

## STAFF REPORT

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### GENERAL LEASE – RECREATIONAL USE

#### APPLICANT:

Tahoe Keys Property Owners Association

#### PROPOSED LEASE:

##### *AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 356 Ala Wai Boulevard, South Lake Tahoe, El Dorado County.

##### *AUTHORIZED USE:*

Use and maintenance of an existing pier not previously authorized by the Commission.

##### *LEASE TERM:*

10 years, beginning December 6, 2019.

##### *CONSIDERATION:*

\$868 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 recreation.
- 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.

## STAFF REPORT NO. 24 (CONT'D)

### **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:**

Tahoe Keys Property Owners Association (Applicant) has applied for a General Lease – Recreational Use for the use and maintenance of an existing pier not previously authorized by the Commission.

The Applicant is a common interest development that includes 1,529 member units consisting of about 1,195 single-family homes and 335 townhomes plus certain common area properties. The pier has existed adjacent to the Applicant's beach and recreational facility for many years.

The pier is used for the docking and mooring of boats and facilitates 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 pier is located directly lakeward of the upland property and occupies a relatively small area of the lake. On June 18, 1996, TRPA issued a permit for the repair/relocation of the Applicant's pier that extended 201 feet from the bulkhead. Staff recently determined that the pier extends below the low water mark onto sovereign land within the Commission's jurisdiction.

The Applicant is now applying for the portion of the pier that is on sovereign land. The pier is built on steel pilings with a guardrail attached to the perimeter of the pier deck. The immediate area of the pier is flat and sandy with scattered boulders. The topography and location of upland structures provides access for the pier and public access for pedestrians and lake-related activities at varying lake levels underneath the pier.

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

## STAFF REPORT NO. 24 (CONT'D)

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; 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 portion of the pier on sovereign land 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 land along the State's inland and coastal waterways.
3. 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. **24** (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 issuance of 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 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 December 6, 2019, for a term of 10 years, for use and maintenance of an existing pier 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 \$868 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

A2245

### LAND DESCRIPTION

One parcel of submerged land situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 5, Township 12 North, Range 18 East, M.D.B.&M., as shown on Official Government Township Plat approved July 8, 1875, County of El Dorado, State of California, more particularly described as follows:

All those lands underlying an existing pier lying adjacent to that parcel as described in Grant Deed recorded March 12, 1973 as Document Number 19730006554 in Official Records of said County.

