

# Staff Report 04

## **APPLICANT:**

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Bewley Tahoe, LLC, a California limited liability company

## **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 5420 and 5430 West Lake Boulevard, near Homewood, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of three existing mooring buoys previously authorized by the Commission, and one existing mooring buoy not previously authorized by the Commission.

## **TERM:**

10 years beginning April 27, 2021.

## **CONSIDERATION:**

\$1,508 per year, with an annual Consumer Price Index adjustment; and accept \$7,540 in settlement of the unauthorized occupation of state lands by the Applicant for the period beginning on June 27, 2014, through April 26, 2021.

## **SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 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.

- 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 recreational uses.

## **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 October 29, 2010, the Commission authorized a rent free Recreational Pier Lease for three existing mooring buoys to Kirk R. Bewley, Trustee of the Kirk R. Bewley Declaration of Trust Dated October 29, 2002; Ross E. Bewley and Marilyn R. Bewley, as Co-Trustees of the Ross E. Bewley and Marilyn R. Bewley Revocable Family Trust dated December 3, 1993; Rosilyn B. Young; R. Stuart Bewley; and Keith Bewley ([Item C05; October 29, 2010](#)). The lease expired on September 30, 2020.

On June 27, 2014, ownership of the upland parcel transferred to Bewley Tahoe, LLC, a California limited liability company (LLC). Because the LLC is not a natural person, the Lessee no longer qualified for rent-free status pursuant to the terms of the lease. As such, staff recommends the Commission accept \$7,540 in settlement for the unauthorized occupation of state lands by the Applicant for the period beginning on June 27, 2014, through April 26, 2021, the day before the proposed new lease becomes effective.

The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the three existing mooring buoys previously authorized by the Commission, and one existing mooring buoy not previously authorized by the Commission. TRPA registered the four existing mooring buoys on August 27, 2019 (Registration Nos. 10789 and 10790).

The Applicant owns two upland properties (Assessor's Parcel Numbers 097-164-008 and 097-164-009) adjoining the lease premises. The subject facilities are privately owned and maintained. The four mooring buoys are used for the docking and mooring of boats. 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 buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. 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 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 four 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 the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
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 the 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 \$7,540 in settlement of the unauthorized occupation of state lands for the period beginning June 27, 2014, through April 26, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 27, 2021, for a term of 10 years, for the continued use and maintenance of four existing 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 \$1,508, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 8002.1**

**LAND DESCRIPTION**

Four (4) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 12, Township 14 North, Range 16 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:

