

Meeting Date: 10/25/22
Lease Number: 8554
Staff: E. Harley

Staff Report 24

LESSEE:

J. Robert Taylor and Donna C. Taylor, Co-Trustees of the 2005 Taylor Family Trust dated January 5, 2005; Michael Robert Taylor; Bret Matthew Taylor; Jaime Taylor LaChance

APPLICANT:

Jay Norman Simons and Monique Shereen Simons, Trustees of the Simons Family Trust Dated December 5, 2013

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 636 Olympic Drive, near Tahoe City, Placer County.

AUTHORIZED USE:

Use and maintenance of two existing mooring buoys.

TERM:

10 years, beginning October 25, 2022.

CONSIDERATION:

\$546 per year, with an annual Consumer Price Index adjustment; and \$298 for unauthorized occupation of State land for the period beginning April 9, 2022 through October 24, 2022.

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 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, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On April 9, 2019, the Commission authorized a General Lease – Recreational Use for two mooring buoys to J. Robert Taylor and Donna C. Taylor, Co-Trustees of the 2005 Taylor Family Trust dated January 6, 2005; Michael Robert Taylor; Bret Matthew Taylor; and Jaime Taylor LaChance ([April 5, 2019, Item C20](#)).

On December 17, 2021, ownership interest in the upland parcel transferred to Jay Norman Simons and Monique Shereen Simons, Trustees of the Simons Family Trust, dated December 5, 2013. The Applicant is applying for a General Lease – Recreational Use, for the use and maintenance of two existing mooring buoys. TRPA registered the two mooring buoys on June 6, 2022, under registration #10203.

Staff recommends acceptance of a lease quitclaim deed from the current Lessee and issuance of a new lease to the Applicant beginning October 25, 2022. The Commission’s accounting records show that the Lessee paid annual rent through April 8, 2022, for the two mooring buoys, prior to the transfer of ownership interest. The proposed lease will require the Applicant to indemnify the State for the period of occupation from December 17, 2021 through October 24, 2022. Additionally, the Applicant will pay compensation for the unauthorized occupation of State lands in the amount of \$298 for the period of April 9, 2022 through October 24, 2022.

The Applicant owns the upland adjoining the lease premises. The two mooring buoys are privately owned and maintained and are used for the 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 mooring buoys, which have existed for many years at this location, 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 proposed 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 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.

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:

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 the two existing mooring buoys and restore the premises to their original condition. 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 Area 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 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 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 a lease quitclaim deed effective October 24, 2022, of Lease Number 8554, a General Lease-Recreational Use, issued to J. Robert Taylor and Donna C. Taylor, Co-Trustees of the 2005 Taylor Family Trust Dated January 6, 2005; Michael Robert Taylor; Bret Matthew Taylor; and Jamie Taylor LaChance, wherein the Lessee quitclaims to the State all right, title, and interest in the leased lands described in attached Exhibit A.

2. Authorize acceptance of compensation from the Applicant in the amount of \$298 for unauthorized occupation of State lands for the period of April 9, 2022 through October 24, 2022.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 25, 2022, for a term of 10 years, for the use and maintenance of two existing 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 \$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 8554

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 7, 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:

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded December 21, 2021, as Document Number 2021-0153826-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/10/2022 by the California State Lands Commission Boundary Unit.



NO SCALE



EXHIBIT A

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LAND DESCRIPTION PLAT
 LEASE 8554, SIMONS FAMILY TRUST
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



