

# Staff Report 12

## **LESSEE:**

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Steven L. Merrill, Trustee of the Steven L. Merrill Living Trust U/A/D 4/17/95, Natalie Rollhaus Burton, and Phillip Edward Rollhaus III

## **APPLICANT:**

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2000 North Lake Blvd. LLC, a Delaware limited liability company; and 1235 Astor Street LLC, a California limited liability company

## **PROPOSED ACTION:**

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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 2000 North Lake Boulevard, near Tahoe City, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of an existing pier, boathouse, boat lift, two mooring buoys, and one unattached piling previously authorized by the Commission; and one existing boat lift not previously authorized by the Commission.

## **TERM:**

10 years, beginning June 23, 2022.

## **CONSIDERATION:**

\$3,364 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.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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 June 19, 2014, the Commission authorized Lease Number PRC 2666, a General Lease – Recreational Use, for use and maintenance of an existing pier, boathouse, two mooring buoys, and one unattached piling previously authorized by the Commission, and use and maintenance of one existing boat lift not previously authorized by the Commission, to Steven L. Merrill, Trustee of The Steven L. Merrill Living Trust U/A/D 4/17/95, and Jacqueline Merrill, Trustee of The Jacqueline Merrill 2006 Trust under Trust Agreement dated February 17, 2006, as amended ([Item 30, June 19, 2014](#)). The lease is set to expire on January 31, 2023.

On August 23, 2018, the Commission authorized the continuation of rent and amendment of the lease to remove Jacqueline Merrill, Trustee of The Jacqueline Merrill 2006 Trust under Trust Agreement dated February 17, 2006, as amended; and to add Natalie Rollhaus Burton and Philip Edward Rollhaus III as co-lessees with Steven L. Merrill, Trustee of The Steven L. Merrill Living Trust U/A/D 4/17/95; with all other terms and conditions of the lease remaining in effect without amendment ([Item 17, August 23, 2018](#)).

On August 26, 2020, partial ownership interest in the upland parcel transferred from Natalie Rollhaus Burton and Philip Edward Rollhaus III to 1235 Astor Street LLC, a California limited liability company.

On December 23, 2020, the remaining ownership interest in the upland parcel transferred from Steven L. Merrill, Trustee of the Steven L. Merrill Living Trust U/A/D 4/17/95, to 2000 North Lake Blvd. LLC, a Delaware limited liability company.

The Applicant subsequently applied to amend the lease to reflect the current upland property ownership. During the application review process staff discovered an existing boat lift within the boathouse, which was not previously authorized by the Commission. TRPA registered the moorings on June 14, 2021, under registration number 10032.

Staff recommends acceptance of a lease quitclaim deed from the Lessee, effective June 22, 2022, and issuance of a new lease to the Applicant beginning June 23, 2022. Rent under the current lease was paid through January 31, 2023. Staff recommends proration of the rent paid for the February 1, 2022 through January 31, 2023, lease year and that a credit of \$1,943.76 for the period of June 23, 2022 through January 31, 2023, be applied towards the first year's rent for the proposed lease.

The proposed lease will require the Applicant to indemnify the State for the entire period of occupation prior to the date the new lease takes effect, ensuring the State is protected.

The Applicant owns the upland adjoining the lease premises. The pier, boathouse, boat lifts, and mooring buoys 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 two mooring buoys are located directly lakeward of the upland property and occupy relatively small areas of the lake.

The subject facilities have existed for many years at this location. The pier is built on pilings with the immediate area of the pier being relatively flat and rocky. Public access for pedestrians and lake-related activities is available at varying water levels underneath the pier to access the Public Trust easement.

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 payment of annual rent to compensate the people of the State for the occupation of the public land involved.

### **CLIMATE CHANGE:**

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms is increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics.

According to California's Fourth Climate Change Assessment, released in 2018, the most significant impacts of climate change in the Sierra Nevada Region are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and dryer summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter stream flows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public access. Extra saturation of the soil can increase erosion, especially following intense wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity.

Climate change may also lead to more intense and unpredictable winds and storm events. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake.

Shoreline structures authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events. Watercraft moored to buoys, piers, or docks are also vulnerable to damage from high wind events and excessive waves.