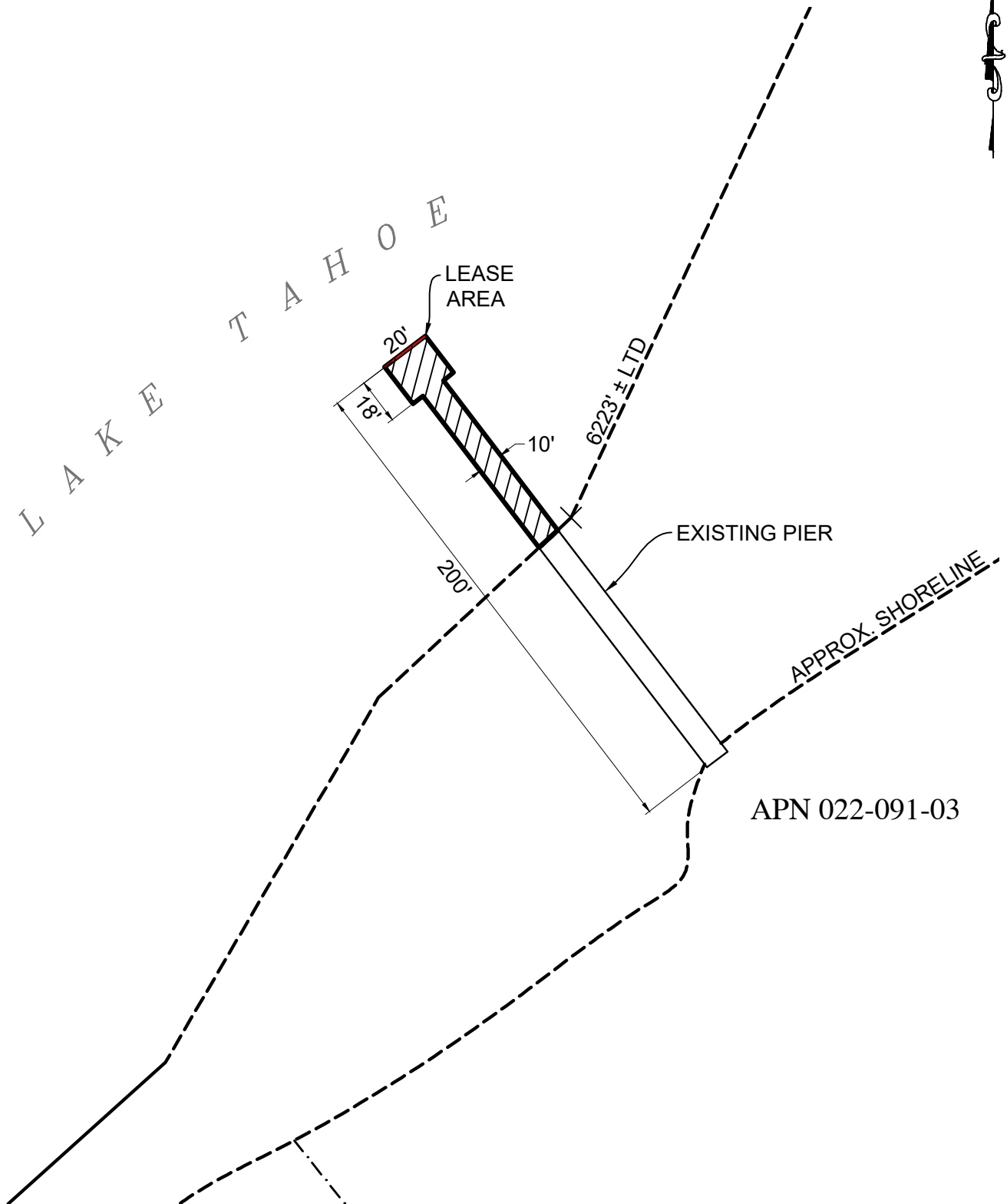
EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

### END OF DESCRIPTION

Prepared 09/02/2019 by the California State Lands Commission Boundary Unit.





