

**STAFF REPORT
06**

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04/29/20
Lease 4248.1

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S. Avila

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

LESSEE/APPLICANT:

Johnson L. Chiao and Diana W. Chiao, Trustees of the Johnson L. and Diana W. Chiao Trust created by Declaration of Trust dated October 7, 2007

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3870 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Reconstruction, use, and maintenance of an existing pier and two mooring buoys.

LEASE TERM:

10 years beginning April 29, 2020.

CONSIDERATION:

\$1,180 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 the Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the

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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, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On October 19, 2012, the Commission authorized a rent-free 10-year General Lease – Recreational Use for the continued use and maintenance of an existing pier previously authorized by the Commission, and the use and maintenance of two existing mooring buoys not previously authorized by the Commission, to Johnson L. Chiao and Diana W. Chiao, Trustees of the Johnson L. and Diana W. Chiao Trust created by Declaration of Trust dated October 7, 2007 ([Item C11, October 19, 2012](#)). That lease will expire on October 18, 2022.

The Applicant is applying for a new lease for reconstruction of the existing pier and for the continued use and maintenance of the two mooring buoys. The Applicant registered the moorings with TRPA (Permit No. 10641). Staff recommends acceptance of a lease quitclaim deed and authorization of a new General Lease – Recreational Use.

The proposed pier reconstruction includes replacement of the pier decking, cross beams, and hand railing with new materials within the same footprint. No piling removal is proposed and all work will be done above the water surface. The installation of new prefabricated steel components, decking, and lighting will utilize portable equipment and manual labor. The proposed project will be performed on-site with access to the site primarily from the lake by a barge moored adjacent to the pier structure. Construction will take place after all required approvals have been obtained. The Applicant agrees to 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 Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and two mooring buoys are used for 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

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as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The facilities have existed for many years at this location. The pier is built on single pilings with the immediate area of the pier being flat with sand and pebbles. Nothing will change with the reconstruction. The topography and location of upland structures allows for public access for pedestrians and lake-related activities at varying water levels underneath the pier. The 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 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.

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 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

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

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

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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 April 28, 2020, of Lease No. PRC 4248.9, a General Lease – Recreational Use, issued to Johnson L. Chiao and Diana W. Chiao, Trustees of the Johnson L. and Diana W. Chiao Trust created by Declaration of Trust dated October 7, 2007.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 29, 2020, for a term of 10 years, for the continued use and maintenance of two existing mooring buoys; and reconstruction of an existing pier, 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 \$1,180, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4248.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 28, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier lying adjacent to that Parcel as described in that Quitclaim Deed recorded October 28, 2007 in Document Number 2007-0102649 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 & 3 – BUOYS

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that Parcel as described in said Quitclaim Deed.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 21, 2020 by the California State Lands Commission Boundary Unit.