### **CONCLUSION:**

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 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 for a new lease, the Applicant may be required to remove the pier, boat lift, boathouse with boat lift, one unattached piling, and two 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 "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Acceptance of the 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, 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 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 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 proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

### **AUTHORIZATION:**

1. Authorize acceptance of a lease quitclaim deed, effective June 22, 2022, of Lease 2666, a General Lease – Recreational Use, issued to Steven L. Merrill, Trustee of the Steven L. Merrill Living Trust U/A/D 4/17/95, Natalie Rollhaus Burton, and Phillip Edward Rollhaus.
2. Authorize proration of the rent paid under Lease Number PRC 2666.1 for the February 1, 2022 through January 31, 2023, lease year; and application of a credit of \$1,943.76 for the period of June 23, 2022 through January 31, 2023, towards the first year's rent for the proposed lease.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 23, 2023, for a term of 10 years, for the use and maintenance of a pier, boathouse, boat lift, two mooring buoys, and one unattached piling previously authorized by the Commission; and one existing boat lift not previously authorized by the Commission, 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 \$3,364 with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

**LAND DESCRIPTION**

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 5, Township 15 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying an existing pier, boathouse, boat lifts and catwalks lying adjacent to that Parcel One described in Exhibit “A” of Grant Deed recorded July 16, 2009 as Document Number 2009-0062382-00 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 & 3 – BUOYS**

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to said Parcel One described in Exhibit “A”.

**PARCEL 4 – UNATTACHED PILING**

A circular parcel of land underlying an existing unattached piling, lying adjacent to said Parcel One described in Exhibit “A”.

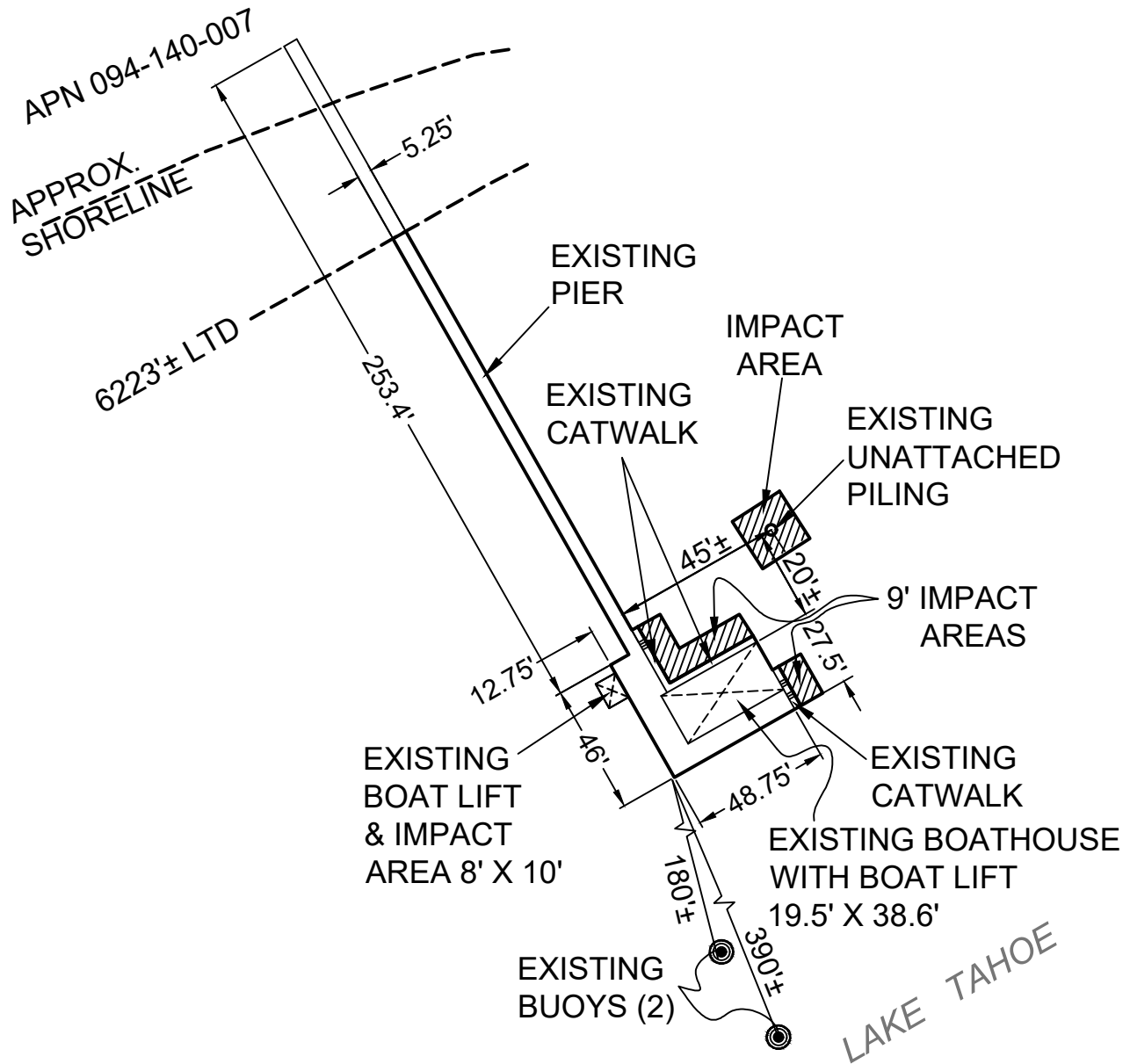
TOGETHER WITH any applicable Impact Area(s).

