

Staff Report 08

Amendment of Lease

APPLICANT:

David William Jeske, Trustee of the David W. Jeske Trust udt, dated 8/20/2009

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1780 North Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Use and maintenance of two mooring buoys.

TERM:

10 years, beginning October 18, 2018.

CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Authorize the construction, use, and maintenance of a proposed pier, boat lift, catwalk, and ramp and removal of one buoy for the proposed boat lift.
- Include special provisions related to construction.
- Include a special provision requiring that the public be allowed to pass and re-pass over the pier using stairs, with signs 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.
- Revise the annual rent from \$754 with an annual Consumer Price Index adjustment to \$2,221 with an annual Consumer Price Index adjustment, effective October 18, 2020.

- Replace the existing Exhibit A, Land Description and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description and Exhibit B, Site and Location Map (for reference purposes only).
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of “as-built” plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.

All other terms and conditions of the lease to remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5; and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On October 18, 2018, the Commission authorized a 10-year General Lease – Recreational Use, Lease No. PRC 8266, for two existing mooring buoys on Lake Tahoe to Lessee ([Item C17, October 18, 2018](#)). That lease will expire on October 17, 2028.

The Lessee owns Assessor's Parcel Number 094-160-013, which is adjacent to the lake and has registered the two mooring buoys with the Tahoe Regional Planning Agency (TRPA), Permit No. 10287. Lessee received an allocation for a new single-parcel pier as a result of the 2019 pier allocation lottery from TRPA. On July 16, 2020, TRPA approved the proposed pier project.

The Lessee is now applying for a lease amendment to authorize the construction, use, and maintenance of a pier, one boat lift, catwalk, and ramp. One existing mooring buoy will be removed in lieu of the proposed boat lift.

The proposed pier would extend approximately 205 feet into Lake Tahoe. The pier will be 10 feet wide and include a ramp attached to an adjustable 30-foot-long catwalk on the southeast side of the pier, with a 12,000-pound boat lift to be located on the northeast side of the pier. Public access within the Public Trust easement will be provided by taking steps up and over the pier onto the beach. Signage reading

“Public Passage Allowed Over Pier” located at the designated public access passageway will be required to be in place at all times.

Construction of the proposed pier, boat lift, catwalk, and ramp will be performed primarily from a barge with mounted crane. To minimize lake bottom disturbance and suspended materials, caissons may be utilized during the pile-driving process. A total of 28 steel pilings will be imbedded into the lakebed to a depth of at least 6 feet. Storage of pre-cut joists and decking will take place from the barge and will not impact the lake.

The subject facilities are privately owned and maintained. The proposed pier, boat lift, catwalk, and access ramp will be 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 as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The proposed amendment 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 amendment 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.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease amendment will not substantially impair Public Trust uses or values and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for a lease amendment 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 a trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the lessee could not construct the new proposed improvements. Upon expiration or prior termination of the lease, the lessee 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.
3. **New Pier Construction:** 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1)
4. **Buoy Removal:** 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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:

New Pier Construction: Find that this activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Buoy Removal: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the existing and, for a limited period, continuing use and maintenance of the existing mooring buoy; the construction, use, and maintenance of the pier, boat lift, ramp, and catwalk; and removal of one existing mooring buoy will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and that the proposed amendment is in the best interests of the State.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 8266, a General Lease – Recreational Use, effective August 20, 2020, for the construction, use, and maintenance of a pier, one boat lift, catwalk, and ramp; and the removal of one existing mooring buoy; to include special lease provisions related to construction and public access; to revise rent from \$754 to \$2,221 per year, with an annual Consumer Price Index adjustment, effective October 18, 2020; and to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease shall remain in effect without amendment.

EXHIBIT A

PRC 8266

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of Section 5, Township 15 North, Range 17 East, MDM as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 - PIER

All those lands underlying a proposed pier, catwalk, and boat hoist lying adjacent to that parcel described in Grant Deed recorded September 21, 2017 as Document Number 2017-0073399-00 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.

PARCEL 2 – BUOY

One circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Grant Deed recorded September 21, 2017 as Document Number 2017-0073399-00 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

This description is based on Applicant provided design plans, by Sagan Design Group dated December 18, 2019, for a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

END OF DESCRIPTION

Prepared July 29, 2019 by the California State
Lands Commission Boundary Unit.



