2022 SacRT staff provided the Board with an informational update advising the Board that given the City's position, the Board would need to modify its delegation to the SacRT GM/CEO as the City could not guarantee enforcement of encampments in the nearby vicinity of the safe parking program site at Roseville Road. Following that Board meeting, the City and SacRT met to clarify the process of enforcement for the Public Safety Zone and Critical Infrastructure Ordinance.

On February 25, 2020, the City adopted a Critical Infrastructure Ordinance Pursuant to the Ordinance, the City Manager was vested with the obligation to bring a list of facilities within the City that are considered critical infrastructure under the Ordinance for the City Council's adoption. On July 20, 2021, the City Manager presented the City Council with his list of facilities that are critical infrastructure as defined in the Ordinance, which the City Council adopted by Resolution (Attachment B). The Resolution allows for "the protection of critical infrastructure and wildfire risk areas in the interests of public safety." Pursuant to Section 8.140.020 of the City Code, "critical infrastructure may include, but is not limited to, government buildings, such as fire stations, police stations, jails, or courthouses; hospitals; structures, such as antennas, bridges, roads, train tracks, drainage systems, or levees; or systems, such as computer networks, public utilities, electrical wires, natural gas pipes, telecommunication centers, or water sources." It is imperative that critical infrastructure across protected to ensure operational readiness and continuity of essential services during all hazards."

The Ordinance includes light rail tracks, bridges, station parking lots and platforms. The City can remove encampments established within 25 feet of critical infrastructure, or within 25 feet of a pedestrian or vehicular point of ingress to, or egress from, any and all of these locations. However, the City is currently not enforcing along SacRT's infrastructure, because they require permission from SacRT, as the owner of the property. The City has suggested that SacRT, adopt the City's Critical Infrastructure Ordinance to clarify it has permission to enforce on the premises owned by SacRT. Staff is bringing an item to the Board this evening, asking the Board to amend SacRT's Prohibited Acts Ordinance codified in Article XV of SacRT's Administrative Code. The amendment will result in the incorporation by reference of the City's critical infrastructure Ordinance into SacRT's Administrative Code.

Currently, SacRT enforces at our park-n-ride lots through our Prohibited Acts Ordinance which allows us, pursuant to the California Vehicle Code, to tag and tow vehicles that are illegally parked in our parking lot. That authority is limited and it does not grant us the ability to remove encampments from within 25' of critical infrastructure, even if we adopt

the City's Critical Infrastructure Ordinance. Therefore, if SacRT adopts the City's Ordinance, SacRT would still need for the City to remove encampments as SacRT does not have the authority, unless the trespasser is committing a crime SacRT's Legal Department and the City Attorney have had several discussions over the past two weeks and SacRT was assured by the City that because the City is leasing SacRT's light rail station and will be obligated under the lease to establish a PSZ, the City will be able to enforce both its Critical Infrastructure Ordinance and any similar Ordinance SacRT might adopt, within the PSZ. The City further agreed that it will indemnify SacRT for any claims that might arise as a result of the City's enforcement of the Critical Infrastructure Ordinance within the PSZ. This commitment on the City's part resolved many of the issues raised by SacRT Board members to SacRT staff and is more consistent with the scope of the agreement the Board authorized the General Manager/CEO to execute. However, it does not fully encompass the scope of the Board's delegation.

As noted above, the City plans to establish a PSZ in the vicinity of the Roseville Road Safe Parking program (Attachment C). While the majority of the PSZ is covered under the critical infrastructure ordinance, there are parts that do not. For these areas in the Public Safety Zone, the City has indicated they are able to provide enforcement of State and local laws to include those prohibiting public urination and defecation, obstructions to public rights-of-way, and other physical and social nuisances. This would include citing abandoned vehicles and those parked for over 72 hours in the same location. However, removal of unauthorized campers within those areas not covered under the critical infrastructure ordinance will be limited to instances in which the individuals are engaged in unlawful behavior. This is the key difference in what the Board authorized it its original delegation and what the City is able to agree to enforce.