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 05/11/2022 by  
the California State Lands  
Commission Boundary Unit.





## EXHIBIT A

Page 2 of 2

MJF 5/10/2022

LAND DESCRIPTION PLAT  
LEASE 2666 - 2000 NORTH LAKE BLVD. LLC.  
& 1235 ASTOR STREET LLC.  
PLACER COUNTY

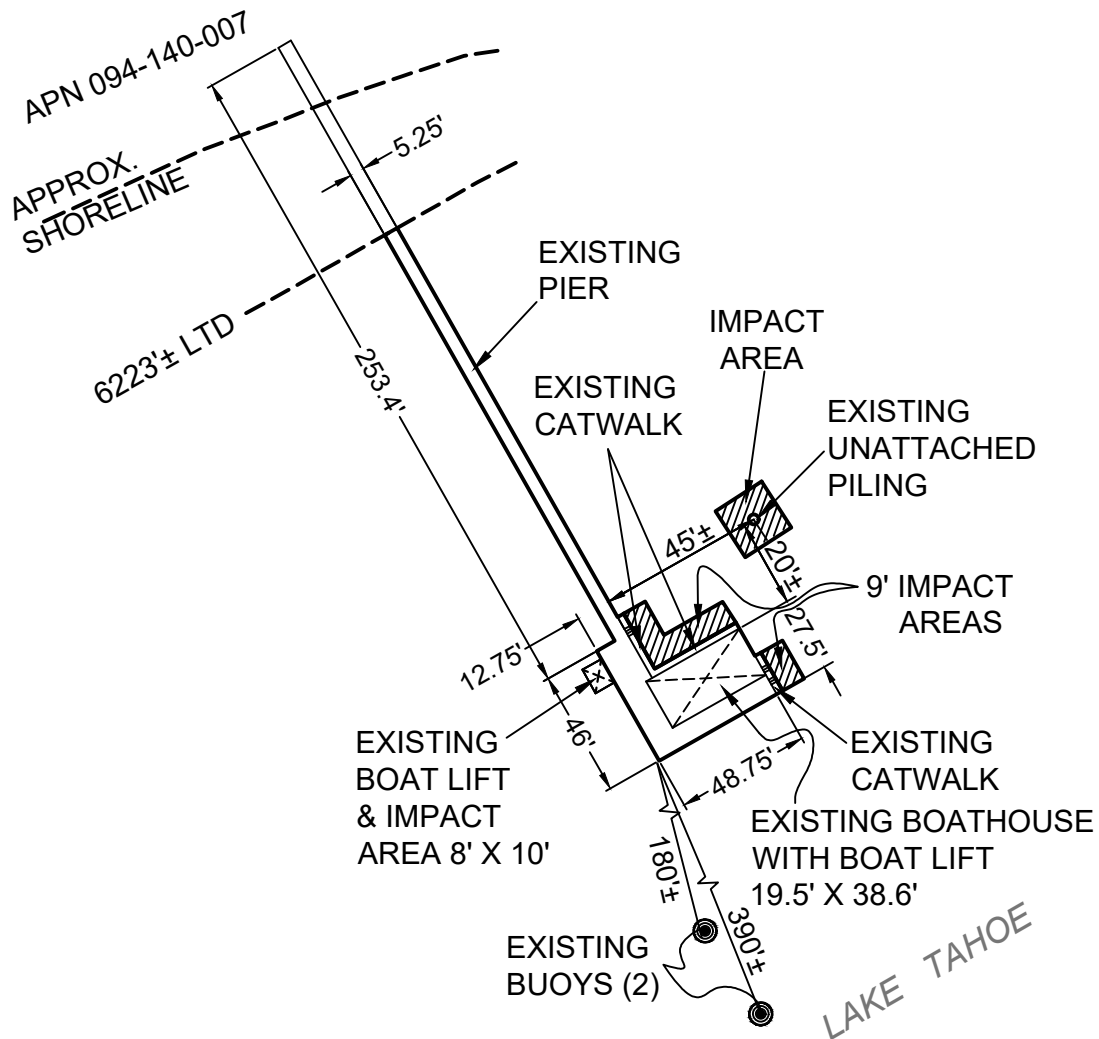
CALIFORNIA STATE  
LANDS COMMISSION





NO SCALE

