

Staff Report 20

LESSEE:

Rubicon Tahoe Owners, Inc.

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to Assessor's Parcel Numbers 016-142-011 and 016-221-006, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of two existing piers, three seasonal open swim lines, two swim floats, 97 mooring buoys, and three marker buoys.

TERM:

10 years, beginning February 1, 2022.

CONSIDERATION:

\$39,440 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$3,000,000 per occurrence.
- Lessee shall not store any personal items, kayaks, inflatables, watercrafts, 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 shall be allowed to pass and repass under the North pier and over and under the South pier to provide continuous shoreline access to the Public Trust easement below elevation 6228.75 Lake Tahoe datum.
- Swim Lines and Floats: The Lessee's swim lines shall remain open on each side and shall not be connected to the piers or enclose the swim area. The swim lines

will be placed in the lake no earlier than May 15 and completely removed no later than September 30.

- Buoy Allotment Program: The use of the buoy field will be made available to all members of the Lessee in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Lessee's members.
- Lessee expressly acknowledges that a Tahoe Regional Planning Agency (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:

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 January 26, 2012, the Commission authorized a General Lease – Recreational Use for the continued use and maintenance of an existing pier, swim area with swim float, 22 mooring buoys, and one marker buoy in the North Field and an existing pier, swim area with swim float, 75 mooring buoys, and two marker buoys in the South Field to Rubicon Tahoe Owners, Inc. ([Item C21, January 26, 2012](#)). On February 7, 2017, the Commission approved a revision of rent ([Item C13, February 7, 2017](#)). The lease will expire on January 31, 2022. The Lessee is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, open swim line, swim float, 22 mooring buoys, and one marker buoy in the North Field and an existing pier, two open swim lines, swim float, 75 mooring buoys, and two marker buoys in the South Field. The Lessee's current lease authorizes an enclosed swim area, this area will now consist of two open swim lines. The North and South Fields mooring buoys and swim floats are registered with TRPA (Registration #10289 and #11512).

The Lessee owns the upland Assessor's Parcel Numbers (APN) 016-142-011 and 016-221-006 adjoining the lease premises. The North Field parcel (APN: 016-142-011) is approximately 1 mile north of the South Field (APN: 016-221-006). The Lessee has permission to maintain mooring buoys adjacent to eight upland parcels. The Lessee is a non-profit California corporation and is a membership club limited to one membership for each recorded lot as determined by the Lessee. The corporation

allows dues paying members to use the recreation facilities within the subdivision including use of the piers, mooring buoys, seasonal swim line areas, and swim floats.

The subject facilities are privately owned and maintained 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 existing pier adjacent to APN: 016-142-011 (north buoy field) is built on single pilings. A sloped ramp connects the pier to a walkway extending down a steep hill on the upland. The immediate area of the pier is a flat beach with sand. This creates an elevated section across the Public Trust Easement. The topography and design of the pier allows the public to pass under the pier within the Public Trust easement. The existing pier adjacent to APN 016-221-006 (south buoy field) is also built on single pilings. The landward end of the pier is flush to the shoreline and allows public access laterally across the shoreline. The immediate area of the pier is flat with a sandy shoreline. Public access for pedestrians and lake-related activities is available at low water levels underneath the pier and at high water levels, the public may walk across or around the landward end of the pier within the Public Trust easement. The swim lines are open and allow vertical access to the Public Trust easement. The swim lines, swim floats, and 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.

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:

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 Lessee may be required to remove the two existing piers, three seasonal open swim lines, two swim floats, 97 mooring buoys, and three marker 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:

- 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 the 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 Lessee beginning February 1, 2022, for a term of 10 years, for the continued use and maintenance of two existing piers, three seasonal open swim lines, two swim floats, 97 mooring buoys, and three marker 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 \$39,440, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$3,000,000 per occurrence.

EXHIBIT A

LEASE 5676

LAND DESCRIPTION

Two (2) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 8, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – NORTH BUOY FIELD

COMMENCING at a point on the southerly line of Beach Lane which bears South $87^{\circ} 53'$ West 4.96 feet, from the southwest corner of Lot 12, Block A of the Rubicon Properties Subdivision, as shown on that certain map filed in Map Book A, at page 52 of Official Records of El Dorado County, thence from said POINT OF COMMENCEMENT North $85^{\circ} 53' 00''$ East 62.54 feet to an angle point in the southerly line of Lot 12; thence South $83^{\circ} 28' 00''$ East 189.79 feet to the POINT OF BEGINNING as being the southerly angle point of said lot 12; thence North $77^{\circ} 00' 00''$ East 70.00 feet; thence South $13^{\circ} 00' 00''$ East 30.00 feet; thence North $77^{\circ} 00' 00''$ East 725.00 feet; thence North $13^{\circ} 00' 00''$ West 233.67 feet; thence South $88^{\circ} 49' 08''$ West 498.45 feet; thence South $01^{\circ} 10' 52''$ East 25.00 feet; South $88^{\circ} 49' 08''$ West 279.40 feet; thence South $08^{\circ} 10' 58''$ East 339.71 feet to the POINT OF BEGINNING.

