

STAFF REPORT

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10/24/19
Lease 7277.1
A2073
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**CONSIDER WAIVER OF RENT, PENALTY, AND INTEREST AND TERMINATION
AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

David A. Olson and Lynn D. Olson, as Trustees of the Olson Family Trust, as Amended and Restated in 2001, dated January 3, 2001

APPLICANT:

L. Tim Rochford and Carol Rochford

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1340 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, two boathouses, three boat lifts, and one boat hoist.

LEASE TERM:

10 years, beginning October 24, 2019.

CONSIDERATION:

\$3,320 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 the public uses of access, navigation, fishing, and lake-related recreational uses.

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- The lease provides that the public will be allowed shoreline access to the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum, by passing through the upland parcel.

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 June 29, 2015, the Commission authorized a General Lease – Recreational Use for an existing pier, two boathouses, three boat lifts, and one boat hoist to David A. Olson and Lynn D. Olson, as Trustees of the Olson Family Trust, as Amended and Restated in 2001, dated January 3, 2001 ([Item C42, June 29, 2015](#)). The lease will expire on January 6, 2025.

On August 7, 2018, ownership of the upland property was deeded to L. Tim Rochford and Carol Rochford. The Applicant is applying for issuance of a new lease for the continued use and maintenance of the existing facilities.

Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the upland property and pier without notifying staff and executing a lease quitclaim deed. The Lessee paid the invoice that was issued to them before the transfer of their property, which was erroneously issued to cover a lease term ending on December 31, 2018 (instead of January 6, 2019). Staff sent an annual rent invoice to the Lessee for the 2019 lease period that the Lessee did not pay. Staff believes it is not in the State's best interests to pursue the collection of rent, penalty, and interest from the Lessee for the period of January 1, 2019, through December 31, 2019, since they were no longer the upland owners as of August 7, 2018, and the Applicant already agreed to payment of compensation for the unauthorized occupation of State land during this time.

Staff recommends that the Commission accept compensation for the unauthorized occupation of State land from the Applicant in the amount of \$2,692 for the period beginning January 1, 2019 (the first day of unpaid rent), through October 23, 2019 (the day before the effective date of the new lease).

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The facilities are used for

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the docking and mooring of boats and 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).

The subject facilities have existed for many years at this location. The pier is built on pilings; however, a rock crib occupies a portion of the area underneath the pier within the Public Trust easement. Public access for pedestrians and lake-related activities is available at varying water levels underneath the pier and by passing through the upland parcel. The immediate area of the existing pier is a flat beach with small rocks. On August 5, 2019, the Tahoe Regional Planning Agency (TRPA) issued a permit for the moorings. The Applicant's TRPA permit is currently valid.

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 is consistent with the common law Public Trust Doctrine and 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, two boathouses, three boat lifts, and one boat hoist 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 renew 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

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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 Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Termination of the lease 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 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 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

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 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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the

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

AUTHORIZATION:

1. Waive annual rent, penalty, and interest due for the period of January 1, 2019, through December 31, 2019, and void annual rent invoice #46296 created on November 7, 2018, and issued to David A. Olson and Lynn D. Olson, as Trustees of the Olson Family Trust, as Amended and Restated in 2001, dated January 3, 2001.
2. Authorize termination, effective August 6, 2018, of Lease No. PRC 7277.1, a General Lease – Recreational Use, issued to David A. Olson and Lynn D. Olson, as Trustees of the Olson Family Trust, as Amended and Restated in 2001, dated January 3, 2001.
3. Authorize acceptance of compensation from the Applicant in the amount of \$2,692 for the unauthorized occupation of State land for the period beginning January 1, 2019, through October 23, 2019.
4. 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, two boathouses, three boat lifts, and one boat hoist, 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 \$3,320, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 7277.1

LAND DESCRIPTION

A parcel of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 18, Township 15 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, more particularly described as follows:

All those lands underlying an existing pier with rock crib, three catwalks and two boat houses with two boat lifts and boat hoist lying adjacent to that parcel described in Grant Deed recorded August 7, 2018 as Document Number 2018-0056769-00 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.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 05/17/2019 by the California State Lands Commission Boundary Unit.



APN
083-162-012

Approx.
Shoreline

TAHOE

EXISTING
PIER WITH
ROCK CRIB
7' x 188'

EXISTING
CATWALK
27' x 2'

IMPACT
AREA

EXISTING
BOATHOUSE
25' x 30'
WITH TWO
BOAT LIFTS

EXISTING
PIER WITH
ROCK CRIB
8' x 42'

EXISTING
CATWALK
2' x 44'

9' IMPACT
AREA

EXISTING
CATWALK
3.5' x 48'

EXISTING
BOATHOUSE
35' x 50'
WITH BOAT HOIST
& BOAT LIFT

EXISTING
ROCK CRIB
10' x 12'

6223' ± LTD

LAKE

EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 7277.1, ROCHFORD
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



