

# Staff Report 11

## **APPLICANT:**

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Lakefront Professional Building, LLC, a California limited liability company

## **PROPOSED ACTION:**

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Issuance of a General Lease – Commercial Use

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

Sovereign land in Lake Tahoe, adjacent to 3351 Lake Tahoe Boulevard, South Lake Tahoe, El Dorado County.

## **AUTHORIZED USE:**

Use and maintenance of two existing mooring buoys not previously authorized by the Commission.

## **TERM:**

10 years, beginning June 1, 2020.

## **CONSIDERATION:**

\$754 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 the Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission. A TRPA permit is required for the Authorized Improvements and failure to obtain a permit from TRPA and maintain

compliance with that permit may result in TRPA imposing civil penalties and will constitute a breach of this lease.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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:**

The improvements occupying sovereign land adjacent to 3351 Lake Tahoe Boulevard have not been previously authorized by the Commission. On August 31, 2017, ownership of the upland parcel was deeded to Lainey M. Richardson and Bruce J. Richardson. On November 2, 2017, ownership of the upland parcel transferred to the Richardsons' company, Lakefront Professional Building, LLC, a California limited liability company. The mooring buoys are currently registered through TRPA under permit #10211. The Applicant is now applying for a General Lease – Commercial Use for the use and maintenance of two existing mooring buoys.

The upland parcel is improved with a commercial office building known as the Lakefront Professional Building. Beginning on June 1, 2020, the Applicant began making their two mooring buoys available for rent during the boating season. The Applicant does not make the two mooring buoys available for rent outside of the boating season. The starting date of the lease was set to coincide with the Applicant's buoy rental invoices for the 2020 boating season.

The subject facilities are privately owned and maintained and are located in Lake Tahoe. The mooring buoys are used for recreational boating. Recreational boating is water-dependent and 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 lands. (Pub. Resources Code, § 6503.5).

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 activities thereon. The

lease also requires 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 and values 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:**

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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 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.
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. 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:**

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- A. Land Description
- B. Site and Location Map

## **RECOMMENDED ACTION:**

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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 lease; is consistent with common law Public Trust Doctrine; and is in the best interests of the State.

### **AUTHORIZATION:**

Authorize issuance of a General Lease – Commercial Use to the Applicant beginning June 1, 2020, for a term of 10 years, for the use and maintenance of two existing mooring buoys 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 \$754, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**A 2638**

**LAND DESCRIPTION**

Two parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to fractional Section 33, Township 13 North, Range 18 East, M.D.B. & M., as shown on Official Government Township Plat approved February 18, 1954, County of El Dorado, State of California, described as follows:

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that Parcel 1 described in Grant Deed recorded November 2, 2017 in Document Number 2017-0049322-00 in Official Records of El Dorado County.

Accompanying plat is hereby made a part of this description.

**END OF DESCRIPTION**

Prepared 07/28/2020 by the California State Lands Commission Boundary Unit.



NO SCALE



LAKE

EXISTING  
BUOYS (2)

