

# Staff Report 10

## **LESSEE/APPLICANT:**

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David B. Kent and Darcie T. Kent, as Trustees of the Kent Revocable Trust dated June 8, 2005

## **PROPOSED ACTION:**

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Acceptance of a Lease Quitclaim Deed and Issuance of a General Lease – Recreational Use

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

Sovereign land in Lake Tahoe, adjacent to 803 Stateline Avenue, South Lake Tahoe, El Dorado County.

## **AUTHORIZED USE:**

Continued use and maintenance of an existing pier; construction of a catwalk, ramp, and boat lift; and removal of one existing mooring buoy.

## **TERM:**

10 years, beginning December 17, 2020.

## **CONSIDERATION:**

\$408 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 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 public uses of access, navigation, fishing, and lake-related recreation.
- The public will be allowed to pass and repass underneath the pier with signs posted to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 Lake Tahoe datum. Lessee shall post signs identifying the designated public passageway.
- 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.
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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 19, 2012, the Commission authorized Lease No. PRC 3682, a 10-year General Lease – Recreational Use, to David B. Kent and Darcie T. Kent, as Trustees of the Kent Revocable Trust dated June 8, 2005, for the continued use and maintenance of an existing pier previously authorized by the Commission, and use and maintenance of one existing mooring buoy not previously authorized by the Commission ([Item C28, October 19, 2012](#)). On April 20, 2017, the Commission authorized an amendment of the lease to reflect a reduced lease area and a revision of annual rent ([Item C18, April 20, 2017](#)). That lease will expire on April 15, 2022.

The Applicant is applying for a General Lease – Recreational Use, for use and maintenance of an existing pier, construction of a catwalk, ramp, and boat lift, and

removal of one existing mooring buoy. In exchange for the removal of the existing mooring buoy, TRPA will transfer the current mooring permit from the removed mooring buoy to the new 12,000 lb. boat lift.

The Applicant executed a lease quitclaim deed releasing their interest in the previously issued Lease No. PRC 3682. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease effective December 17, 2020.

The applicant proposes to construct a 3-foot wide by 30-foot long catwalk located on the end of the north side of the pier. A 3-foot wide by 14-foot long ramp will extend from the catwalk along the pier to provide access from the shore to the catwalk. The 12,000 lb. boat lift will be located on the south side of the pier, opposite of the catwalk. No other changes are proposed for the existing pier.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, proposed catwalk, and boat lift are or 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).

Except for the proposed catwalk, ramp, and boat lift, the subject facilities have existed for many years at this location. The Applicant registered the mooring buoy with TRPA (Permit No. 10545). 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 surrounding the existing pier is gently sloped with a sandy shoreline. The lease requires the Applicant to post signs on both sides of the pier at the designated public access passageway that read "Public Passage Allowed Under."

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:

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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 could not construct the catwalk, ramp, and boat lift and may be required to remove the pier and mooring buoy 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. Acceptance of a 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).

4. **Existing Pier and Catwalk, Ramp, and Boatlift Addition:** 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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2), and California Code of Regulations, title 14, section 15301.
5. **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; California Code of Regulations, title 2, section 2905; and California Code of Regulations, title 14, section 15300.

## **APPROVALS OBTAINED:**

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Tahoe Regional Planning Agency

## **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:**

**Existing Pier and Catwalk, Ramp, and Boatlift Addition:** 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), and California Code of Regulations, title 14, section 15301.

**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 acceptance of a quitclaim and 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 the Public Trust Doctrine; and is in the best interests of the State.

### **AUTHORIZATION:**

1. Authorize the Executive Officer or designee to accept on behalf of the Commission an executed lease quitclaim deed, from David B. Kent and Darcie T. Kent, as Trustees of the Kent Revocable Trust dated June 8, 2005, for Lease No. PRC 3682, a General Lease – Recreational Use, thereby terminating said lease,

upon Lessee's demonstration to the Executive Officer or designee's satisfaction of the successful removal of the mooring buoy and restoration of the premises to their natural condition.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 17, 2020, for a term of 10 years, for the continued use and maintenance of an existing pier; construction, use, and maintenance of a catwalk, ramp, and boat lift; and removal of one existing mooring buoy, 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 \$408, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 3682**

**LAND DESCRIPTION**

One parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 27, Township 13 North, Range 18 East, MDM., as shown on Official Government Township Plat approved October 4, 1907, County of El Dorado, State of California and more particularly described as follows:

All those lands underlying an existing pier, proposed catwalk, and proposed boatlift lying adjacent to that parcel as described in that Exhibit "A" of that Grant Deed recorded October 04, 2011 as Document Number 2011-0046087-00 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