The current lease language was pertaining to enforcement of the PSZ reads:

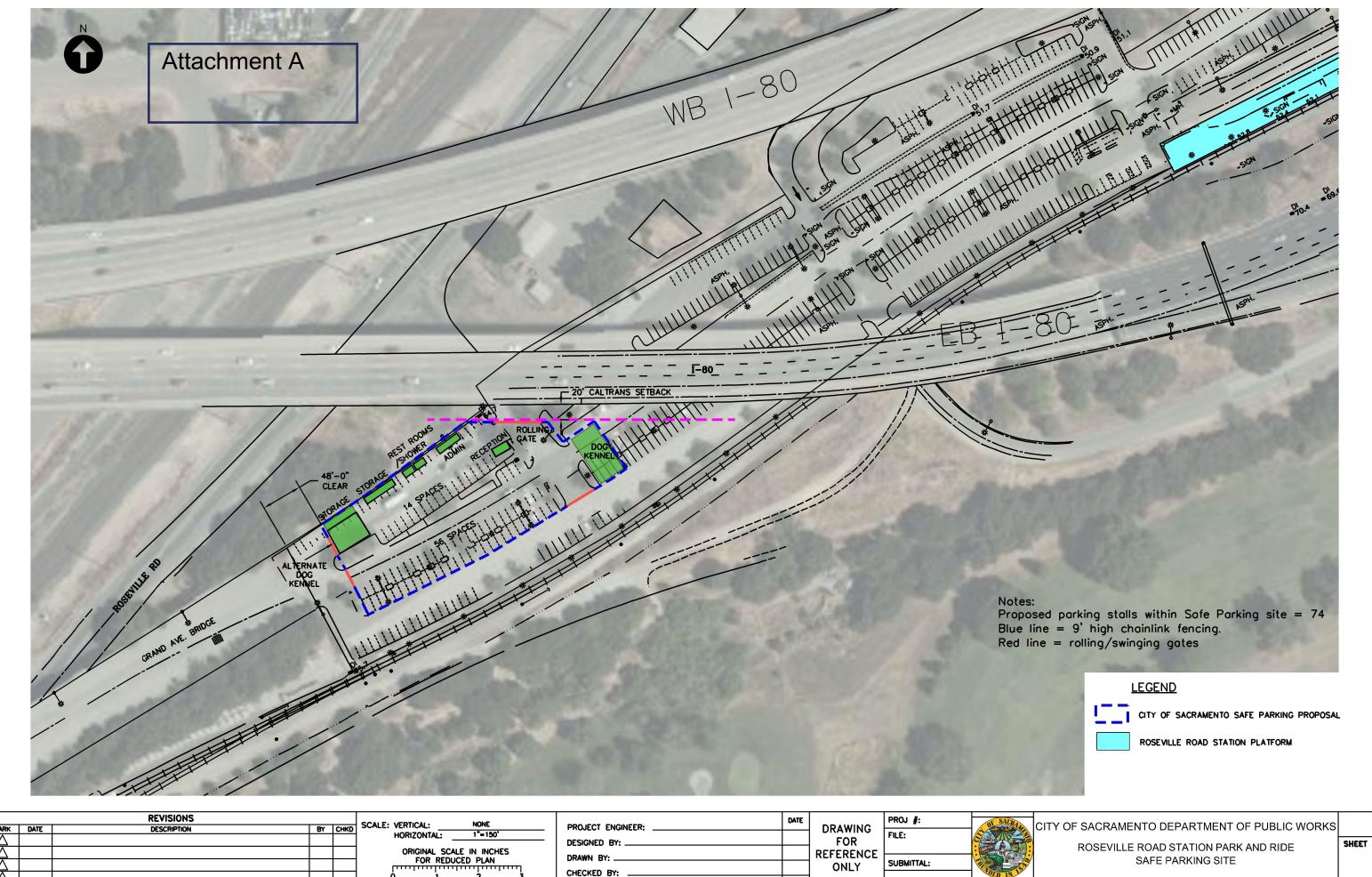
Tenant will establish a public safety zone encompassing areas within, and adjacent to, the Roseville Road Light Rail Station, and therein prioritize enforcement of laws that prohibit, without limitation, the establishment of encampments, urinating or defecating in public, obstructions of public right-of-way, and physical or social nuisances, Landlord (Caltrans) and Tenant (City of Sacramento) agree that the Sacramento City Code is fully operable within the boundaries of the public safety zone and expressly allows Tenant to enforce the Sacramento City Code upon the Landlord's property therein. Tenant will remove any homeless encampments that are established by the unhoused within the public safety zone to the fullest extent permitted by law and in accordance with Tenant's "Frequently Asked Questions for Responding to Homelessness" document (as it may be amended from time to time) which can be found at the following link: http://homeless.citvofsacramento.org/fags."