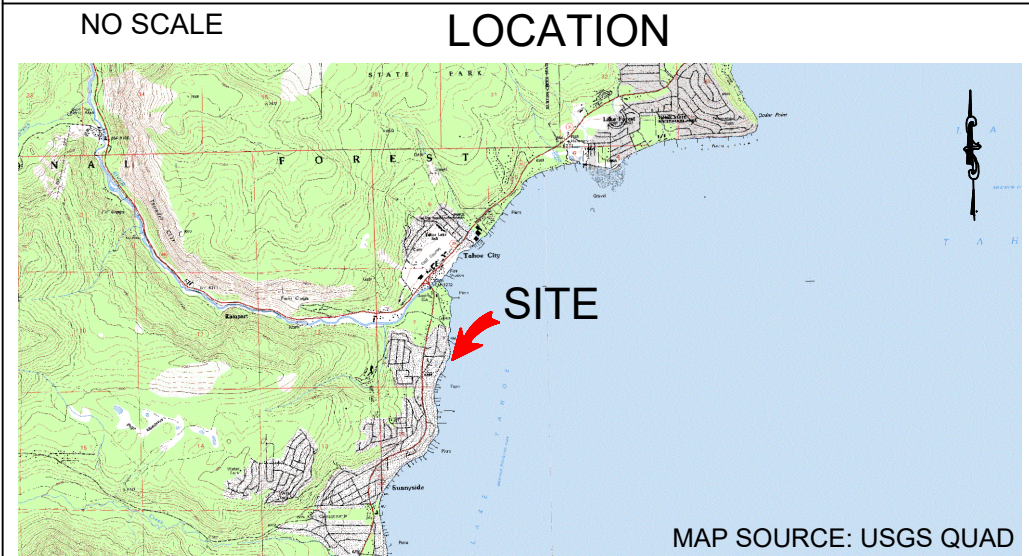
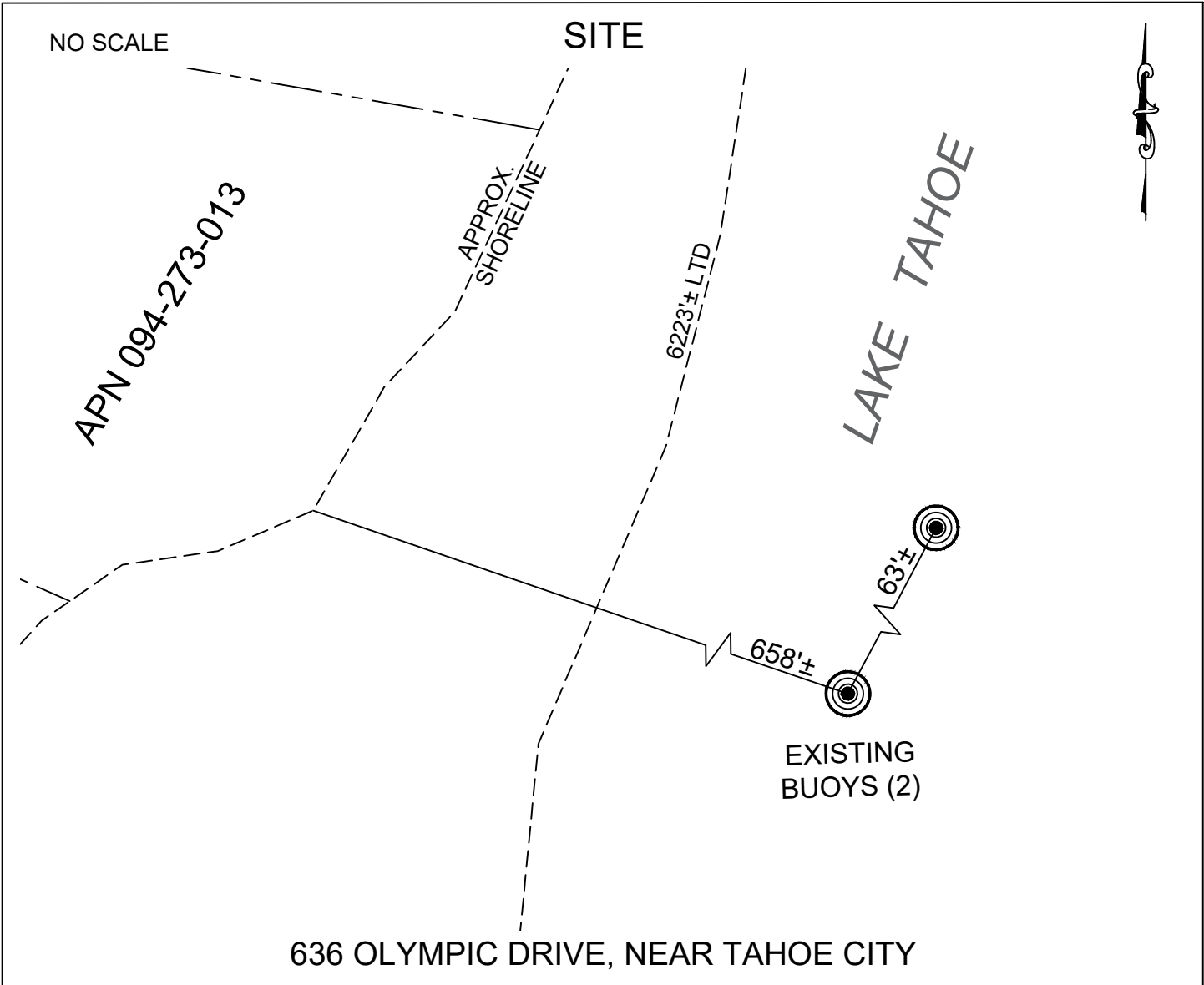
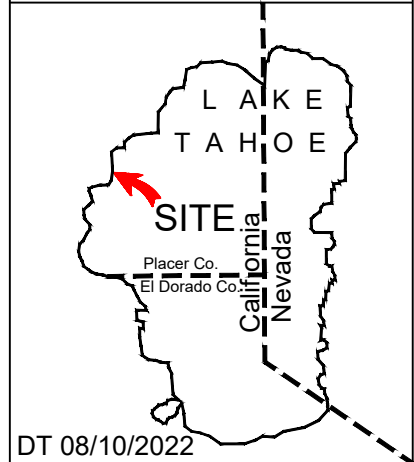


EXHIBIT B

LEASE 8554
 SIMONS FAMILY TRUST
 APN 094-273-013
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.