

STAFF REPORT

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10/24/19

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M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

KJM Holdings, LLC, a California limited liability company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8726 Brockway Vista Avenue, near Kings Beach, Placer County.

AUTHORIZED USE:

Proposed pier modification and installation of safety railings, three bumpers, ladder, and stairs; and use and maintenance of an existing pier and two existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning October 24, 2019.

CONSIDERATION:

\$1,316 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 shall not store any personal items or construct any improvements in the Public Trust easement that may impair public uses for access, navigation, fishing, and lake-related recreational uses.
- 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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- The lease provides that the public will be allowed to pass and re-pass by stairs on each side of the pier and signs will be posted on each side of the pier to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum.

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:

The Applicant is applying for a General Lease – Recreational Use for a proposed pier modification and installation of safety railings, three bumpers, ladder, and stairs; and use and maintenance of an existing pier and two existing mooring buoys. The Applicant has current TRPA permits for the two mooring buoys and the proposed modification of the existing pier to install safety railings, three bumpers, a ladder, and stairs to accommodate public access. The Applicant's pier and mooring buoys have been in Lake Tahoe for many years but were not previously authorized by the Commission.

The proposed pier modification and installation of safety railings, three bumpers, ladder, and stairs will not change the length of the pier. The proposed project will be performed on-site with access to the site from a barge or amphibious vehicle on the lake. The bumpers and ladder will be installed using a fence-post style driver and spikes will be welded to the bottom piles. Mounting brackets and the ladder will be attached to the sides of the wooden joist with 0.5-inch machine bolts. The stairway will be bolted to the existing wood stringer and steel piling. No construction materials will be stored on the shoreline.

The proposed pier modification will take place after all required approvals have been obtained. The Applicant will follow all construction methods and timeframes provided by TRPA, Lahontan Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers.

The subject improvements facilitate recreational boating. 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).

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The proposed pier modification will allow public access laterally across the shoreline. The topography and the location of upland structures provides access for the pier and the public may navigate or walk across the pier via stairs on each side of the pier within the Public Trust easement. The mooring buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

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.

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 does not substantially interfere with the common law Public Trust Doctrine at this location, at this time, and for the foreseeable term of the 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. If the Commission denies the application, the Applicant may be required to remove the pier and existing 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.

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3. Staff recommends that the Commission find that this activity 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 14, section 15301.

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

APPROVALS OBTAINED:

Tahoe Regional Planning Agency
U.S. Army Corps of Engineers

FURTHER APPROVALS REQUIRED:

California Department of Fish and Wildlife
Lahontan Regional Water Quality Control Board

EXHIBITS:

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

RECOMMENDED ACTION:

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 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 24, 2019, for a term of 10 years, for a proposed pier modification and installation of safety railings, three bumpers, ladder, and stairs; and use and maintenance of an existing pier and two existing mooring buoys not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for

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reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,316, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 27144

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 19, Township 16 North, Range 18 East, M.D.B.&M., as shown on Official Government Township Plat approved January 2, 1875, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier lying adjacent to that parcel as described in Grant Deed recorded April 5, 2018 in Document Number 2018-0023053-00 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.

PARCELS 2 and 3 – BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel as described in Grant Deed recorded April 5, 2018 in Document Number 2018-0023053-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 09/04/2019 by the California State Lands Commission Boundary Unit.