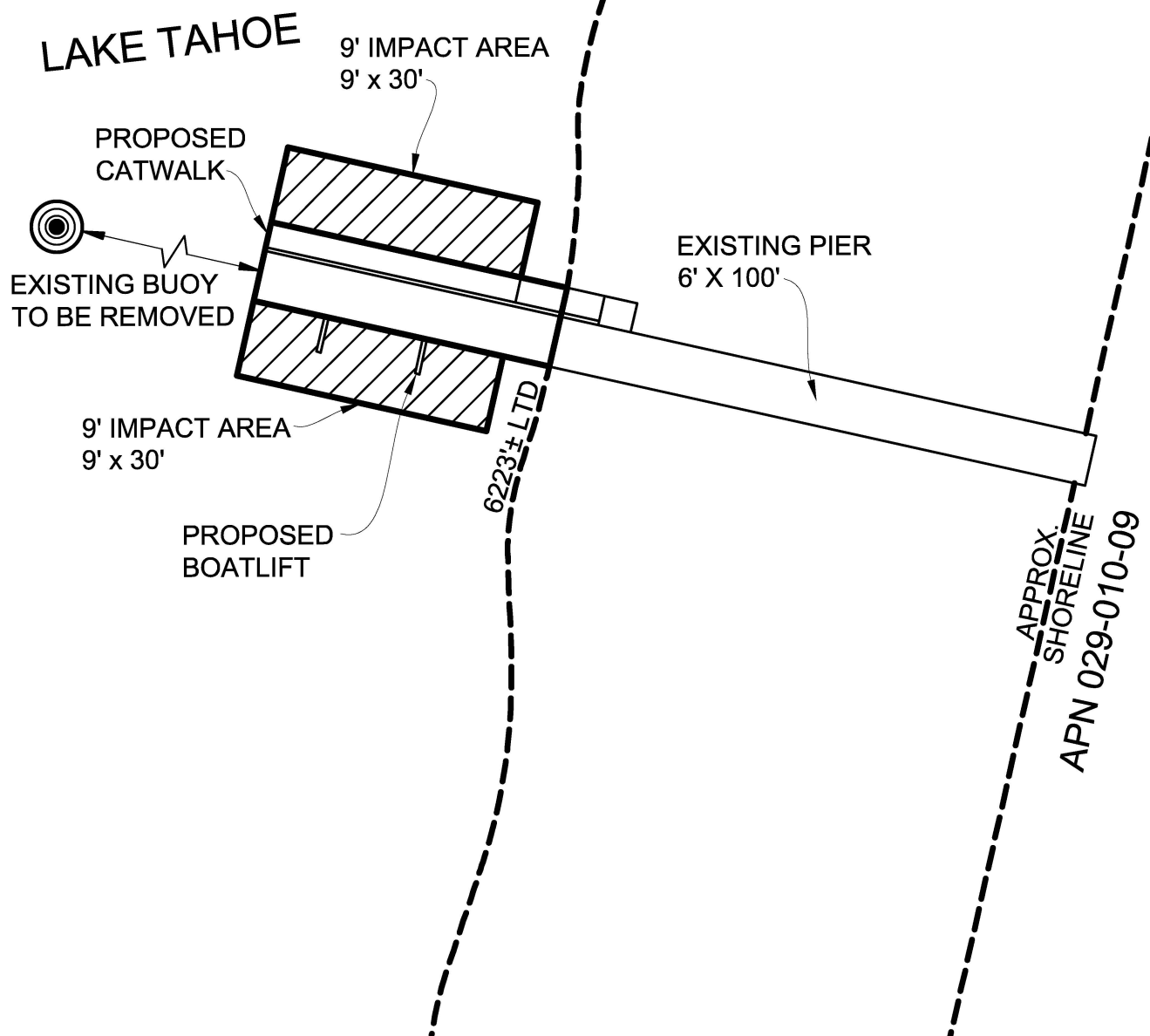
EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared November 10, 2020 by the California State Lands Commission Boundary Unit.