TAHOE

200'±

150'±

6223'± LTD

APPROX.  
SHORELINE

APN  
027-010-013

EXHIBIT A

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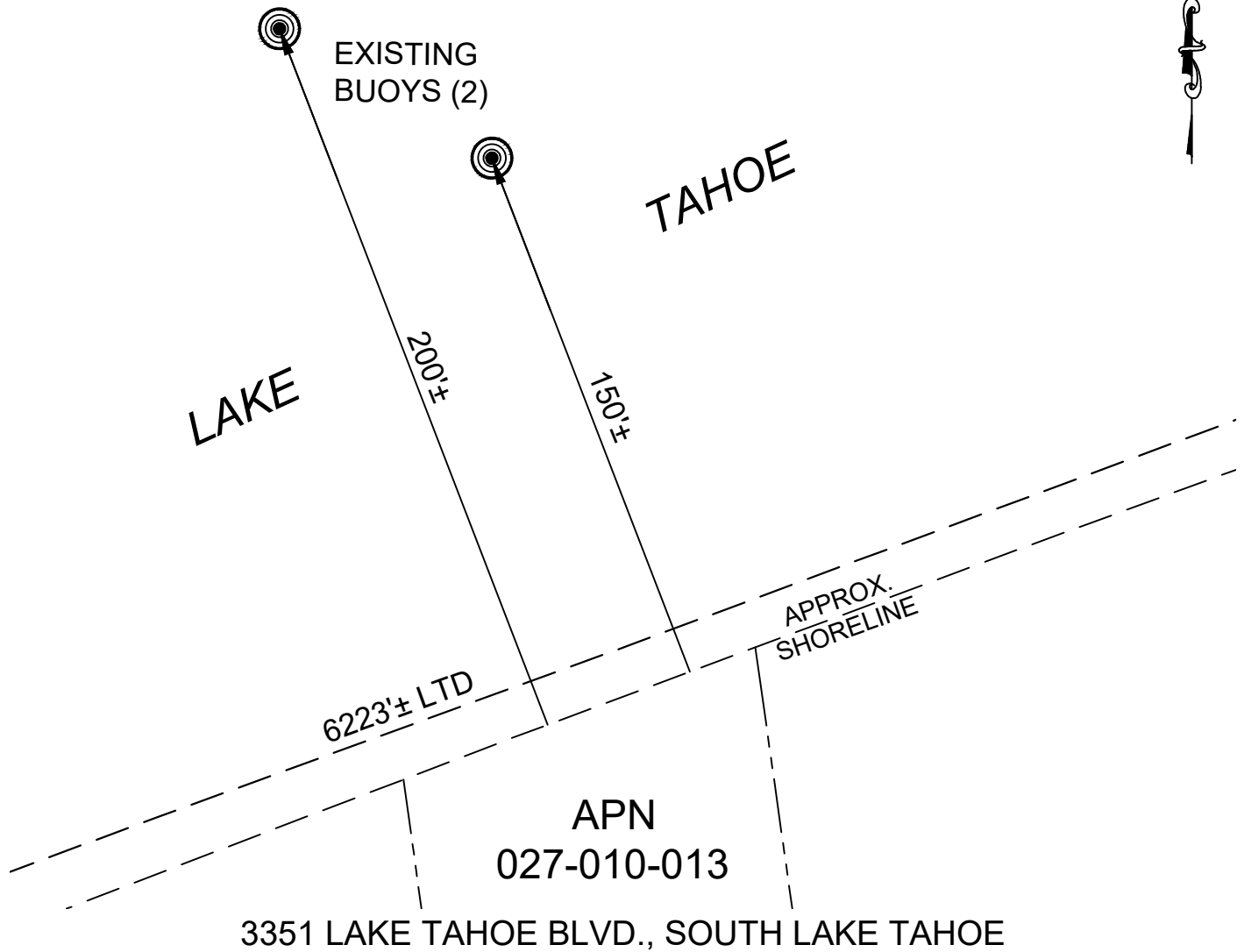
LAND DESCRIPTION PLAT  
A 2638, LAKEFRONT PROFESSIONAL  
BUILDING, LLC  
EL DORADO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE



NO SCALE

## LOCATION

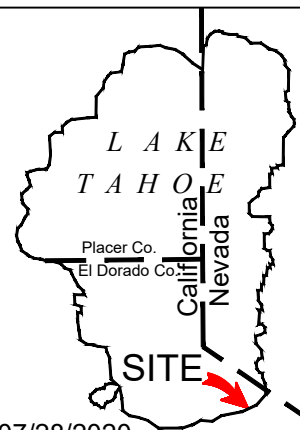


THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

## EXHIBIT B

A 2638

LAKEFRONT PROFESSIONAL  
BUILDING, LLC  
APN 027-010-013  
GENERAL LEASE -  
COMMERCIAL USE  
EL DORADO COUNTY



TS 07/28/2020