Staff has returned this evening to ask the Board to modify its delegation of authority to authorize the General Manager/CEO to enter into a lease with the City and Caltrans that limits the City's enforcement obligations and removal of unauthorized campers to those instances where the unauthorized camper is located within the 25' critical infrastructure envelope. While that standard covers approximately 85% of Roseville Road, it does not cover the entirety of the station.

To help with enforcement and to ensure issues are addressed quickly and to review monitoring metrics, the City, SacRT and Caltrans have agreed to weekly coordination meetings with the site operator. Included in the lease are monitoring metrics to ensure that the site is being properly operated and not impacted SacRT's service and ridership. Items being monitored include ridership, crime statistics, customer complaints, number of people served at the site and placed in permanent housing, and more.

During our recent discussions with the City, the City asked if SacRT would be willing to consider contributing to the operational costs for the shelter that will be established at Roseville Road by the City. SacRT staff advised the City that as a single purpose special district, SacRT's funding is restricted to fund transit operations and transit projects and that SacRT does not have discretionary funding that could be used to help fund the City's project. However, if the Board wishes to contribute to the operating costs for the Roseville Road Safe Parking Shelter, it could direct staff to seek out grant and other funding opportunities for which SacRT could apply and seek funding for this purpose.

SacRT is requesting that the SacRT Board of Directors modify the delegation of authority for the General Manager/CEO to execute the 3-party lease wherein the City agrees to enforce the Critical Infrastructure Ordinance to the fullest extent permitted under the law, but pursuant to which individuals who are within the PSZ, but who are not within the 25' envelope of the critical infrastructure zone, may be allowed to remain within SacRT's facilities.



ORIGINAL SCALE IN INCHES
FOR REDUCED PLAN

CHECKED BY: \_

SUBMITTAL:

ROSEVILLE ROAD STATION PARK AND RIDE SAFE PARKING SITE

# Attachment B



# **City Council Report**

915 I Street, 1st Floor Sacramento, CA 95814 www.cityofsacramento.org

**File ID:** 2021-00632 July 20, 2021 **Consent Item 04** 

Title: Critical Infrastructure List Resolution

Location: Citywide

**Recommendation:** Adopt a Resolution: 1) acknowledging receipt of the City Manager's memorandum, including the attached Critical Infrastructure List; 2) recognizing said Critical Infrastructure List as the complete listing of locations officially designated by the City Manager as "critical infrastructure" for purposes of Chapter 8.140 of the City Code; and 3) approving any and all locations on the Critical Infrastructure List as "critical infrastructure" for purposes of Chapter 8.140 of the City Code.

**Contact:** Daniel Bowers, Director of Emergency Management, (916) 808-1833, Office of the City Manager

Presenter: None

#### Attachments:

- 1-Description/Analysis
- 2-Summary Memorandum
- 3-Resolution
- 4-Critical Infrastructure List and Justifications

File ID: 2021-00632 Consent Item 04

# **Description/Analysis**

Issue Detail: The City Council adopted Ordinance No. 2020-0009 on February 25, 2020, which added Chapter 8.140 to the City Code for the protection of critical infrastructure and wildfire risk areas in the interests of public safety. Pursuant to Section 8.140.020 of the City Code, "critical infrastructure may include, but is not limited to, government buildings, such as fire stations, police stations, jails, or courthouses; hospitals; structures, such as antennas, bridges, roads, train tracks, drainage systems, or levees; or systems, such as computer networks, public utilities, electrical wires, natural gas pipes, telecommunication centers, or water sources." It is imperative that critical infrastructure across the City of Sacramento be protected to ensure operational readiness and continuity of essential services during all-hazards. Real property or a facility does not become "critical infrastructure" for the purpose of Chapter 8.140 until so designated by the City Manager and subsequently approved by the City Council through a resolution.

Following the passage of the Critical Infrastructure Ordinance, deliberate and thorough coordination was led by the City's Director of Emergency Management that brought together subject matter experts and stakeholders to recommend, justify, and validate key facilities and property parcels across the City to be designated as Critical Infrastructure by the City Manager, pursuant to direction received by City Council. Stakeholders and key leaders included both internal city staff and external partnering agencies, notably: Office of Emergency Management, Department of Utilities, Sacramento Fire Marshall, Sacramento Police, Public Works, Information Technology, and Sacramento Municipal Utility District (SMUD). Each component of critical infrastructure was additionally validated based on reference guidance from the Department of Homeland Security and Federal Emergency Management Agency. The approval of this critical infrastructure list will save lives, protect property, reduce maintenance costs, and bolster the City's resiliency to all-hazards affecting our community and region. The result is the Critical Infrastructure List.

