

Staff Report 14

General Lease – Recreational Use

APPLICANT:

Tahoe LLC, a South Dakota Limited Liability Company

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6820 West Lake Boulevard, near Tahoma, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys.

TERM:

10 years, beginning August 20, 2020.

CONSIDERATION:

\$1,259 per year, with an annual Consumer Price Index adjustment.

SPECIFIC 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 Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission.

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:

On April 6, 2010, the Commission authorized a Recreational Pier Lease for an existing pier and two mooring buoys to Diosdado P. Banatao and Maria C. Banatao, Trustees of the Diosdado and Maria Banatao Living Trust dated July 2, 1999 ([Item C06, April 6, 2010](#)). That lease expired on November 14, 2019. On January 3, 2013, the lessee deeded the upland parcel to their limited liability company, Tahoe LLC, a South Dakota Limited Liability Company. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and two mooring buoys.

Staff recommends the Applicant's lease begin on August 20, 2020, the day of the Commission Meeting. Staff further recommends acceptance of compensation in the amount of \$9,610 for the period beginning January 3, 2013, when ownership was transferred to an LLC and no longer qualified for rent-free status pursuant to the terms of the existing lease, through August 19, 2020, the day before the proposed new lease begins.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained, 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 subject facilities have existed for many years at this location. The pier is built on pilings, providing public access for pedestrians and for lake-related activities at varying water levels underneath the pier. The immediate area of the existing pier is gently sloped with sand and small rocks. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. On February 22, 2010, TRPA issued a permit for the buoys (MOOR2010-0235). The Applicant registered the buoys with TRPA on May 26, 2020 (#11505).

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 common law 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, as the prior lessee, 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 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. 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

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 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 \$9,610 for unauthorized occupation of State land for the period beginning January 3, 2013 through August 19, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 20, 2020, for a term of 10 years, for the continued use and maintenance of an existing pier and two 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 \$1,259, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3548

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 7, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to that parcel described in Quitclaim Deed recorded as Document Number 2013-0000436-00 on January 3, 2013 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 circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Quitclaim Deed recorded as Document Number 2013-0000436-00 on January 3, 2013 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/05/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

LAKE
TAHOE

EXISTING
BUOYS (2)

EXISTING
CATWALK
2.5' x 28.75'

EXISTING
PIER
135.25' long

130'±

255'±

9' IMPACT
AREA

6223'± LTD

APPROX.
SHORELINE

6'

APN 098-200-002

EXHIBIT A

Page 2 of 2

TS 03/05/2020

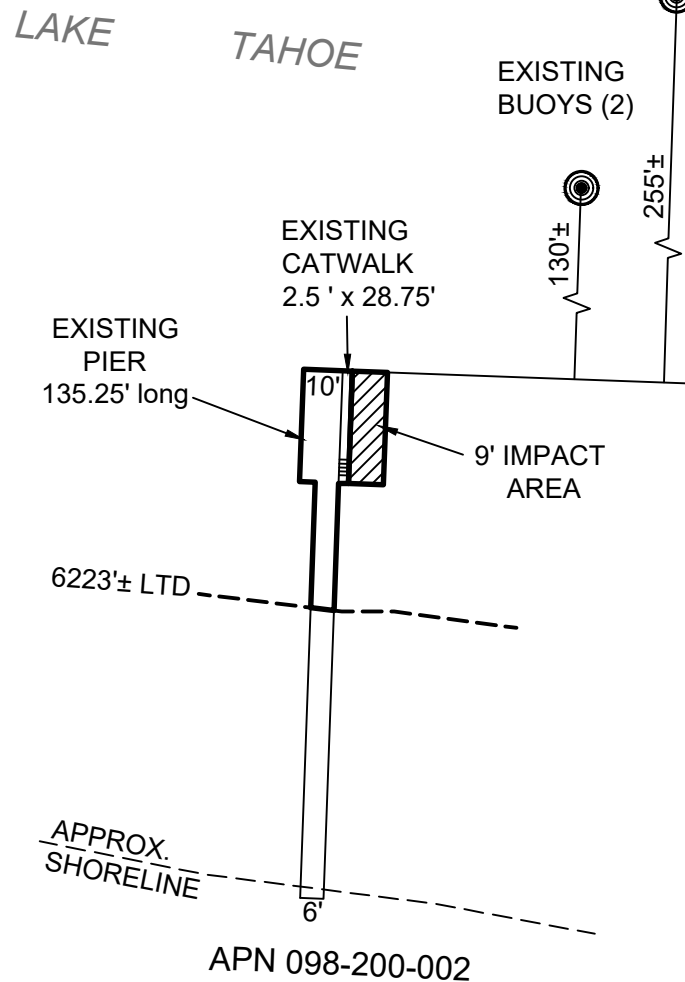
LAND DESCRIPTION PLAT
LEASE 3548, TAHOE, LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

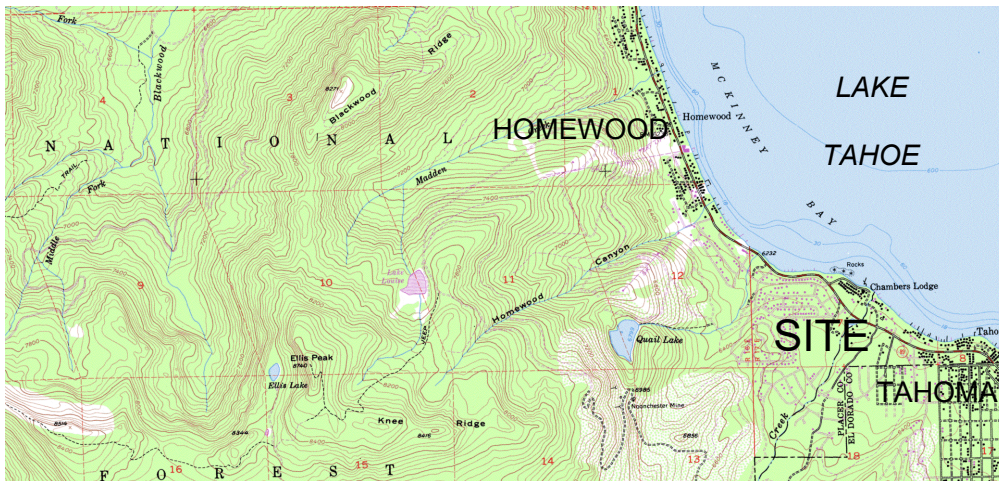
SITE



6820 WEST LAKE BLVD., TAHOMA

NO SCALE

LOCATION

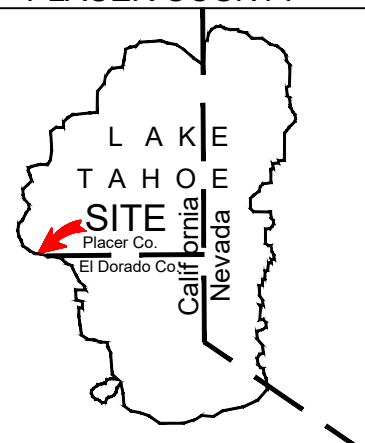


MAP SOURCE: USGS QUAD

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 3548
TAHOE, LLC
APN 098-200-002
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY



TS 03/05/2020