## EXHIBIT A

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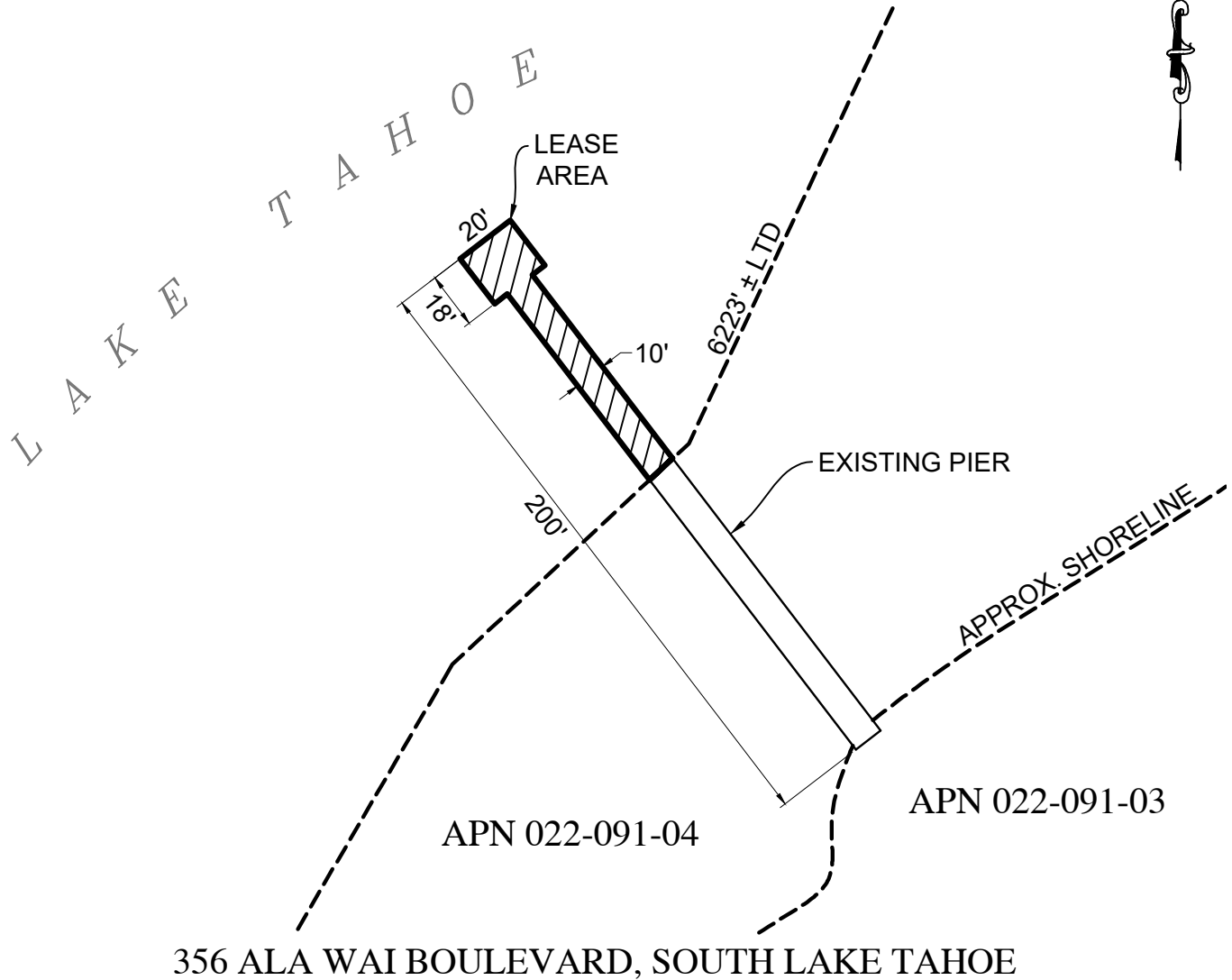
LAND DESCRIPTION PLAT  
A2245, TAHOE KEYS PROPERTY  
OWNERS' ASSOCIATION  
EL DORADO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



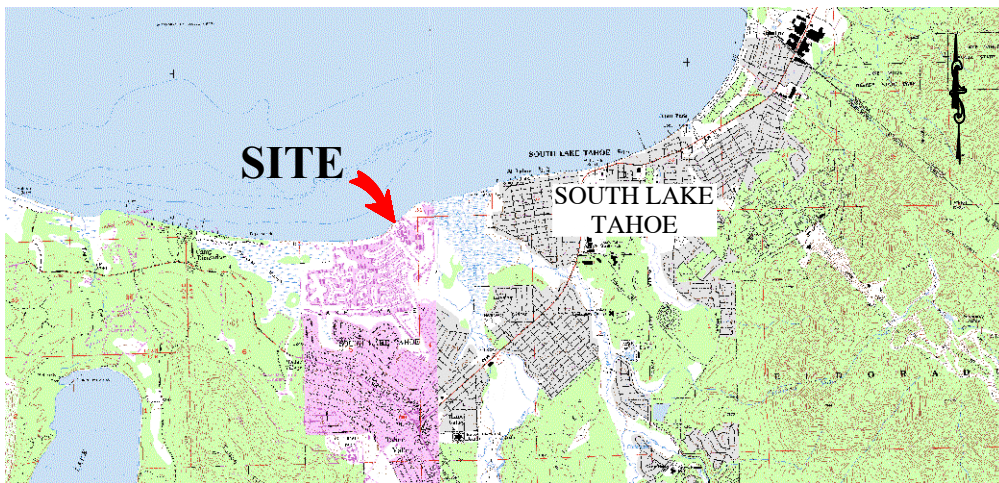
NO SCALE

## SITE



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**

A2245

TAHOE KEYS PROPERTY  
OWNERS' ASSOCIATION  
APN 022-091-03 & 04  
GENERAL LEASE -  
RECREATIONAL USE  
EL DORADO COUNTY



RGB 09/12/19