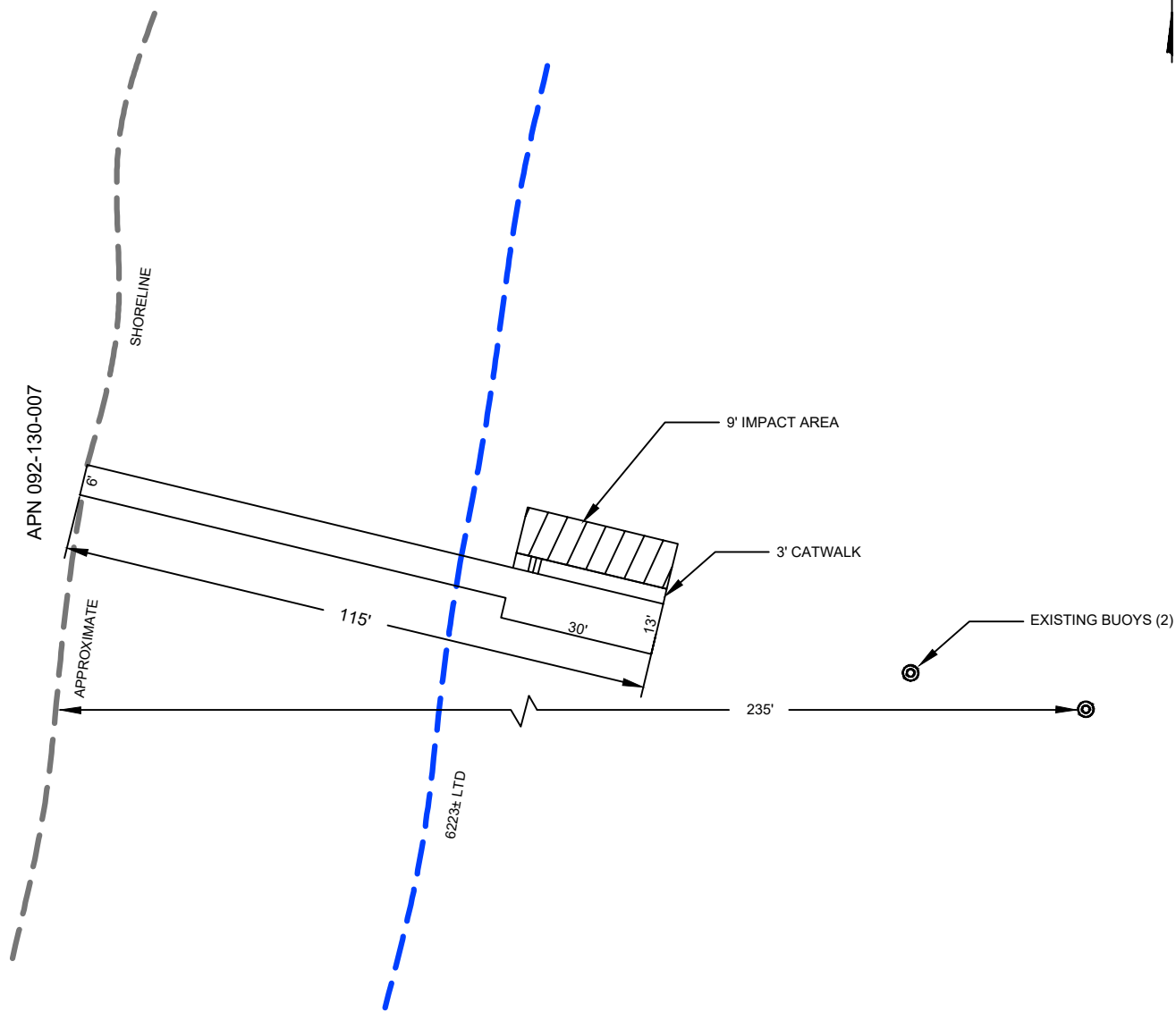


EXHIBIT A

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LAND DESCRIPTION PLAT
 LEASE 4248.1, CHIAO TRUSTEES
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



