

Staff Report 10

LESSEE/ASSIGNOR:

Alan Bryan and Martha Bryan, Trustees of the Bryan Family Trust Dated October 27, 1994

APPLICANT/ASSIGNEE:

John L. O'Farrell and Gloria Principe, Co-Trustees of the O'Farrell-Principe Living Trust, dated April 30, 1999

PROPOSED ACTION:

Assignment and Amendment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 7422 North Lake Boulevard, near Tahoe Vista, Placer County.

AUTHORIZED USE:

Use and maintenance of one existing mooring buoy.

TERM:

10 years, beginning June 28, 2019.

CONSIDERATION:

\$377 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

1. Section 1, CONSIDERATION, revise the annual rent from \$377, with an annual Consumer Price Index adjustment, to \$273, with an annual Consumer Price Index adjustment, effective June 28, 2023, the anniversary date.

2. Section 2, SPECIAL PROVISIONS, is amended to include: The Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.
3. Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).

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 activities.

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 June 28, 2019, the Commission authorized a General Lease – Recreational Use to Alan Bryan and Martha Bryan, Trustees of the Bryan Family Trust Dated October 27, 1994, for the use and maintenance of one existing buoy in Lake Tahoe, adjacent to 7422 North Lake Boulevard, near Tahoe Vista, Placer County ([Item C06, June 28, 2019](#)). That lease will expire on June 27, 2029.

On September 9, 2021, ownership interest in the upland parcel was transferred to John L. O'Farrell and Gloria Principe, Co-Trustees of The O'Farrell-Principe Living Trust, dated April 30, 1999. The Applicant, in coordination with the Lessee, is now applying for an amendment and assignment of Lease Number 9553, for the use and maintenance of the one existing mooring buoy. The effective date of the

assignment will be September 9, 2021, to coincide with the Applicant's acquisition of the upland property.

Staff recommends the lease be amendment to include revision of the annual rent from \$377, with an annual Consumer Price Index adjustment, to \$273, with an annual Consumer Price Index adjustment, effective June 28, 2023, the anniversary date. Based on the Commission's accounting records, the annual rent is paid through June 27, 2023.

The Applicant is qualified to hold the lease, and staff has not discovered any information that would provide a basis for withholding the amendment and assignment. Thus, staff believes that amending and assigning the lease is in the state's best interest to ensure that a capable lessee is committed to managing the improvements and fulfilling the lease obligations. The proposed amendment and assignment do not alienate the State's fee simple interest or permanently impair public rights.

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 are 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 storm events and winds. 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 approval of this lease amendment and assignment will not substantially interfere with Public Trust needs at this location, at this time, nor for the remaining term of this lease; is consistent with the common law Public Trust Doctrine; and is in the best interest of the state.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for an amendment and assignment of lease 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 lease would not be assigned or amended. The Lessee has no right to a new lease or to a 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. Assignment and amendment of the lease is not a project as defined by the California Environmental Quality Act 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).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the assignment of Lease Number 9553, a General Lease – Recreational Use of sovereign land, as described in Exhibit A, land description, and as shown on Exhibit B, Site and Location Map (for reference purpose only) attached and by this reference made a part hereof, from Alan Bryan and Martha Bryan, Trustees of the Bryan Family Trust Dated October 27, 1994, to John L. O'Farrell and Gloria Principe, Co-Trustees of The O'Farrell-Principe Living Trust, dated April 30, 1999; effective September 9, 2021, to coincide with the Applicant's acquisition of the upland property.
2. Authorize the amendment to include Section 1, CONSIDERATION, revise the annual rent from \$377, with an annual Consumer Price Index adjustment, to \$273, with an annual Consumer Price Index adjustment, effective June 28, 2023, the anniversary date.
3. Authorize the amendment to include Section 2, SPECIAL PROVISIONS, which is amended to include: The Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.
4. Authorize the amendment to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map. All other terms and conditions of the lease shall remain in effect without amendment.

