

# Staff Report 14

## **APPLICANT:**

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NASUS Partnership, a California Limited Partnership

## **PROPOSED ACTION:**

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Issuance of a General Lease – Recreational Use

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

Sovereign land in Lake Tahoe, adjacent to 3650 North Lake Boulevard, near Kings Beach, Placer County.

## **AUTHORIZED USE:**

Continued use and maintenance of an existing open pile pier, a rock crib pier with breakwater, two seasonal floating boat docks, and one mooring buoy.

## **TERM:**

10 years, beginning May 24, 2020.

## **CONSIDERATION:**

\$1,564 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 Authorized Improvements in 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:**

On June 23, 2011, the Commission authorized a General Lease - Recreational Use for an existing open pile pier, a rock crib pier with breakwater, two seasonal floating boat docks, and one mooring buoy to NASUS Partnership, a California Limited Partnership ([Item C34, June 23, 2011](#)). On April 23, 2015, the Commission authorized an amendment to the lease to reflect a reduced lease area and a revision of rent to revise the annual rent from \$3,491 to \$1,567 per year ([Item C31, April 23, 2015](#)). The lease expired on May 23, 2020.

The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing facilities.

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 open-pile pier is built on pilings and the rock crib pier has a five-foot by five-foot opening, 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 boulders and small rocks. The two seasonal floating boat docks and one mooring buoy occupy small areas of the lakebed. The Applicant registered the buoy with TRPA on May 23, 2019 (Registration #10050) and is not required to register the two seasonal floating boat docks since they are not used for long-term mooring.

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, as the prior lessee, may be required to remove the open pile pier, a rock crib pier with breakwater, two seasonal floating boat docks, and one 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 and 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:**

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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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law 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 May 24, 2020, for a term of 10 years, for the continued use and maintenance of an existing open pile pier, a rock crib pier with breakwater, two seasonal floating boat docks, and one 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 \$1,564, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 2289**

**LAND DESCRIPTION**

Four parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 fractional Section 28, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865 County of Placer, State of California, and more particularly described as follows:

**PARCEL 1– PIER 1**

All those lands underlying one existing pier lying adjacent to those parcels as described in that Grant Deed recorded May 24, 2010 in Document 2010-0038728 of Official Records of said County.

**PARCEL 2 – PIER 2**

All those lands underlying one existing pier and two floating docks lying adjacent to those parcels as described in said Grant Deed.

**PARCEL 3 – 1 BUOY**

One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to those parcels described in said Grant Deed.

TOGETHER WITH any applicable impact area(s).