## EXHIBIT A

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LAND DESCRIPTION PLAT  
LEASE 3682, KENT TRUST  
EL DORADO COUNTY

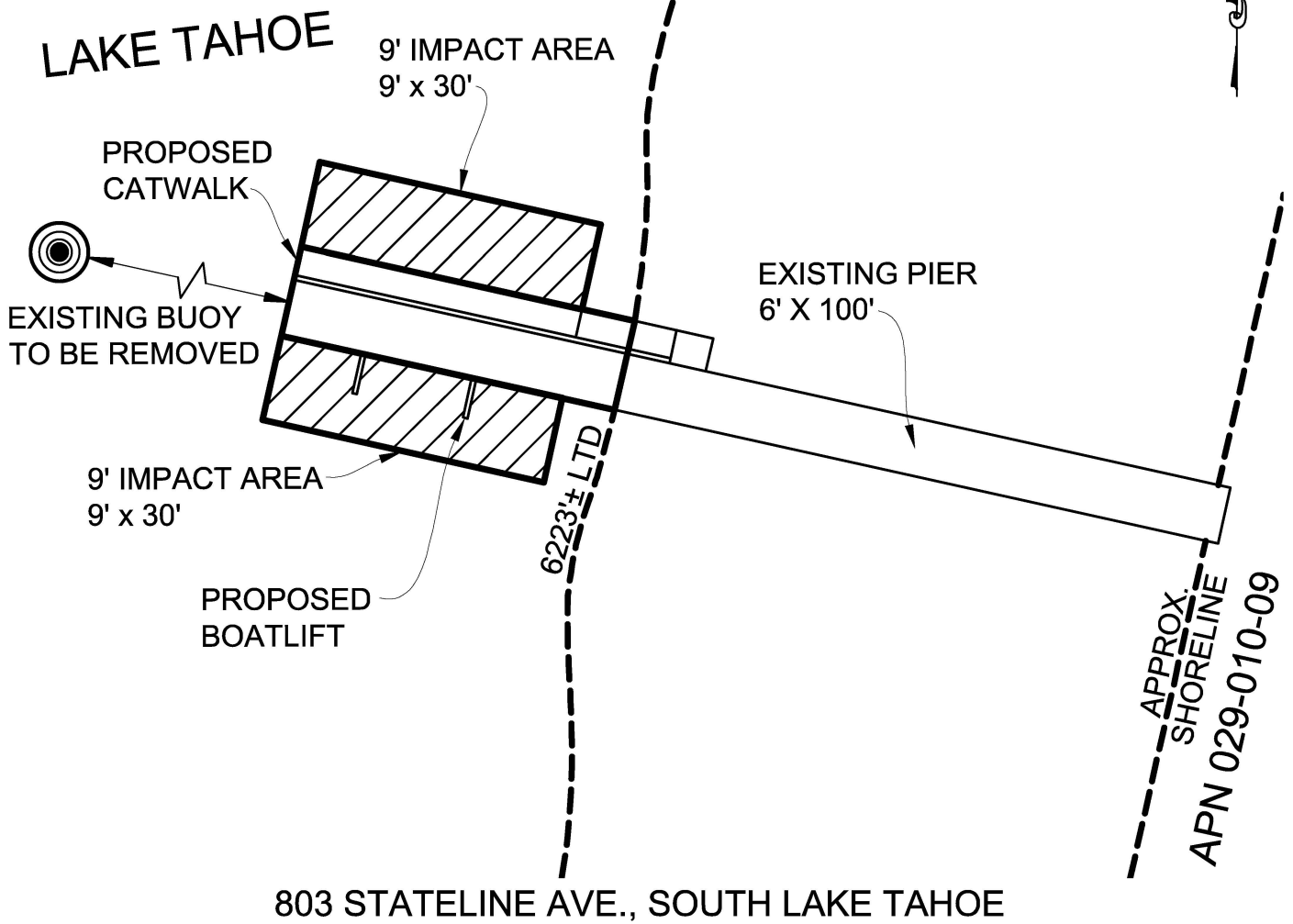
CALIFORNIA STATE  
LANDS COMMISSION





NO SCALE

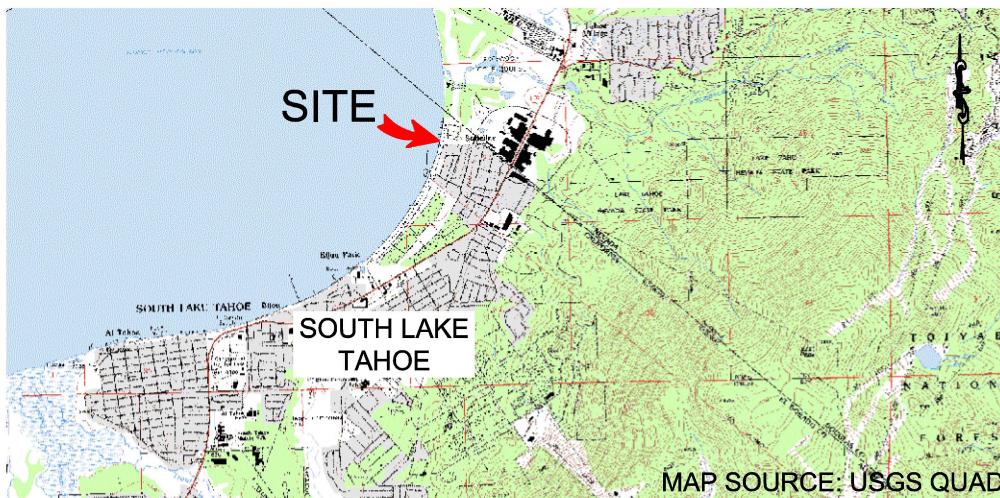
## SITE



803 STATELINE AVE., SOUTH LAKE TAHOE

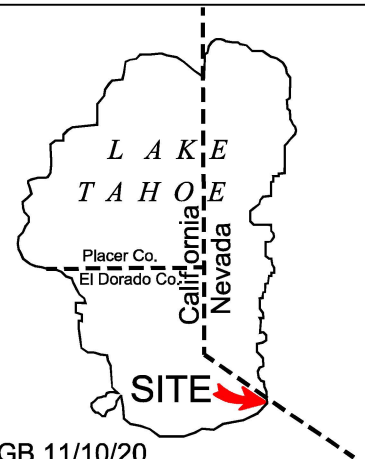
NO SCALE

## LOCATION



## EXHIBIT B

LEASE 3682  
KENT TRUST  
APN 029-010-09  
GENERAL LEASE -  
RECREATIONAL USE  
EL DORADO 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.

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