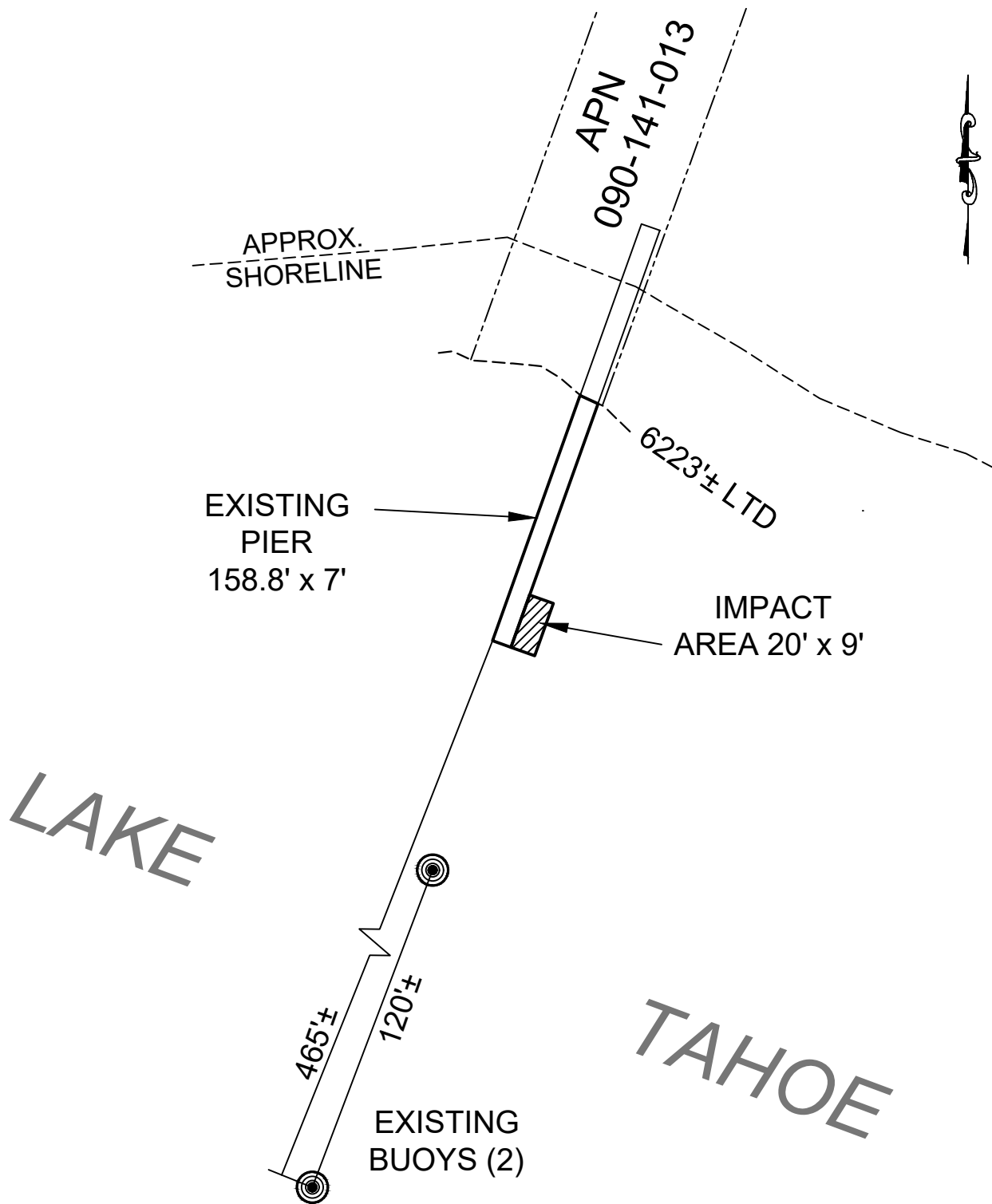


EXHIBIT A

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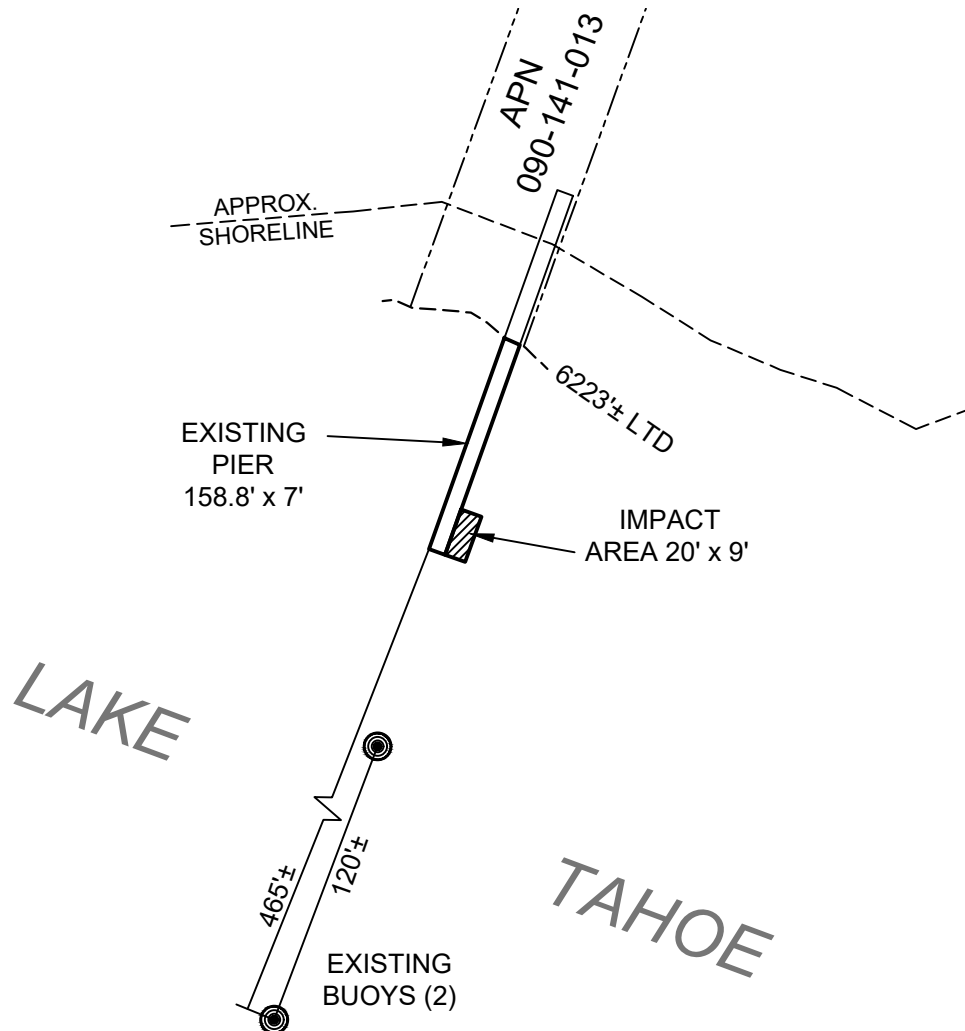
LAND DESCRIPTION PLAT
W 27144, KJM HOLDINGS, LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

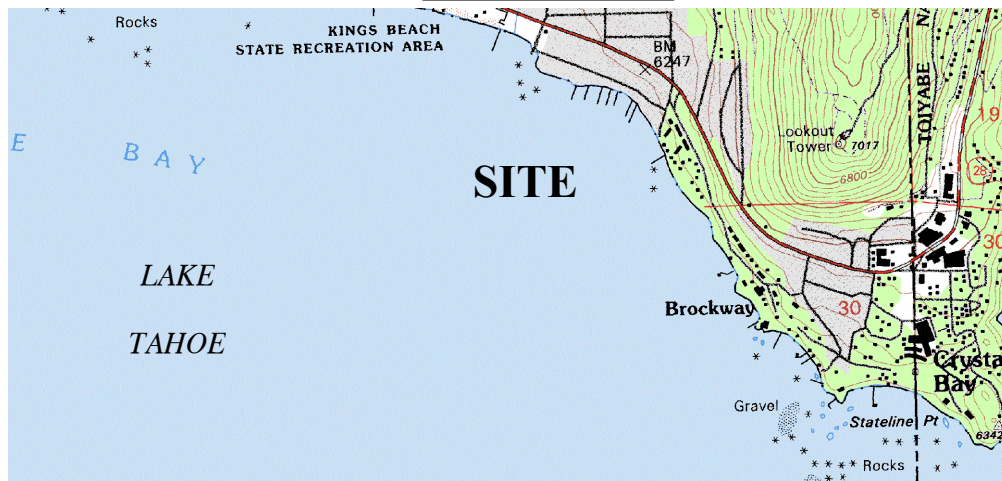
SITE



8726 BROCKWAY VISTA AVE., KINGS BEACH

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

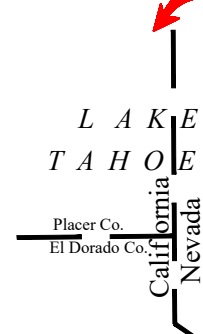
W 27144

KJM HOLDINGS, LLC

APN 090-141-013

GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



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