

Staff Report 23

LESSEE:

PS Tahoe, LLC, a California limited liability company; William E. Hagler and Jean E. Hagler, as Trustees of The Hagler Trust dated January 28, 1975, for the benefit of William E. Hagler and Jean E. Hagler; Jack B. Hagler and Elizabeth Kohl Hagler, as Trustees of The Hagler Family Trust UAD August 21, 2007; Richard W. Hagler, and Taylor Family Lake Tahoe, LLC, a California limited liability company

APPLICANT:

PS Tahoe, LLC, a California limited liability company; and 8565 Meeks Bay Ave Hagler LLC, a California limited liability company

PROPOSED ACTION:

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 8559 and 8565 Meeks Bay Avenue, near Tahoma, El Dorado County.

AUTHORIZED USE:

Use and maintenance of an existing joint-use pier and four mooring buoys.

TERM:

10 years, beginning December 8, 2021.

CONSIDERATION:

\$1,951 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 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.
- 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.

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 February 22, 2013, the Commission authorized a 10-year General Lease – Recreational Use to PS Tahoe, LLC, a California limited liability company; William E. Hagler and Jean E. Hagler, as Trustees of The Hagler Trust dated January 28, 1975, for the benefit of William E. Hagler and Jean E. Hagler; Jack B. Hagler and Elizabeth Kohl Hagler, as Trustees of The Hagler Family Trust UAD August 21, 2007; Richard W. Hagler; and Kathryn Hagler Taylor, for continued use and maintenance of an existing joint-use pier and four mooring buoys ([Item C39, February 22, 2013](#)). The lease would expire on January 31, 2022.

The lease authorized an existing joint-use pier shared between two upland parcels, APN 016-101-090, held by PS Tahoe, LLC, a California limited liability company; and APN 016-101-088, held by William E. Hagler and Jean E. Hagler, as Trustees of The Hagler Trust dated January 28, 1975, for the benefit of William E. Hagler and Jean E. Hagler, Jack B. Hagler and Elizabeth Kohl Hagler, as Trustees of The Hagler Family Trust UAD August 21, 2007; Richard W. Hagler; and Kathryn Hagler Taylor. Then, without notifying the Commission, the interest in Kathryn Hagler Taylor's ownership of APN 016-101-88 transferred to Kathryn Hagler Taylor, Trustee of the Taylor Declaration of Trust, under Trust Agreement dated May 6, 1994.

On August 23, 2018, the Commission authorized an assignment of lease from the ownership interest of Kathryn Hagler Taylor, Trustee of the Taylor Declaration of Trust, under Trust Agreement dated May 6, 1994, to Taylor Family Lake Tahoe, LLC, a

California limited liability company; and revised the rent ([Item C22, August 23, 2018](#)).

On February 8, 2021, the portion of ownership interest of William E. Hagler and Jack B. Hagler, Trustees of The Hagler Trust dated January 28, 1975, in APN 016-101-088 transferred to William E. Hagler and Jack B. Hagler, Trustees of the William E. Hagler Trust dated January 25, 2021.

On March 19, 2021, all ownership interest in APN 016-101-088 transferred from William E. Hagler and Jack B. Hagler, Trustees of The Hagler Trust dated January 28, 1975; William E. Hagler and Jack B. Hagler, Trustees of the William E. Hagler Trust dated January 25, 2021; Richard W. Hagler; Jack B. Hagler and Elizabeth Kohl Hagler, Trustees of The Hagler Family Trust UAD August 21, 2007; and Taylor Family Lake Tahoe, LLC, a California limited liability company, to 8565 Meeks Bay Ave Hagler LLC, a California limited liability company.

The Applicant owns the upland parcels adjoining the lease premises and is now applying for a General Lease – Recreational Use to update the ownership of the existing joint-use pier and four mooring buoys. The subject facilities are privately owned and maintained.

Staff recommends acceptance of a lease quitclaim deed from the Lessee who has paid rent through January 31, 2022, the credit of prorated rent towards the new lease, and issuance of a new lease to the Applicant beginning December 8, 2021.

The subject facilities are 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 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 State for the occupation of the public land involved, which provides a public benefit.

For all the reasons above, staff believes the issuance of this 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 proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of an 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, as the owner of the improvements on state land, may be required to remove the pier and 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 Areas of the Commission's 2021-2025 Strategic Plan.
3. Acceptance of a lease 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. 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 issuance of the lease 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 acceptance of a lease quitclaim deed and issuance of 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 proposed lease; are consistent with the common law Public Trust Doctrine; and are in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective December 7, 2021, of Lease Number PRC 6120, a General Lease – Recreational Use, issued to PS Tahoe, LLC, a California limited liability company; William E. Hagler and Jean E. Hagler, as Trustees of The Hagler Trust dated January 28, 1975, for the benefit of William E. Hagler and Jean E. Hagler; Jack B. Hagler and Elizabeth Kohl Hagler, as Trustees of The Hagler Family Trust UAD August 21, 2007; Richard W. Hagler; and Taylor Family Lake Tahoe, LLC, a California limited liability company.
2. Authorize application of prorated rent in the amount of \$341.30 to a new rent invoice for the period beginning December 8, 2021 through December 7, 2022.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 8, 2021, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier and four 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 \$1,951 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 6120

