

# Staff Report 23

## **APPLICANT:**

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Tri-Association, a California nonprofit mutual benefit corporation

## **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 7001 West Lake Boulevard, near Tahoma, El Dorado County

## **AUTHORIZED USE:**

Use and maintenance of an existing pier, 38 mooring buoys, two marker buoys and a swim line.

## **TERM:**

10 years, beginning June 23, 2022.

## **CONSIDERATION:**

\$11,128 per year, with an annual Consumer Price Index adjustment and \$3,300 to compensate for the unauthorized occupation of state sovereign land for the period prior to June 23, 2022.

## **SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$2,000,000 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 March 5, 2012, the Commission authorized a General Lease – Recreational Use to Tri-Association, a California nonprofit mutual benefit corporation, for a pier, 38 mooring buoys, two marker buoys and a swim line ([Item 51, March 29, 2012](#)). On October 13, 2016, the Commission authorized the relocation of the buoy field and amended the lease ([Item 03, October 13, 2016](#)). The lease expired on March 5, 2022. The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of an existing pier 38 mooring buoys, two marker buoys, and swim line. On December 31, 2021, the Applicant registered all moorings with TRPA (Registration No. 10273).

The pier, buoys and swim line have existed for many years at this location. The pier is built on pilings with the immediate area of the pier being flat with fine sands and scattered rocks. The topography and location are navigable. Public access for pedestrians and lake-related activities is available at varying water levels underneath the pier within Public Trust easement. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The swim line is seasonal and occupies state lands during the summer months before being removed for the rest of the year.

The pier, buoys, and swim line 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.)

Staff recommends and the Applicant agrees to pay compensation for the unauthorized occupation of state land from March 05, 2022, to June 23, 2022, the day before the June Commission meeting, upon the issuance of a new lease. Staff recommends the Commission accept compensation from the Applicant in the amount of \$3,300 for the unauthorized occupation of state land for this period prior to the commencement of the proposed lease.

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.

### **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 streamflows 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.

Improvements 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 proposed 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, the Applicant may be required to remove improvements 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. 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 common law 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 \$3,300 for unauthorized occupation of State land for the period beginning March 5, 2022 to June 23, 2022.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 23, 2022, for a term of 10 years, for the use and maintenance of a pier, thirty-eight mooring buoys, two marker buoys, and a swim line, 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 \$11,128, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

LEASE 3775

### LAND DESCRIPTION

Three parcels of submerged lands situate in the bed of Lake Tahoe, adjacent to Lots 1 and 2 of fractional Section 17, Township 14 North, Range 17 East, M.D.B.&M., as shown on official government township plat approved July 29, 1880, Counties of El Dorado and Placer, State of California, more particularly described as follows:

#### PARCEL 1 – PIER AND BUOY FIELD

BEGINNING at the northerly terminus of that course described as N 21°19'40" E 669.02 feet as shown Amended Final Map A portion of Lot 1 of the northwest quarter of Section 17, Township 14 North, Range 17 East, Mt. Diablo Meridian, filed in Book H of Final Maps, at Page 66 on November 3<sup>rd</sup>, 1992, Official Records of El Dorado County; thence from said point of beginning N 30°39'40" E 550.00 feet; thence N 59°26'51" W 240.26 feet; thence S 33°44'10" W 560.00 feet to a point lying distant N 61°23'00" W 270.48 feet from said point of beginning; thence S 61°23'00" E 270.48 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 & 3

Two circular parcels of land, each being 50 feet in diameter, underlying two USCG Marker buoys lying northeasterly of the herein above described Parcel 1.

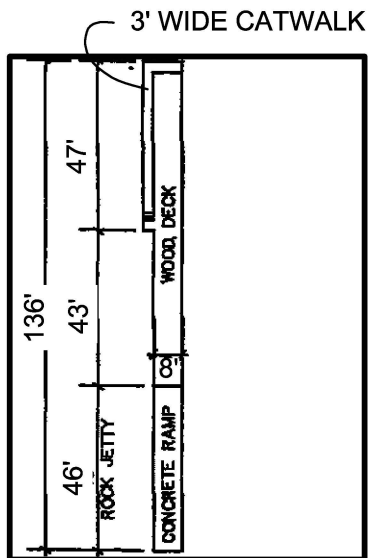
### END OF DESCRIPTION

Prepared 6/28/2016 by the California State Lands Commission Boundary Unit.



NO SCALE

## SITE



PIER DETAIL

LAKE TAHOE

LEASE PARCEL 2&3  
EXISTING USCG MARKER  
BUOY x 2 (TYP)

LEASE PARCEL 1  
PIER & BUOY FIELD

EXISTING PIER WITH  
9' USE AREA  
(SEE DETAIL)

EXISTING  
MOORING  
BUOY x 38  
(TYP)

EXISTING SAFETY SWIM  
LINE 150' LONG

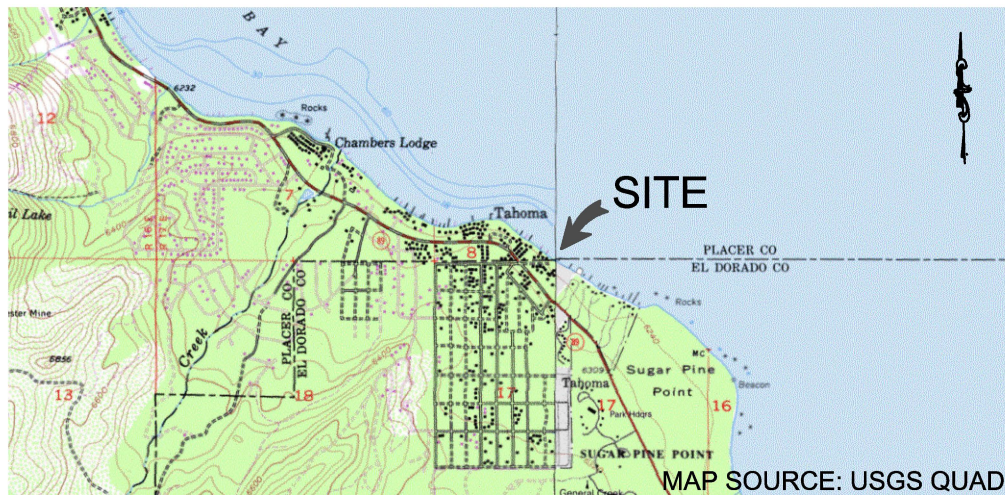
APPROXIMATE  
SHORELINE

APPROXIMATE 6223' LTD

7001 WEST LAKE BLVD., TAHOMA

NO SCALE

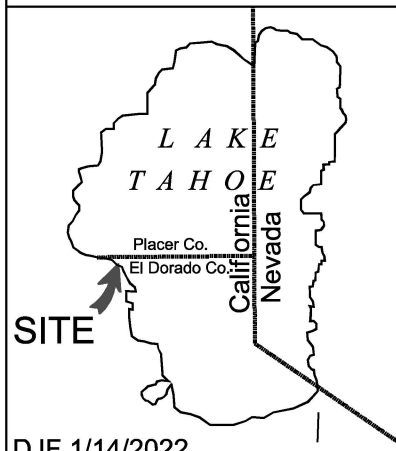
## LOCATION



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 3775  
TRI ASSOCIATION  
APN 015-351-01  
GENERAL LEASE -  
RECREATIONAL USE  
EL DORADO COUNTY



DJF 1/14/2022