

STAFF REPORT

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10/24/19
Lease 4057.1
A2096
S. Avila

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**ACCEPTANCE OF LEASE QUITCLAIM DEED AND
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

William F. Cronk III and Janet M. Cronk, Co-Trustees of the Cronk Revocable Trust, dated December 30, 1981

APPLICANT:

The Trustees of RSF 2010 West Lake Boulevard Trust

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2010 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys previously authorized by the Commission, and one existing mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years beginning October 24, 2019.

CONSIDERATION:

\$1,985 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission.

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- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreational uses.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On May 24, 2012, the Commission authorized a 10-year General Lease – Recreational Use for the continued use and maintenance of two existing mooring buoys previously authorized by the Commission, and the reconstruction and expansion of an existing pier, removal of 24 existing double pilings and replacement with 20 steel pilings and an adjustable catwalk to William F. Cronk III and Janet M. Cronk, Co-Trustees of the Cronk Revocable Trust, dated December 30, 1981 ([Item C41, May 24, 2012](#)). That lease will expire on May 23, 2022.

On February 7, 2017, the Commission authorized an amendment of the lease to revise the rent and replace the lease exhibits ([Item C21, February 7, 2017](#)).

On July 20, 2018, William F. Cronk III and Janet M. Cronk, Co-Trustees of the Cronk Revocable Trust, dated December 30, 1981 transferred their interest in the upland parcel to The Trustees of RSF 2010 West Lake Boulevard Trust. The Applicant is applying for a General Lease-Recreational Use for the continued use and maintenance of the existing pier and two mooring buoys previously authorized by the Commission, and one mooring buoy not previously authorized by the Commission. The Applicant has a current TRPA permit for the three mooring buoys.

The Lessee executed a quitclaim deed releasing their interest in the General Lease – Recreational Use. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease.

The anchor for the previously unauthorized mooring buoy has existed in the lake for many years, but was only used for placement of a buoy float during periods of low water levels at the lake. At these times, the most landward buoy float was moved to the most lakeward buoy anchor, with only two buoys in use at any given time. TRPA is registering provisional buoys to be used in these circumstances. Because rent is current for the

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pier and two mooring buoys, staff recommends acceptance of compensation in the amount of \$476 for the unauthorized occupation of state land by the third mooring buoy from the date of transfer (July 20, 2018) through the day before the new lease begins (October 23, 2019).

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and three mooring buoys are used for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. Because a portion of the pier lies within the Public Trust easement, the prior Lessee was required to provide for public passage around the pier by installing stairs on each side of the pier, and installing signage stating that the public could pass and repass over or under the pier. Although the prior Lessee did not install stairs, the Applicant has installed permanent signage to indicate permission to pass and repass over the pier. In addition, the Applicant has provided evidence of adequate clearance to pass below the pier within the Public Trust easement even at varying lake levels.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust consistent uses. 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 proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

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 Public Trust Doctrine; and is in the best interests of the State.

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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. If the Commission denies the application, the Applicant may be required to remove the pier and three mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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 and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. On October 24, 2018, the TRPA's Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. 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).

5. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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

EXHIBITS:

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

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities, California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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 lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective October 24, 2019, of Lease No. PRC 4057.1, a General Lease – Recreational Use, issued to William F. Cronk III and Janet M. Cronk, Co-Trustees of the Cronk Revocable Trust, dated December 30, 1981.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 24, 2019, for a term of 10 years, for the continued use and maintenance of an existing pier and two mooring buoys previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission, 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 \$1,985, with an annual Consumer Price Index adjustment; acceptance of compensation in the amount of \$476 for the unauthorized occupation of state-owned land; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4057.1

LAND DESCRIPTION

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 24, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to those parcels described in Grant Deed recorded July 20, 2018 as Document Number 2018-0052118-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s)

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 2 through 4 – BUOYS

Three circular parcels of land, being 50 feet in diameter, underlying three existing buoys lying adjacent to those parcels described in Grant Deed recorded July 20, 2018 as Document Number 2018-0052118-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/12/2019 by the California State Lands Commission Boundary Unit.