**PARCELS 1 - 4 – BUOYS**

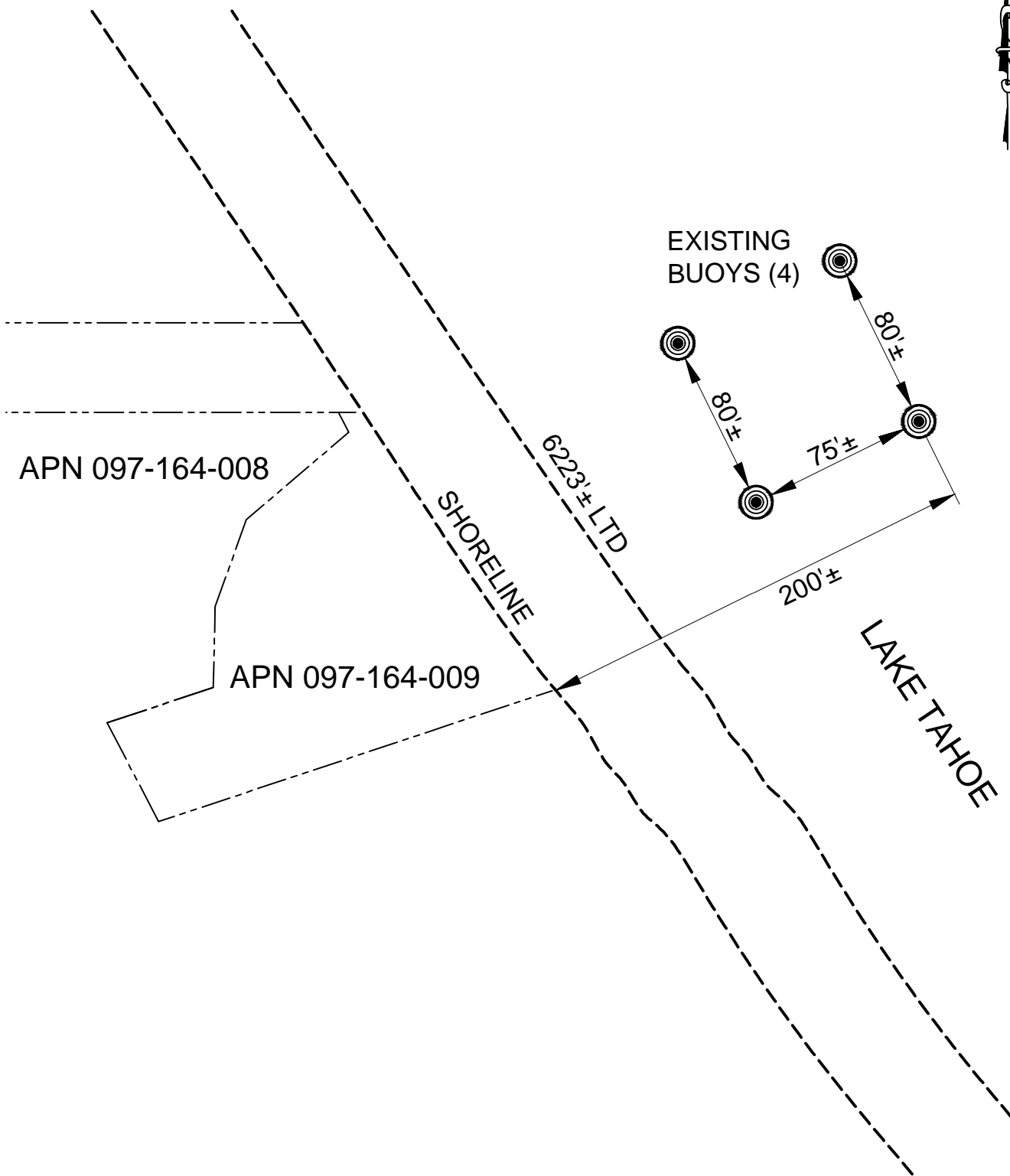
Four circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded June 27, 2014 as Document Number 2014-0043126-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 06/23/2020 by the California State Lands Commission Boundary Unit.





APN 097-164-008

APN 097-164-009

SHORELINE

6223'± LTD

EXISTING BUOYS (4)