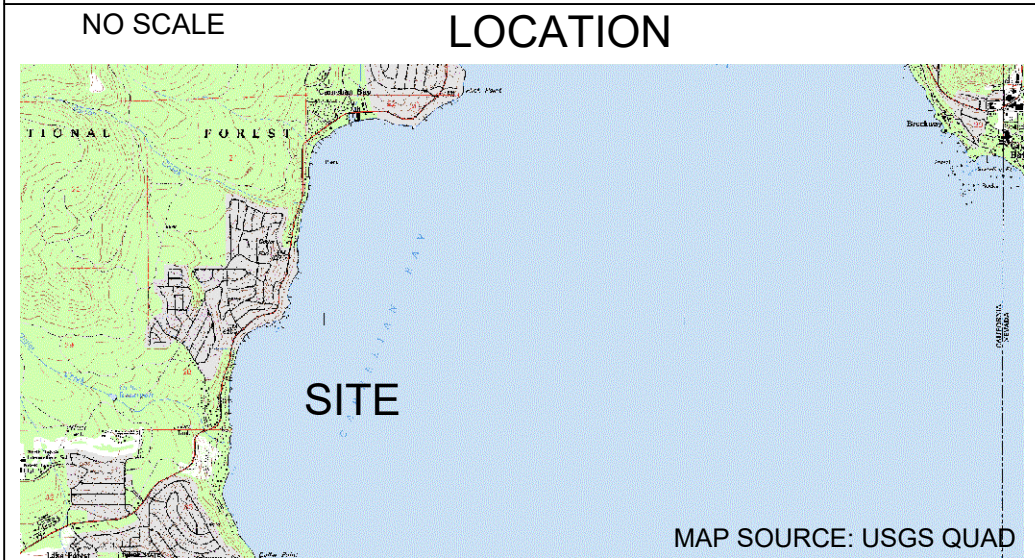
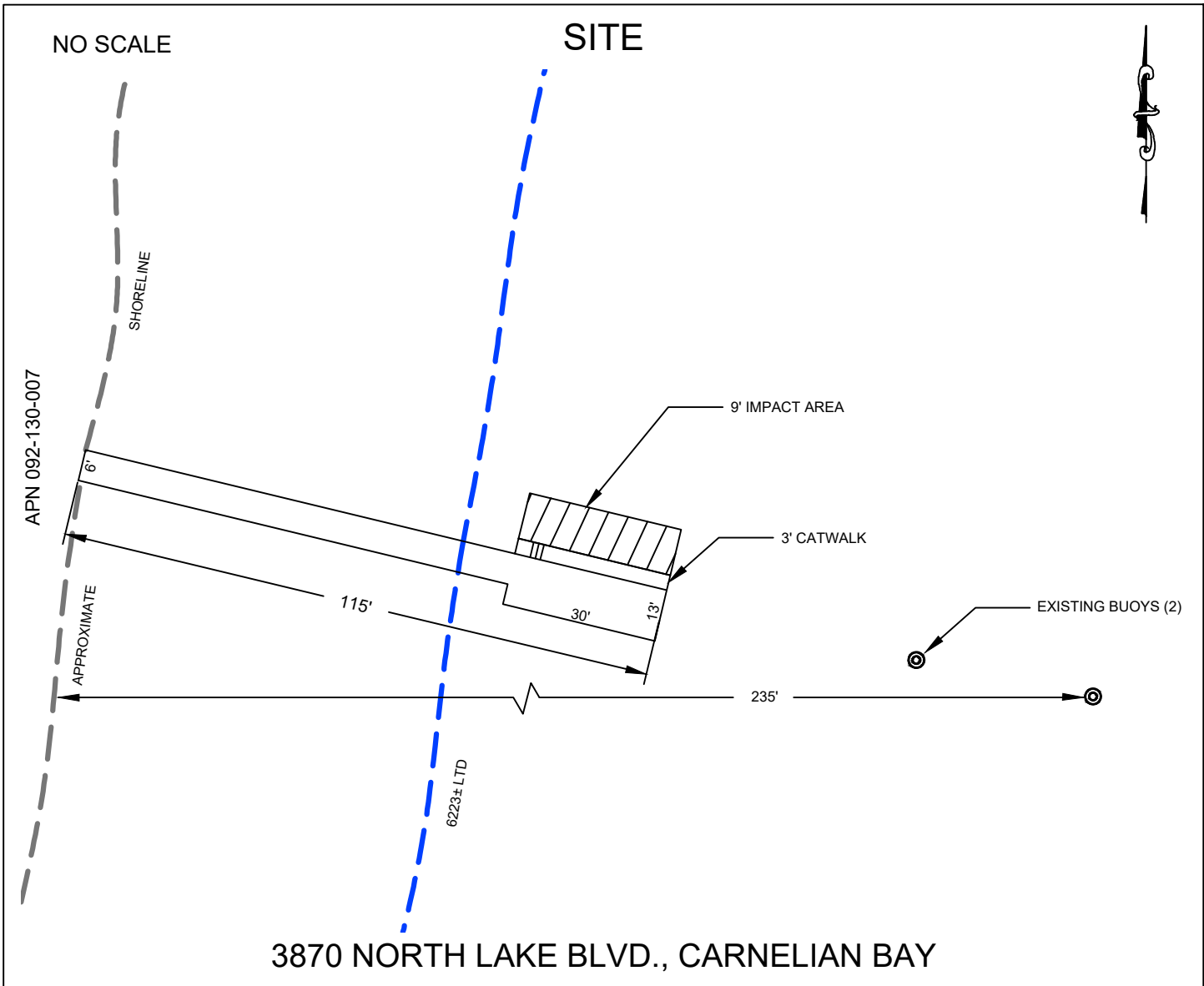
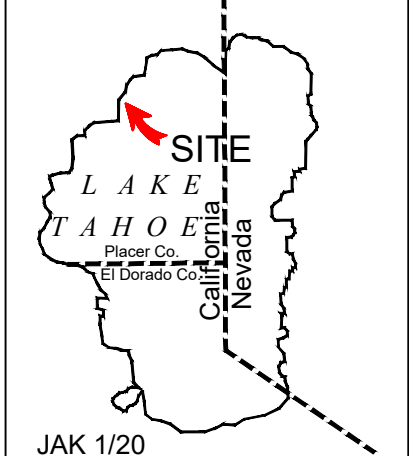


EXHIBIT B

LEASE 4248.1
 CHIAO TRUSTEES
 APN 092-130-007
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.