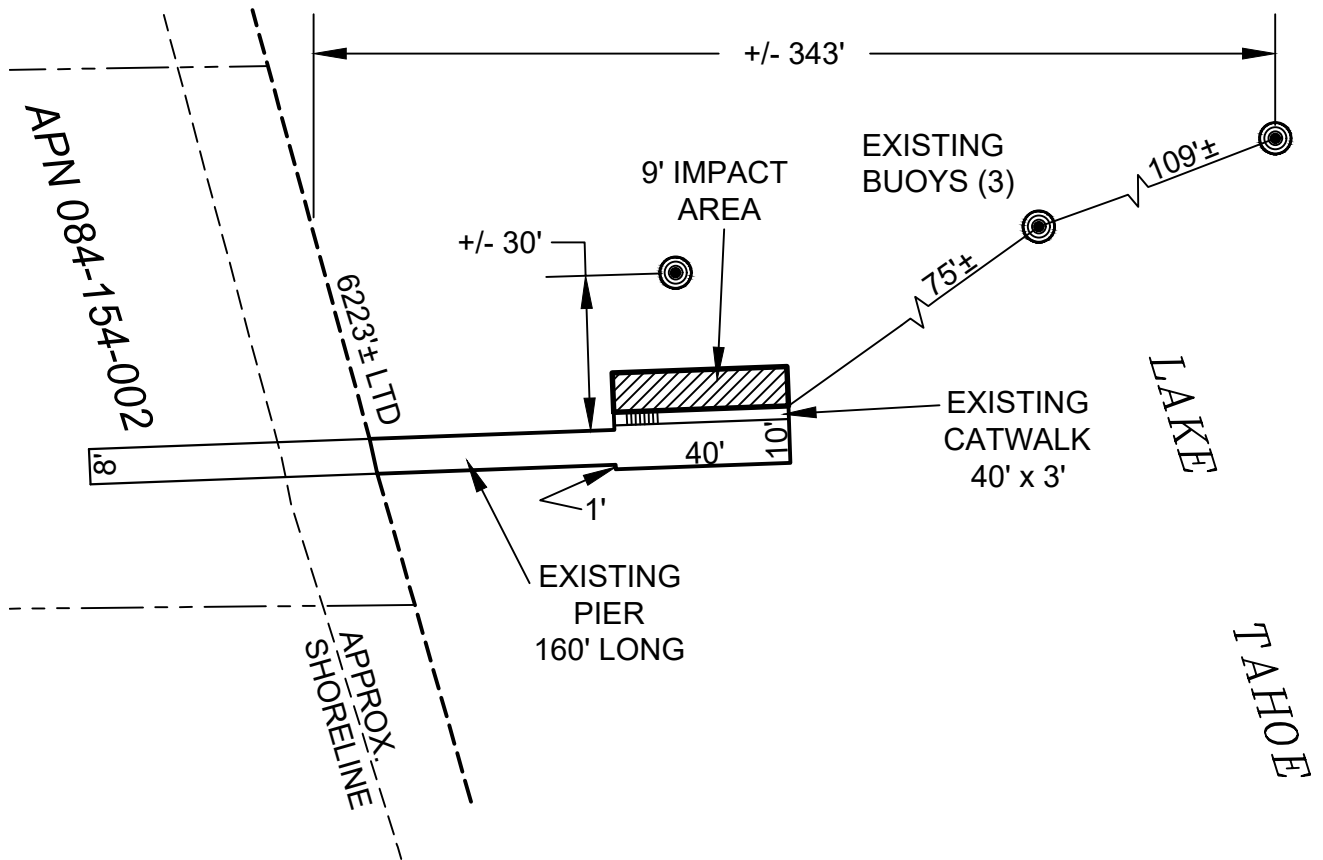


EXHIBIT A

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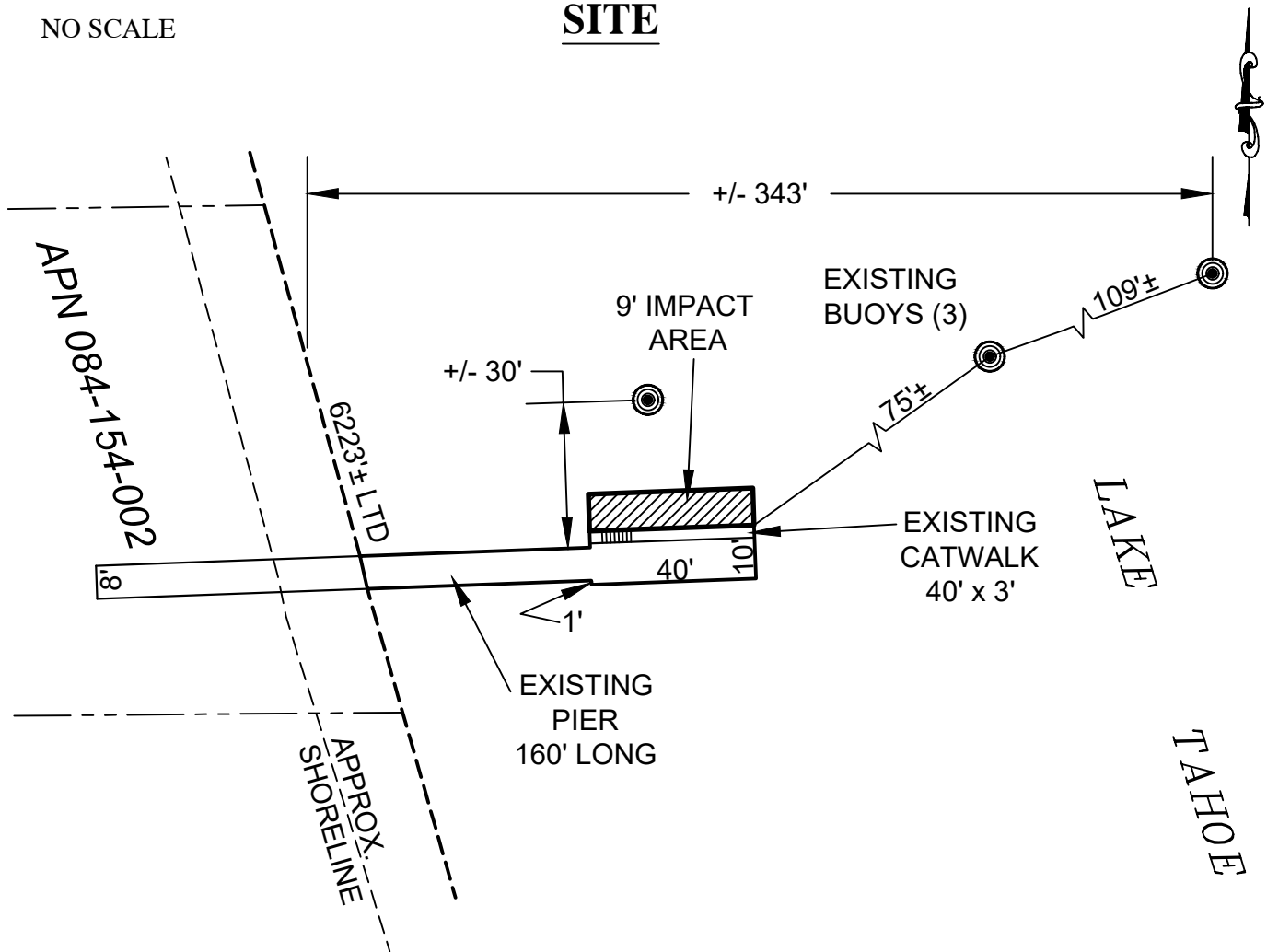
LAND DESCRIPTION PLAT
LEASE 4057.1, RSF 2010 WEST LAKE
BOULEVARD TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

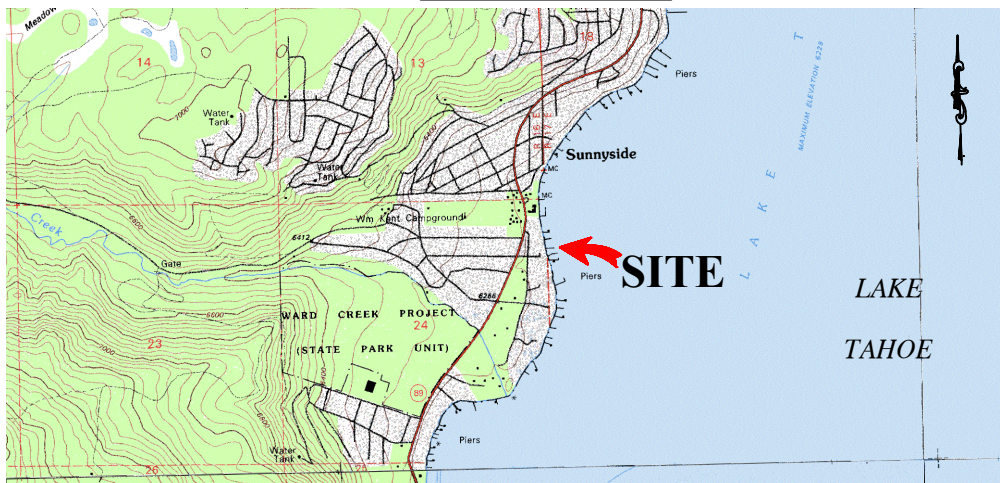
SITE



2010 WEST LAKE BOULEVARD, TAHOE CITY

NO SCALE

LOCATION

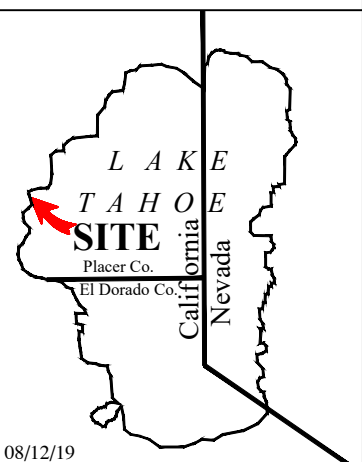


MAP SOURCE: USGS QUAD

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 4057.1
RSF 2010 WEST LAKE
BOULEVARD TRUST
APN 084-154-002
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY



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