The Critical Infrastructure List was developed over several months while city leaders and subject matter experts conducted a comprehensive assessment of facilities and property parcels that serve critical purpose to protect lives, property, and increase the resiliency of the City of Sacramento during all-hazards. The City Manager has issued a memorandum in which the locations on the Critical Infrastructure List are designated as "critical infrastructure" for purposes of Chapter 8.140 of the City Code. This matter is before the City Council for approval of the City Manager's designation.

**Policy Considerations:** Not applicable

**Economic Impacts:** Not applicable

File ID: 2021-00632 Consent Item 04

**Environmental Considerations:** This action is not a project that is subject to CEQA because it is an administrative activity that will not result in direct or indirect physical changes in the environment. (CEQA Guidelines §15378(b)(5).)

Sustainability: Not applicable

Commission/Committee Action: Not applicable

Rationale for Recommendation: The City Manager deems the locations on the Critical Infrastructure List to be vital and integral to the operation or functioning of the City. The City Manager further finds that their damage, incapacity, disruption, or destruction would have a debilitating impact on the public health, safety, or welfare. The approval of the Critical Infrastructure List will save lives, protect property, reduce maintenance costs, and bolster the City's resiliency to all-hazards affecting our community and region.

Financial Considerations: Not applicable

Local Business Enterprise (LBE): Not Applicable



Howard Chan City Manager City Hall 915 I Street, Fifth Floor Sacramento, CA 95814-2604 916-808-5704

# **MEMORANDUM**

**DATE:** July 20, 2021

TO: Mayor and City Council Members

**FROM:** Howard Chan, City Manager

SUBJECT: CRITICAL INFRASTRUCTURE SUMMARY

On February 25, 2020, the City Council adopted the Protection of Critical Infrastructure and Wildfire Risk Areas Ordinance (No. 2020-0009), which added Chapter 8.140 to the Sacramento City Code. "critical infrastructure may include, but is not limited to, government buildings, such as fire stations, police stations, jails, or courthouses; hospitals; structures, such as antennas, bridges, roads, train tracks, drainage systems, or levees; or systems, such as computer networks, public utilities, electrical wires, natural gas pipes, telecommunication centers, or water sources." (Sac. City Code, 8.140.020) The Ordinance recognizes the necessity for the City of Sacramento to ensure the operational readiness and continuity of essential services from certain real property and facilities during all-hazards.

The designation of a parcel or facility as "critical infrastructure" is a thoughtful and deliberate process. The City Manager designates a location as critical infrastructure, but the location becomes critical infrastructure for the purposes of Chapter 8.140 only after approval by the City Council.

Pursuant to direction received by City Council, the City's Director of Emergency Management brought together subject-matter experts and stakeholders to recommend, justify, and validate key parcels and facilities in the City to be designated as critical infrastructure by the City Manager. Stakeholders and key leaders included both internal city staff and external partnering agencies, notably:

- Office of Emergency Management
- Department of Utilities
- Sacramento Fire Marshal
- Sacramento Police
- Public Works
- Information Technology
- Sacramento Municipal Utility District (SMUD)

Each component of potential critical infrastructure was additionally validated, based on guidance from publicly available reference materials of the United States Department of Homeland Security and the Federal Emergency Management Agency regarding federally designated critical infrastructure. The result is the attached Critical Infrastructure List, which was developed over several months as city leaders and subject-matter experts conducted a comprehensive assessment of facilities and property parcels that serve critical purpose to preserve public safety.

Therefore, as City Manager, I designate any and all locations on the Critical Infrastructure List as "critical infrastructure" for the purposes of Chapter 8.140 of the Sacramento City Code. The locations on the Critical Infrastructure List are so vital and integral to the operation or functioning of the City of Sacramento that their damage, incapacity, disruption, or destruction would have a debilitating impact on the public health, safety, or welfare.