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

PARCEL 2 – SOUTH BUOY FIELD

COMMENCING at the southwesterly corner of Lot 12 and the northwesterly corner of Lot 13, Block G of the Rubicon Properties Subdivision, as shown on that certain map filed in Map Book A, at page 52 of Official Records of El Dorado County; thence North $56^{\circ} 47' 00''$ East 243.09 feet along the southerly line of Lot 12 to the POINT OF BEGINNING being the to the southeasterly corner of said lot; thence North $56^{\circ} 47' 00''$ East 154.55 feet along the prolongation of the southerly line of Lot 11; thence North $62^{\circ} 42' 50''$ East 186.85 feet; thence South $34^{\circ} 36' 28''$ East 141.50 feet; thence North $53^{\circ} 29' 29''$ East 522.43 feet;

thence North 33° 46' 26" West 721.21 feet; thence South 56° 15' 18" West 753.20 feet; thence South 22° 59' 37" East 592.87 feet to the POINT OF BEGINNING.

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

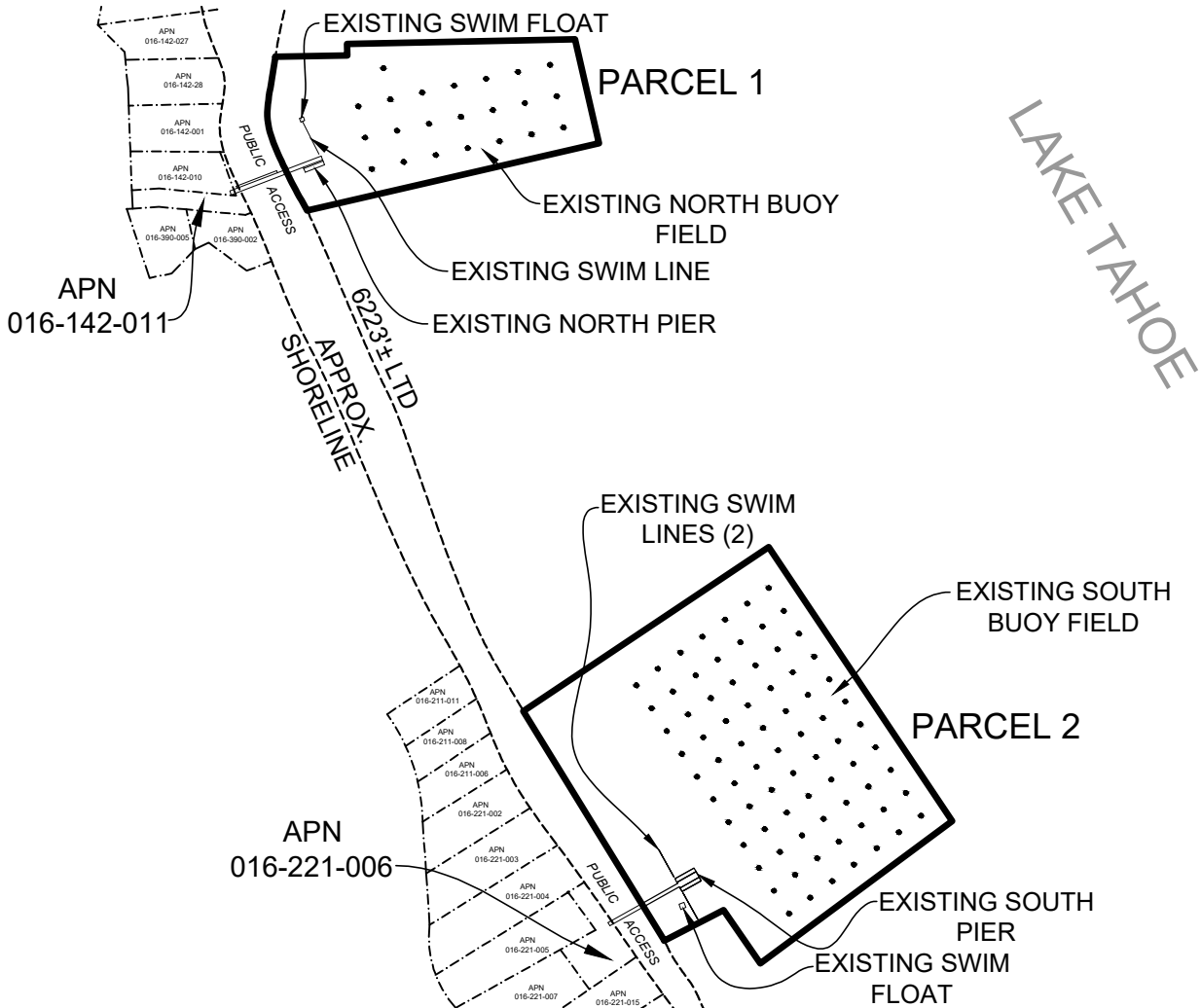
END OF DESCRIPTION

Prepared 02/26/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



8695 BEACH LANE & 8819 RUBICON DRIVE, NEAR MEEKS BAY

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 5676

RUBICON TAHOE

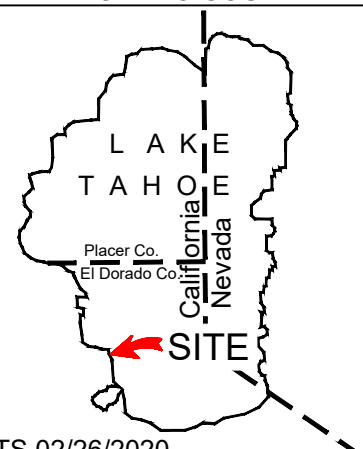
OWNERS, INC

APNs 016-221-006 & 016-142-011

GENERAL LEASE -

RECREATIONAL USE

EL DORADO COUNTY



TS 02/26/2020