

Staff Report 17

LESSEE:

Alan H. Matthews and Elizabeth E. Matthews, Trustees of the Matthews Family Revocable Trust Dated March 26, 2009

APPLICANT:

Patricia C. Matthews, as Trustee of the Patricia Matthews Family Trust, dated April 18, 2013; and Robert A. Matthews and Laura A. Matthews, as Trustees of the Matthews Family Trust dated January 19, 2021

PROPOSED ACTION:

Termination and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4850 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Use and maintenance of two existing mooring buoys.

TERM:

10 years, beginning December 8, 2021.

CONSIDERATION:

\$546 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 a permit from the Tahoe Regional Planning Agency (TRPA) 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 the lease.

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

STAFF ANALYSIS AND RECOMMENDATION:

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 April 26, 2013, the Commission authorized a 10-year General Lease – Recreational Use to Alan H. Matthews and Elizabeth E. Matthews, Trustees of the Matthews Family Revocable Trust Dated March 26, 2009, for use and maintenance of two existing mooring buoys ([Item C20, April 26, 2013](#)). That lease will expire on September 30, 2023. On February 23, 2019, Elizabeth E. Matthews passed away, leaving Alan H. Matthews as the sole lessee of record. On May 6, 2020, Alan H. Matthews passed away, resulting in transfer of the upland to the Applicant. On January 13, 2021, a portion of the upland title was transferred to the Patricia Matthews Family Trust, dated April 18, 2013. On January 27, 2021, a portion of the upland title was transferred to Robert A. Matthews and Laura A. Matthews, as Trustees of the Matthews Family Trust dated January 19, 2021. The Applicant registered the two mooring buoys with TRPA under number 10491. The Applicant is applying for a new General Lease – Recreational Use, for use and maintenance of two existing mooring buoys located in Lake Tahoe. Based on information provided in the application and Commission records, the subject mooring buoys have existed in the lake for many years.

Staff recommends termination of the existing lease because both named lessees are deceased, which resulted in the transfer of the upland without a lease quitclaim deed and application for assignment. The proposed date of termination is December 7, 2021, the day preceding issuance of the new lease. Further, staff proposes issuance of a new lease to the Applicant, effective December 8, 2021, the day of proposed authorization. Commission accounting records show the annual rent is paid current through September 30, 2022. Staff recommends that the annual rent paid under the existing lease be prorated and the amount apportioned to the period of December 8, 2021 through September 30, 2022, be

credited to annual rent due under the proposed lease. The proposed lease will require the Applicant to indemnify the State for the entire period of occupation, ensuring the State is protected.

The subject buoys 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 buoys have existed at this location for many years. The buoys are located directly adjacent to 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:

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. If the Commission denies the application, the Applicant may be required to remove the two existing 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. Termination of the lease 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. Staff recommends that the Commission find that issuance of the lease 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).

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 termination of the lease and issuance of 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. Terminate, effective December 7, 2021, Lease Number PRC 8487, a General Lease – Recreational Use, issued to Alan H. Matthews and Elizabeth E. Matthews, Trustees of the Matthews Family Revocable Trust Dated March 26, 2009.
2. Authorize proration of annual rent paid under existing Lease Number PRC 8487, with rent paid for the period December 8, 2021 through September 30, 2022 to be credited to annual rent due under the proposed lease.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 8, 2021, for a term of 10 years, for the use and maintenance of two existing 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 for the two existing buoys in the amount of \$546, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8487

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 1, 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:

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Trust Transfer Deed recorded January 13, 2021 as Document Number 2021-0005102-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/23/2021 by the California State Lands Commission Boundary Unit.



NO SCALE

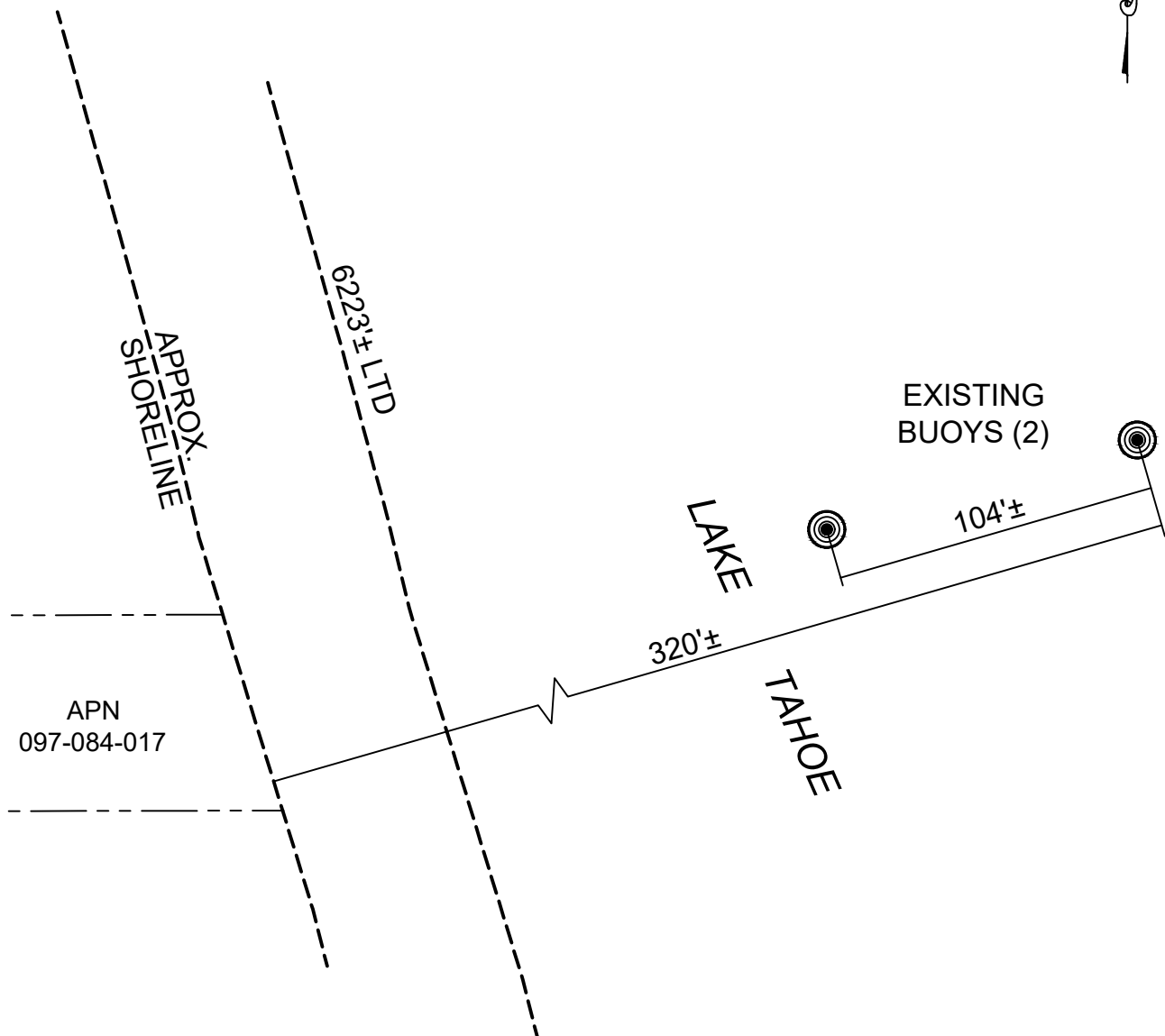


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 8487, MATTHEWS FAMILY TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