80'±

80'±

75'±

200'±

LAKE TAHOE

# EXHIBIT A

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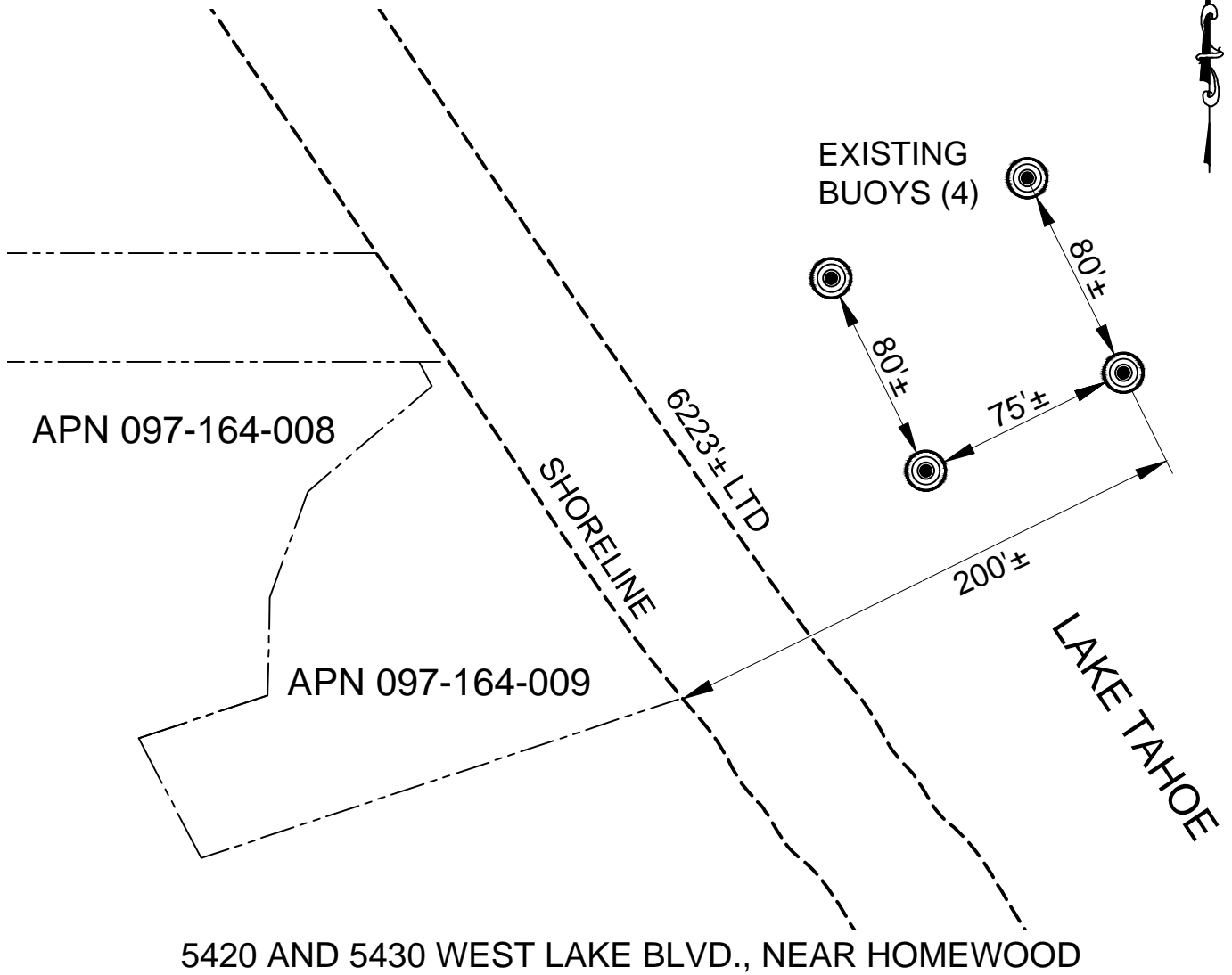
LAND DESCRIPTION PLAT  
LEASE 8002.1, BEWLEY TAHOE, LLC  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

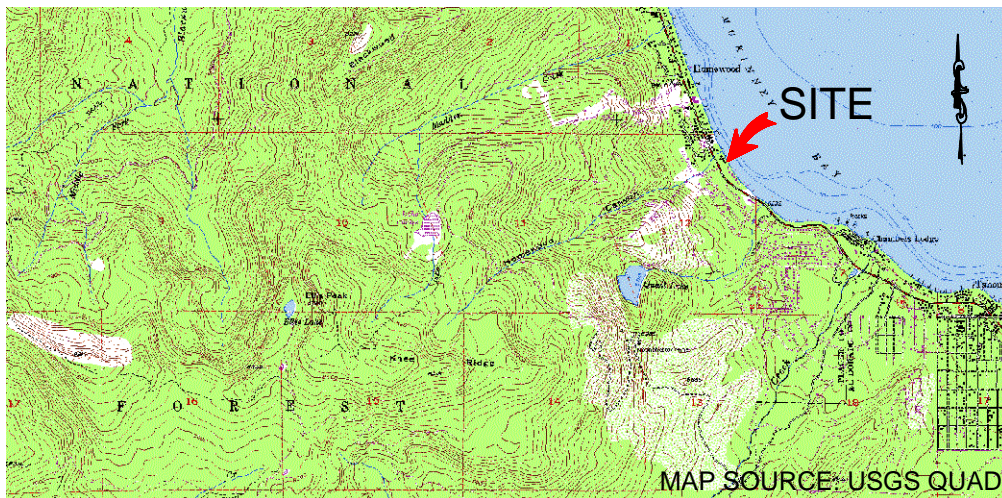
# SITE



5420 AND 5430 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

# LOCATION



# EXHIBIT B

LEASE 8002.1  
 BEWLEY TAHOE, LLC  
 APN 097-164-008 & 009  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER 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.

RGB 6/23/20