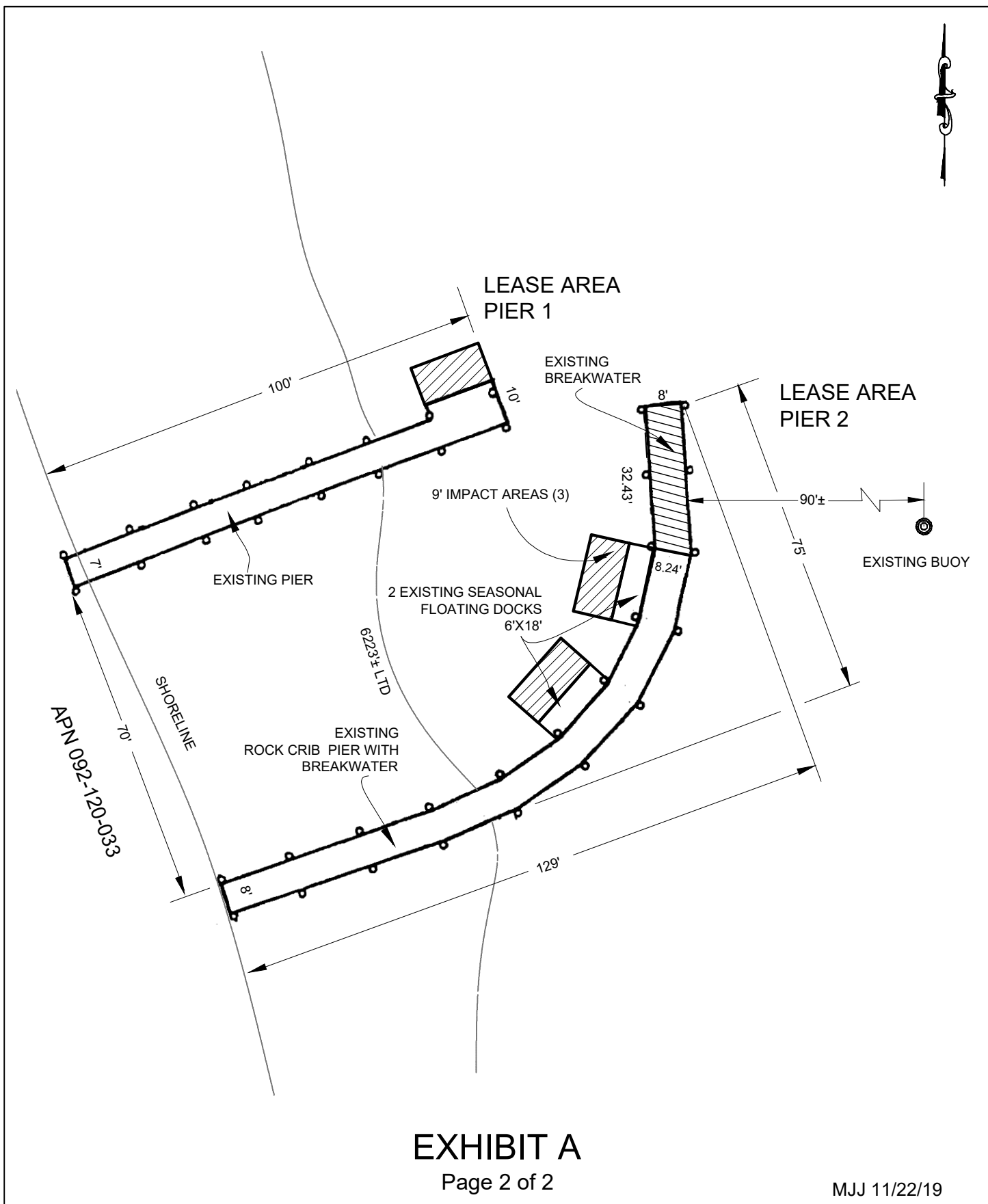
EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared December 4, 2019  
by the California State Lands Commission Boundary Unit.