RESOLUTION NO.	i
----------------	---

# Adopted by the Sacramento City Council

July 20, 2021

Resolution Approving City Manager's Designation of Specified Locations as Critical Infrastructure for Purposes of Chapter 8.140 of the City Code

## **BACKGROUND**

- A. The City Council adopted Ordinance No. 2020-0009 on February 25, 2020, which added Chapter 8.140 to the City Code for the protection of critical infrastructure and wildfire risk areas in the interests of public safety.
- B. Pursuant to Section 8.140.020 of the City Code, "[c]ritical infrastructure may include, but is not limited to, government buildings, such as fire stations, police stations, jails, or courthouses; hospitals; structures, such as antennas, bridges, roads, train tracks, drainage systems, or levees; or systems, such as computer networks, public utilities, electrical wires, natural gas pipes, telecommunication centers, or water sources."
- C. Real property or a facility does not become "critical infrastructure" for the purpose of Chapter 8.140 until so designated by the City Manager and subsequently approved by the City Council through a resolution.
- D. On November 12, 2020, the City Manager issued the Critical Infrastructure Summary Memorandum ("Memorandum") to the City Council. The Memorandum includes an attached Critical Infrastructure List, which contains locations that have been designated "critical infrastructure" by the City Manager for purpose of Chapter 8.140.
- E. The City Manager deems the locations on the Critical Infrastructure List to be so vital and integral to the operation or functioning of the City of Sacramento that their damage, incapacity, disruption, or destruction would have a debilitating impact on the public health, safety, or welfare.
- F. Pursuant to direction received by City Council, the City's Director of Emergency Management brought together subject-matter experts and stakeholders to recommend, justify, and validate key parcels and facilities in the City to be designated as critical infrastructure by the City Manager. Stakeholders and key leaders included both internal city staff and external partnering agencies. The process also included consideration of publicly available reference materials of the United States Department of Homeland Security and the Federal Emergency Management Agency regarding federally designated critical infrastructure.

# BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Council acknowledges receipt of the City Manager's Critical Infrastructure Summary Memorandum of November 12, 2020, including the attached Critical Infrastructure List.
- Section 2. The City Council recognizes said Critical Infrastructure List as the complete listing of locations officially designated by the City Manager as "critical infrastructure" for purposes of Chapter 8.140 of the City Code.
- Section 3. The City Council hereby approves any and all locations on said Critical Infrastructure List as critical infrastructure for purposes of Chapter 8.140 of the City Code.