EXHIBIT A

LEASE 9553

LAND DESCRIPTION

A parcel of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 13, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Quitclaim Deed recorded July 14, 2022, as Document Number 2022-0057030-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 12/15/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

APN 117-130-036

APPROX.
SHORELINE



6223'± LTD

622±



LAKE TAHOE

EXHIBIT A

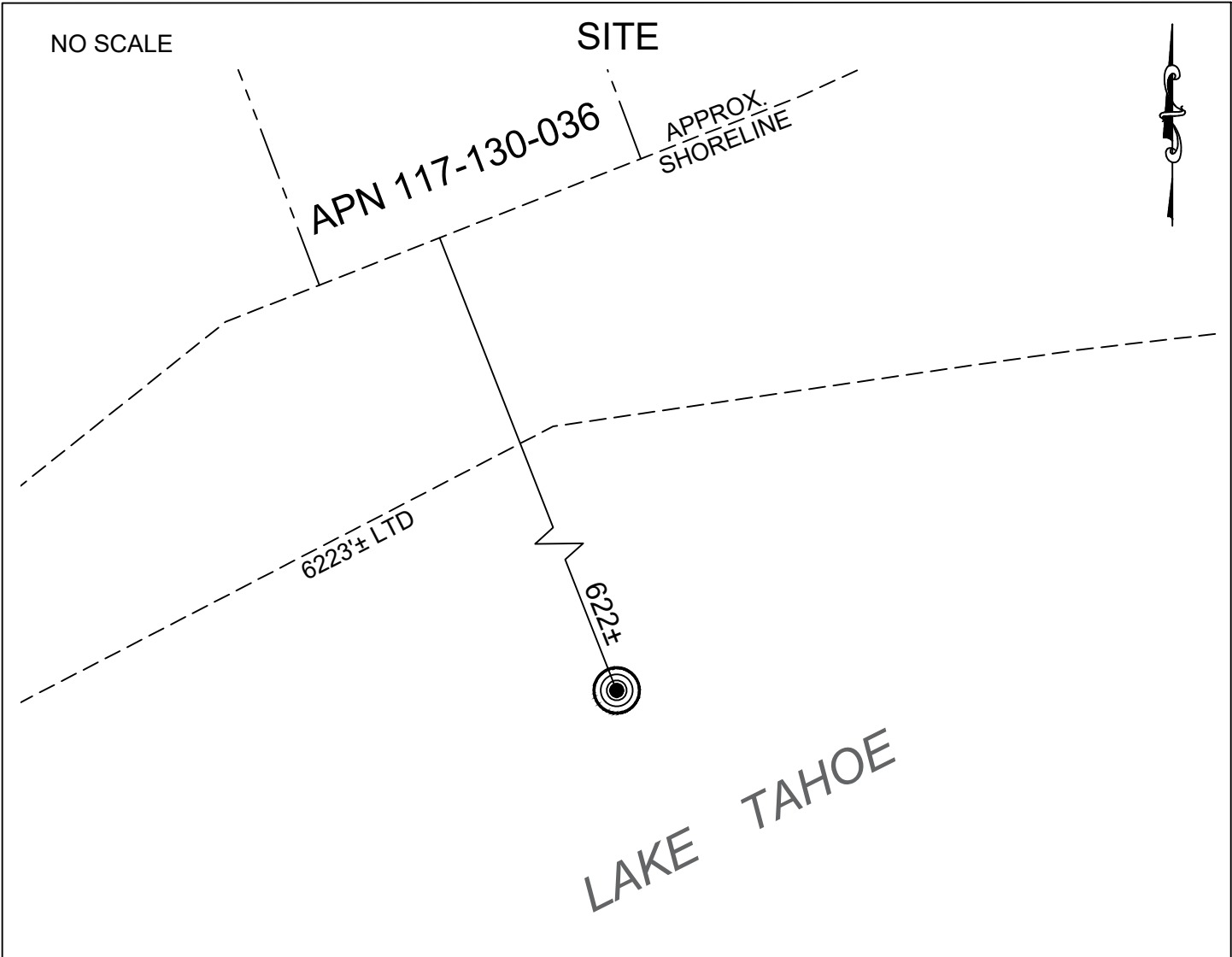
PAGE 2 OF 2

DT 12/15/2022

LAND DESCRIPTION PLAT
LEASE 9553, O'FARRELL-PRINCIPE TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



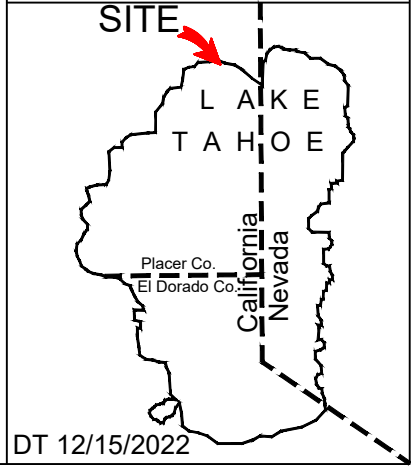


7422 NORTH LAKE BOULEVARD, NEAR TAHOE VISTA



EXHIBIT B

LEASE 9553
 O'FARRELL-PRINCIPE TRUST
 APN 117-130-036
 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.