LAND DESCRIPTION

Five parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 29, 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 – PIER

All those lands underlying an existing joint-use pier and catwalk lying adjacent to those parcels described in Grant Deed recorded March 19, 2021 in Document No. 2021-0019273 and Quitclaim Deed recorded January 13, 2004 in Document No. 2004-0002330-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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

PARCELS 2 through 5 – BUOYS

Four circular parcels of land, each being 50 feet in diameter, underlying four existing buoys lying adjacent to those parcels described in Grant Deed recorded March 19, 2021 in Document No. 2021-0019273 and Quitclaim Deed recorded January 13, 2004 in Document No. 2004-0002330-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/16/2021 by the California
State Lands Commission Boundary Unit



NO SCALE

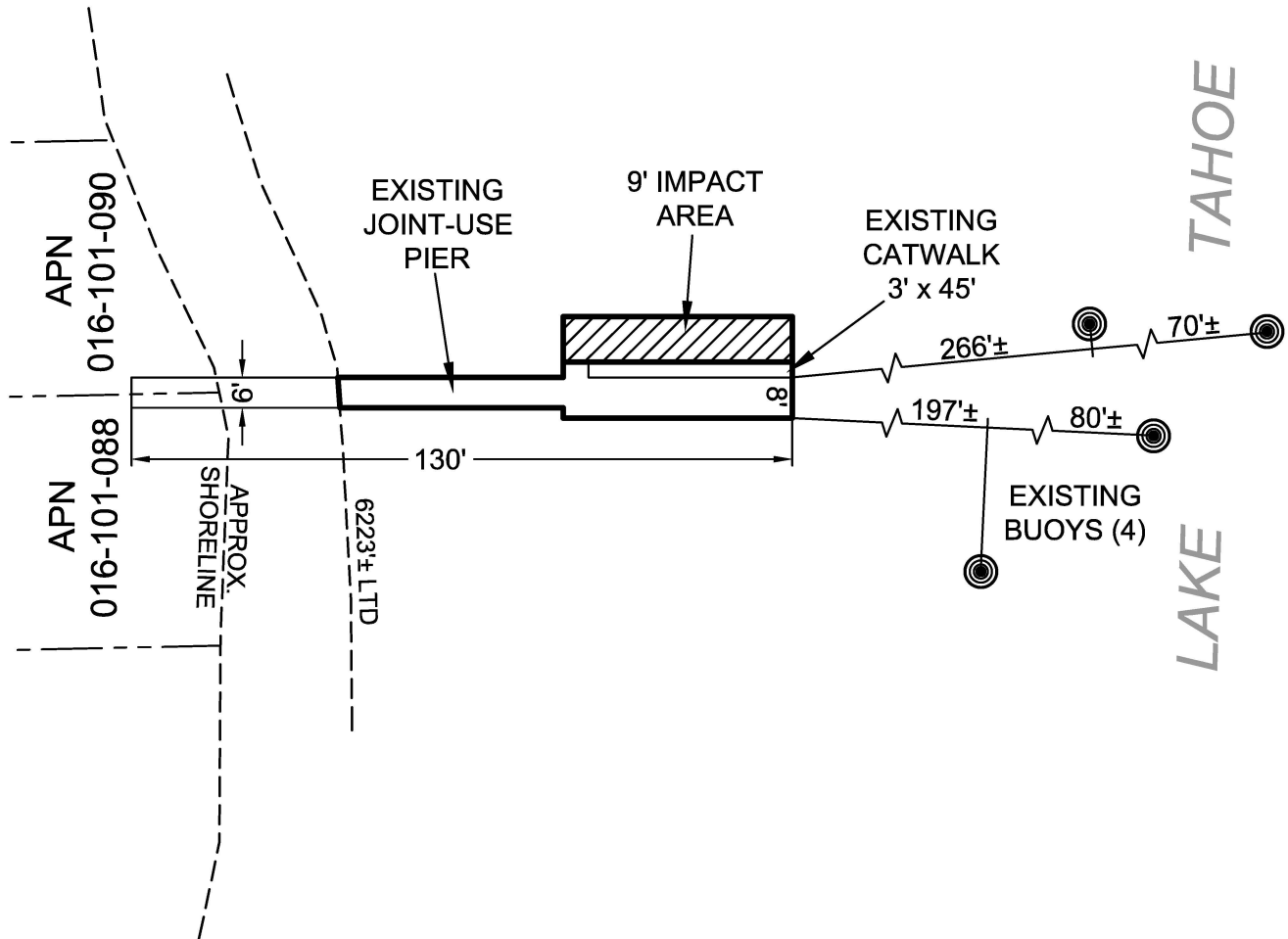


EXHIBIT A

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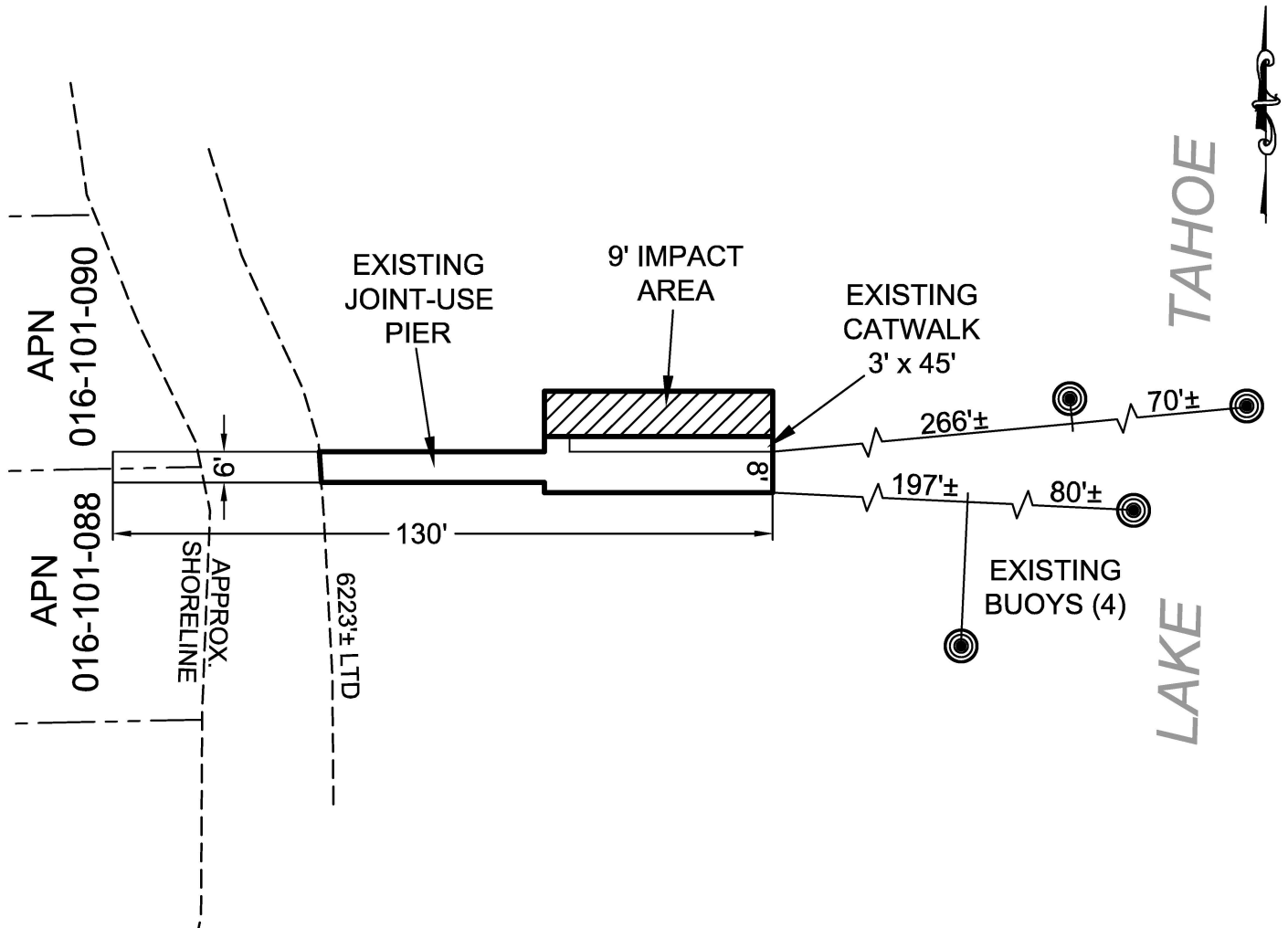
LAND DESCRIPTION PLAT
LEASE 6120, 8565 MEEKS BAY AVE
HAGLER LLC & PS TAHOE, LLC
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



8559 & 8565 MEEKS BAY AVE., NEAR TAHOMA

NO SCALE

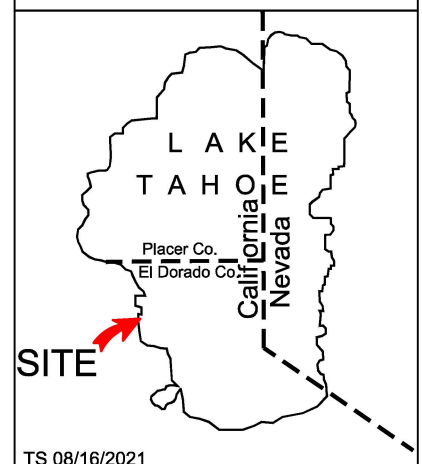
LOCATION



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 6120
8565 MEEKS BAY AVE
HAGLER LLC & PS TAHOE, LLC
APNs 016-101-088 & -090
GENERAL LEASE-
RECREATIONAL USE
EL DORADO COUNTY



TS 08/16/2021