2021 City of Sacramento Critical Infrastructure List										
Vulnerable Population Sites	Government Oper	rations	Utilities	Healthcare	Public Safety		Transportation	Gathering Areas		
Adult Residential (parcel)	City Hall (facility)		Air Release Station (parcel)	General Acute Care Hospital (parcel)	,		rport (parcel)	Sports Arenas (facility)		
Child Care (parcel)			Booster Station (parcel)	Medical Health Facility (parcel)	Jail (facility)			College/University (facility)		
			Dewatering Station (parcel)	(,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Police Stations (parcel)			Convention Center (facility)		
Navigation Centers (parcel)	City Corporate Yards (parcel)		Storage Facility (parcel)		Fiber and Communication Network (faci		ain Station (facility)	Community Centers (facility)		
0 11 /	Community Centers (facility)		Sump Station (parcel)		Evacuation Shelters (facility)	- 11	tht Rail Tracks	7 ( 7)		
			Treatment Plant (parcel)			Rai	il Lines			
			Turnout (parcel)			Bri	idges (facility)			
			Drainage Canals (parcel)				-			
			Levees (parcel)							
			Potable Wells (parcel)							
			Rivers/Creeks							
			SMUD Power Infrastructure (Facilities)							
			PG&E Gasline Infrastructure							
External County Data										
Internal City Data										
Other External Data										
Critical Infrastructure List an	d Justifications				10/15/2020					
LIST INTRODUCTION CONTROL										
Air Release Station		portion o	ise valves are appurtenances lo of the piping of an air release va throughout Sacramento within (	alve is above ground. There a	mains throughout the City. A are over 650 air release valves	These facilities are located within City ROW or easements.				
Booster Station		One pot	able water booster pump statio	n exists within the City of Sac		4299 A	Astoria Street			
Booster Citation			t maintains the pressure in a his ells are installed to prevent leve			The wells are in leasted within levels				
			under-seepage during high riv			The wells are in located within levee's which are within City R/W. Some wells may				
Dewatering station			eakness in the levee and failur		t like valves to relieve the	be in other agencies R/W therefore DOU				
							will have an operation and maintenance agreement with those agencies.			
		This includes key locations where governance is conducted, and support to the community is					These facilities can be on a parcel or part of			
Government Operations	ŀ	administrered from. This oft includes administration buildings where plans, procedures, and fees				another critical facility				
			may be processed; additionally, this can include locations that host community services, such as: sheltering, childcare, youth programs, etc.							
			The City currently has 16 water storage facilities: 11 distributed storage tanks located throughout					The storage facilities, or reservoirs, are		
Storage Facility th		he City, and five clear wells located at the water treatment plants (three at the SRWTP and two at					facilities and are located at 14 different			
		the FWTP). One additional storage facility is under construction and will be in service in 2021. The storage facilities, or reservoirs, store water and pump water into the transmission main system for					sites.			
			distribution into neighborhoods, mostly during periods of high demands.							
			rater and drainage is collected i	Sump are facilities and are located on city						
lower elevation which is a sump station. At the sump station Sump Station pipe that conveys wastewater to a treatment plant for the								owned parcels		
Cump Citation		is pumped to a force main pipe that conveys the water to creeks and rivers. These facilities are								
		essential to prevent flooding during rain events and to reduce sewer outflows.								
			The City treats surface water diverted from the Sacramento and American Rivers through the Sacramento River Water Treatment Plant and the E.A. Fairbairn Water Treatment Plant. These					The WTPs are facilities and are located at 301 Water Street and 7501 College Town		
Treatment Plant		two water treatment plants provides 80% of the annual potable water supply for the City of					Drive.			
		Sacramento and wholesale customers.					There for the second se			
Turnout							These facilities are located within City ROW or easements.			
		City right-of-way. The turnouts/interties are used for emergency water supply.					or cassinonia.			
							these facilities are located over long			
Drainage Canals ir		urban areas to receiving waterways. Channels can have multiple pump stations pumping flows into them. It's critical to maintain channel side slope integrity to prevent erosive action. Failure in					stretches and pass through multiple neighborhoods			
		channels/canals can lead to significant flooding for large areas of the city.				neighborhoods				
			protect the Sacramento area fr					acramento have flood		
							control easements along			
Levees						rivers/creeks/streams. Levees are not typically on a single parcel or within the right-				
					(00)	of-way				
						Potable wells are facilities and are located at 28 city owned parcels throughout				
Potable Wells		American River. Two additional wells are currently under construction south of the American					mento.			
		River. Groundwater wells provides 20% of the annual potable water supply for the City of Sacramento and wholesale customers.								
					stem as they pass storm flows	Rivers	and Creeks tra	verse through or are		
Rivers/Creeks		from distant areas through our city as well as collect drainage from city neighborhoods. The City is								
		protected from high flows in rivers and streams by the levee systems that border these water coarses. Maintaining levees per guidelines is mandated by regulating State and Federal								
		agencies. Access for monitoring during high flows is critical. Failure of this asset can lead to								
	ı	catastro	phic flooding in our City							
SMLID Dower Infrastructure		SMUD provides electrical service to DOU Water, Wastewater, and Drainage facilities. Loss of			These facilities are typically on a parcel associated with a critical facility					
SMUD Power Infrastructure		SMUD service may result in potential flooding, sanitary sewer overflows, and no water production and treatment.			associated with a chilical facility					
			rovides gas service to DOU W					ically on a parcel		
PG&E Gas line infrastructure			ervice may result in potential flooding, sanitary sewer overflows, and no water production and eatment.			associated with a critical facility				

Fire Stations	Fire Stations provide critical services for fire and emergency medical responses in our city and community. If there is a disruption of service, due to the fire department's inability to access or leave from the location, or damage to the station, the city and community would suffer due to delays in emergency response.	These facilities are typically on a parcel associated with a critical facility
Police Stations and Facilities	Police Stations and Facilities are critical to the safety of the community as they house dispatch communication, peace officers, their vehicles, and equipment. If those facilities are damaged or prevented from being used, it would negative impact the Police Departments ability to provide community services, thereby threatening the safety of our City.	These facilities are typically on a parcel associated with a critical facility
Gathering Areas	area, which have historically been ideal targets for extremist and terror attacks. Gathering areas	Typically just the facility is critical and the parcel consists of parking lots and/or additional business enterprise.

