

**STAFF REPORT  
07**

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02/28/20  
Lease 8669.1  
M. J. Columbus

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Lorraine K. Furchner Howard, Trustee, or her successors in trust, of the LKFH Trust, under The Furchner Family Revocable Living Trust of 1994, dated February 23, 1994; and Nicholas Allen Furchner, Trustee, or his successors in trust, of NAF Trust, under The Furchner Family Revocable Living Trust of 1994, dated February 23, 1994

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 3250 Edgewater Drive, near Tahoe City, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of two existing mooring buoys.

*LEASE TERM:*

10 years, beginning February 28, 2020.

*CONSIDERATION:*

\$754 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 provide proof of a Tahoe Regional Planning Agency (TRPA) permit and registration for all moorings, or proof that any unregistered and unpermitted mooring(s) have been removed on or before October 23, 2020.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

## STAFF REPORT NO. 07 (CONT'D)

- 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 recreation.

### **STAFF ANALYSIS AND RECOMMENDATION:**

#### **Authority:**

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

#### **Public Trust and State's Best Interests Analysis:**

On April 17, 2006, the Commission authorized a Recreational Pier Lease for the retention of two existing mooring buoys to Theodore A. Furchner and Patricia G. Furchner, As Trustees of The Furchner Family Revocable Living Trust of 1994 ([Item C03, April 17, 2006](#)). That lease expired on March 31, 2016. On April 1, 2019, the upland property was deeded to the Applicant. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of two existing mooring buoys.

Staff recommends issuance of a new lease beginning February 28, 2020. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$688 for period beginning April 1, 2019, through February 27, 2020, the day before the new lease becomes effective.

The Applicant owns the uplands adjoining the lease premises. The facilities are privately owned and maintained. The subject facilities are used for 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 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 and restore the lease premises to their original condition.

STAFF REPORT NO. 07 (CONT'D)

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 two 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.
3. On October 24, 2018, the TRPA Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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

STAFF REPORT NO. 07 (CONT'D)

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

**AUTHORIZATION:**

1. Authorize acceptance of compensation from the Applicant in the amount of \$688 for the unauthorized occupation of State land for the period beginning April 1, 2019, through February 27, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant, for a term of 10 years, for the continued use and maintenance of two existing mooring buoys, 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 \$754, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 8669.1**

**LAND DESCRIPTION**

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 33, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

**PARCEL 1 & 2 – BUOYS**

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded April 1, 2019 in Document Number 2019-0019773-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 01/22/2020 by the California State Lands Commission Boundary Unit.



NO SCALE



APN  
093-094-001

APN  
093-094-016

APPROX.  
SHORELINE

235'±



LAKE

88'±

TAHOE

EXISTING  
BUOYS (2)



EXHIBIT A

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LAND DESCRIPTION PLAT  
LEASE 8669.1, FURCHNER TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

### SITE

APN  
093-094-001

APN  
093-094-016

APPROX.  
SHORELINE

235'±

88'±

LAKE

TAHOE

EXISTING  
BUOYS (2)

3250 EDGEWATER DRIVE, TAHOE CITY

NO SCALE

### LOCATION

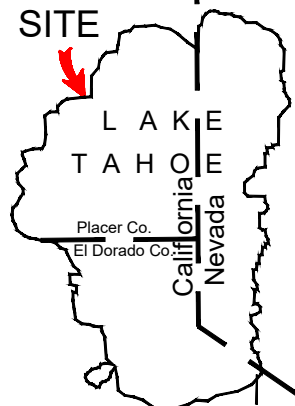


MAP SOURCE: USGS QUAD

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 8669.1  
FURCHNER TRUST  
APNs 093-094-001 & 016  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY



TS 01/22/2020