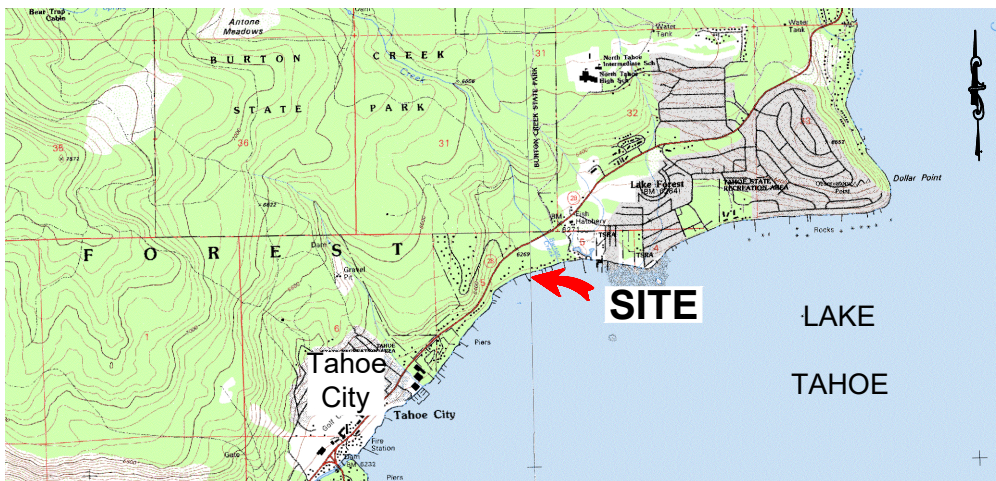
## SITE



2000 NORTH LAKE BLVD., TAHOE CITY

NO SCALE

## LOCATION



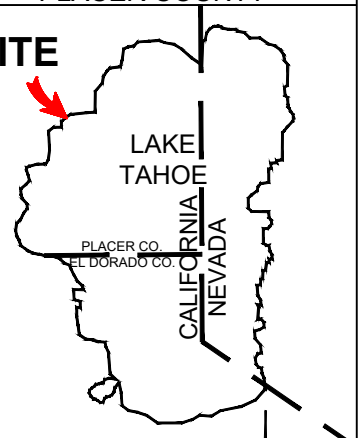
MAP SOURCE: USGS QUAD

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 2666  
2000 NORTH LAKE BLVD LLC.  
& 1235 ASTOR STREET LLC.  
APN 094-140-007  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY

## **SITE**



MJF 5/10/2022