## EXHIBIT A

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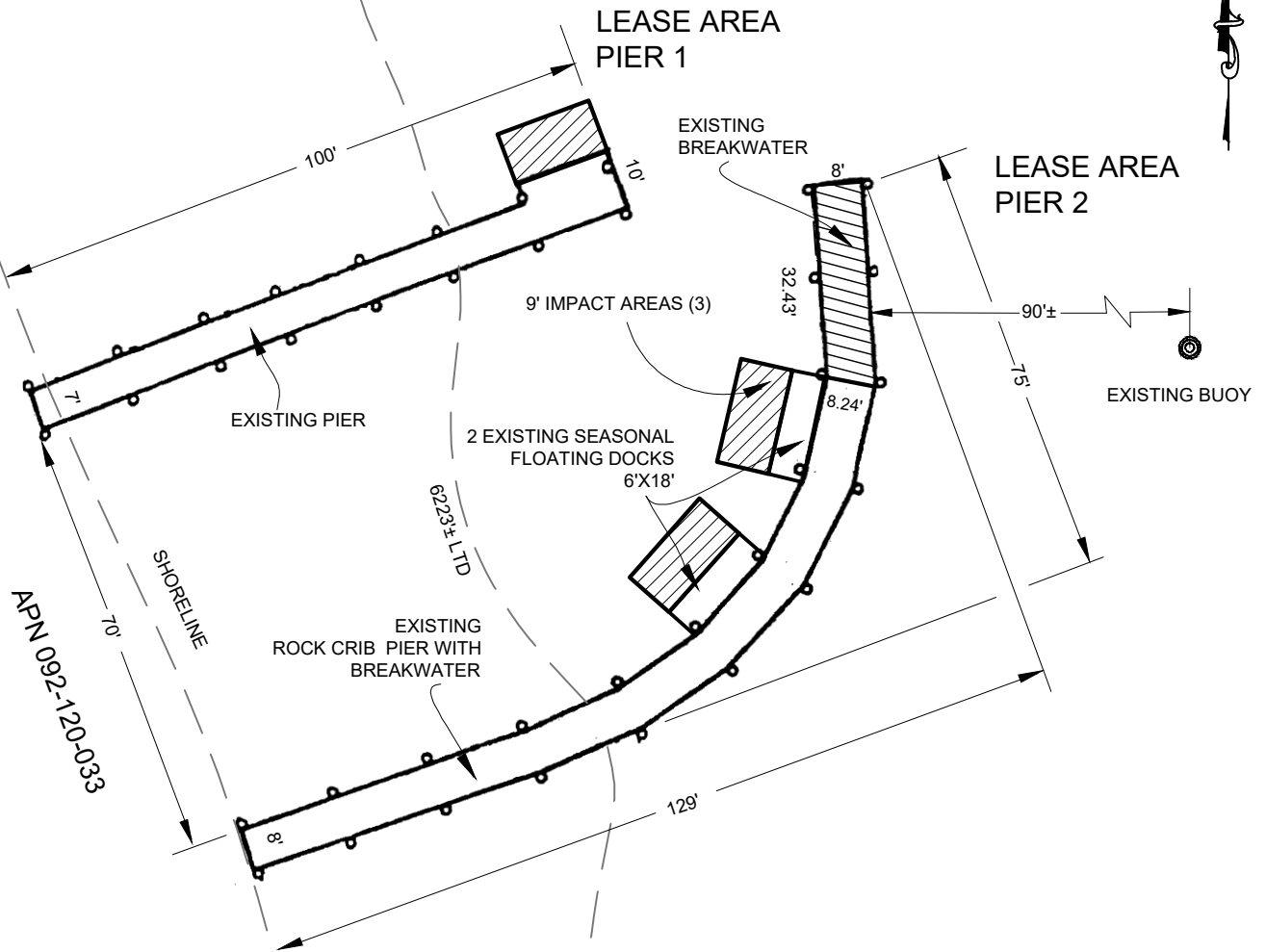
LAND DESCRIPTION PLAT  
LEASE 2289, NASUS PARTNERSHIP  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

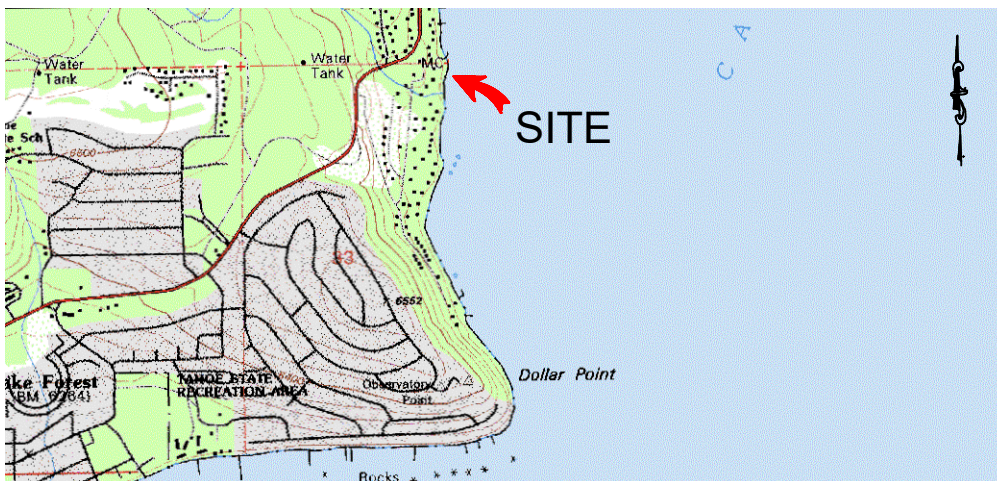
## SITE



3650 NORTH LAKE BLVD., NEAR KINGS BEACH

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

LEASE 2289  
NASUS PARTNERSHIP  
APN 092-120-033  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY

← **SITE**

L A K E  
T A H O E

Placer Co.  
El Dorado Co.

California  
Nevada

MJJ 11/21/19