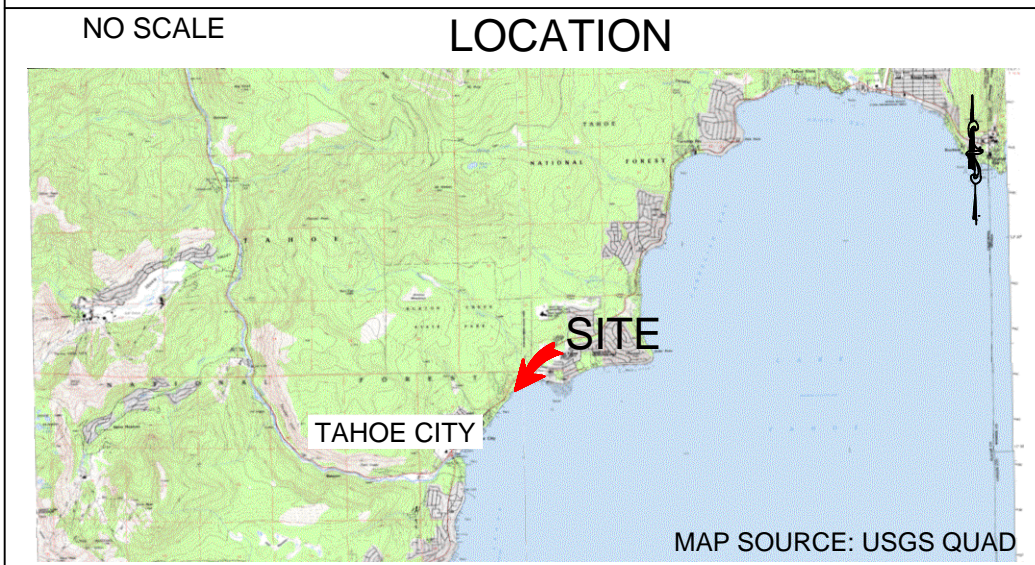
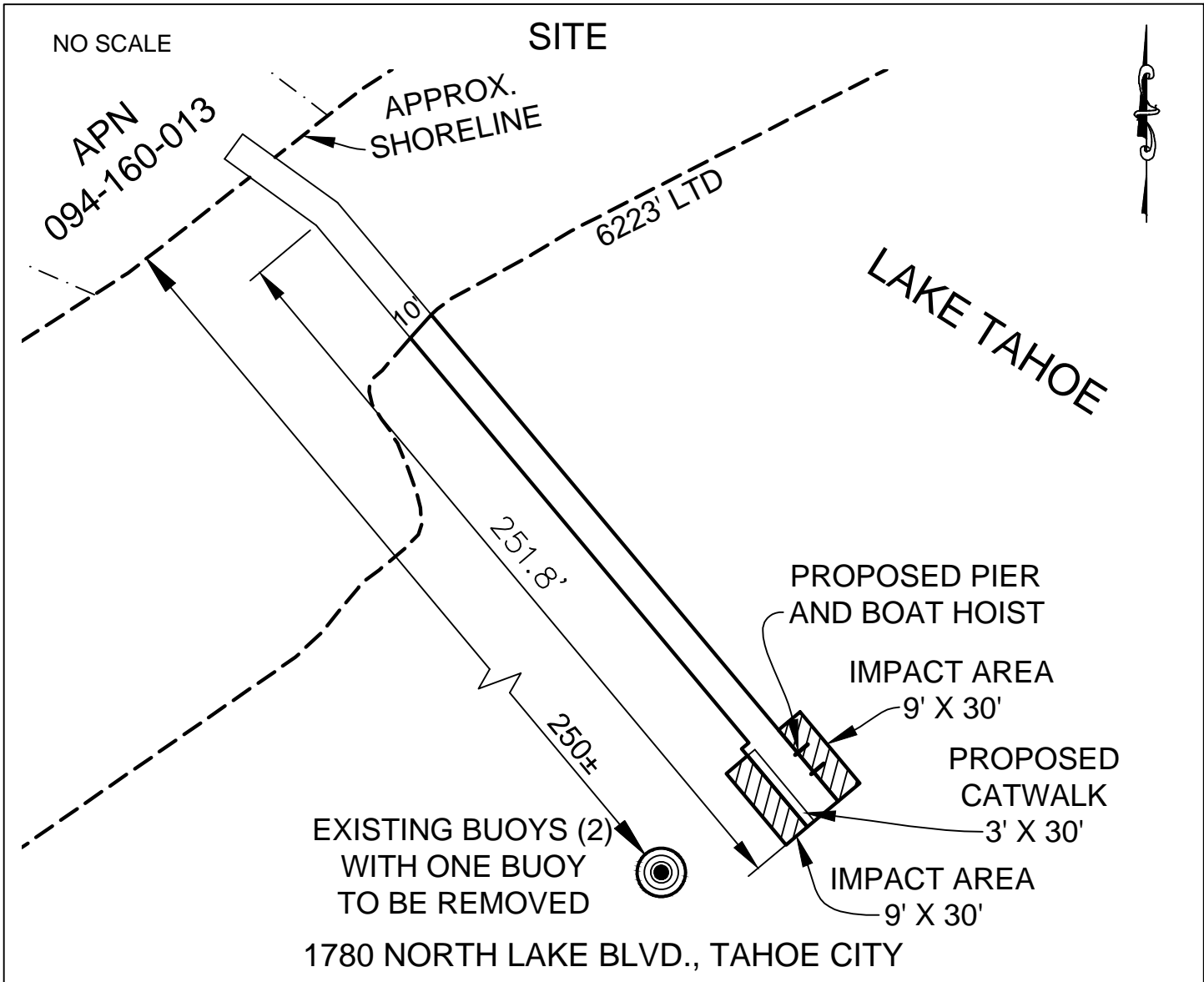
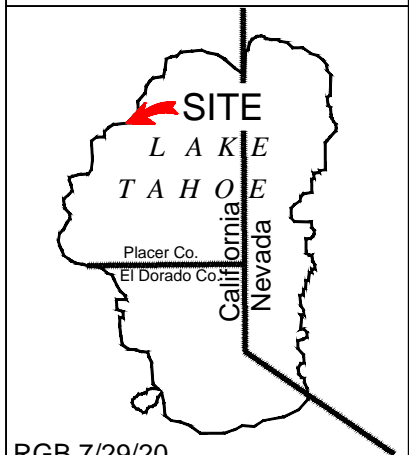


EXHIBIT B

PRC 8266
 JESKE TRUST
 APN 094-160-013
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



RGB 7/29/20

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.