

Staff Report 23

APPLICANT:

Rubicon Tahoe Owners, Inc.

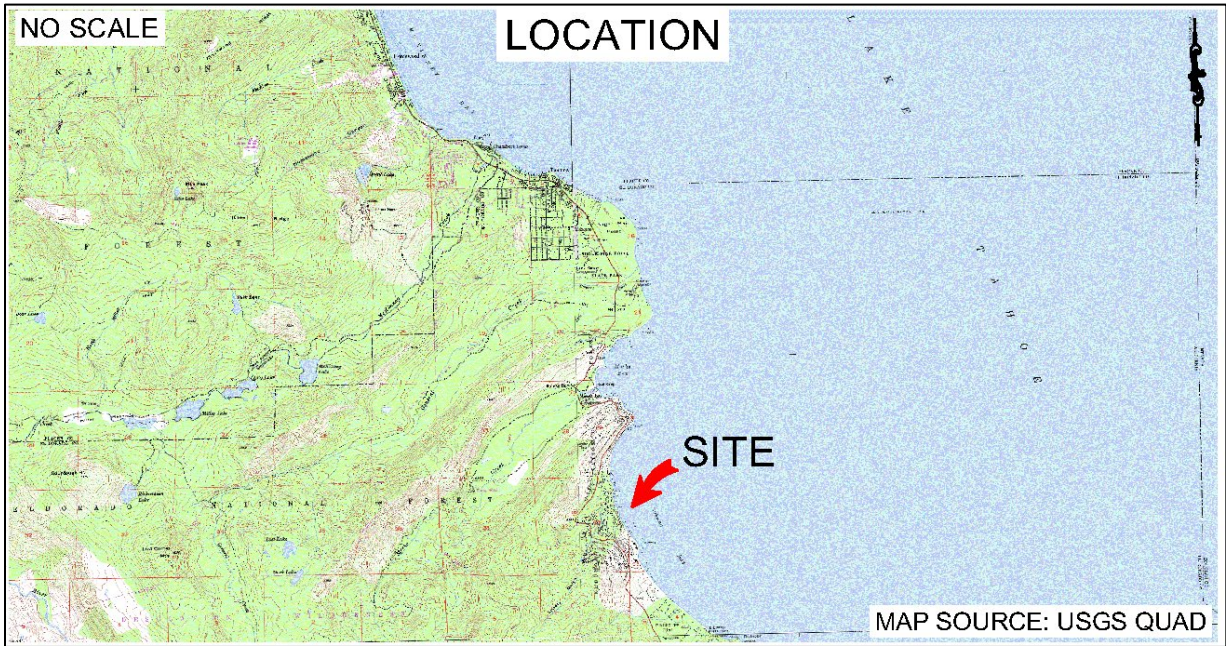
PROPOSED ACTION:

Amendment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to Assessor's Parcel Numbers 016-142-011 and 016-221-006, near Rubicon Bay, El Dorado County (as shown in Figure 1).

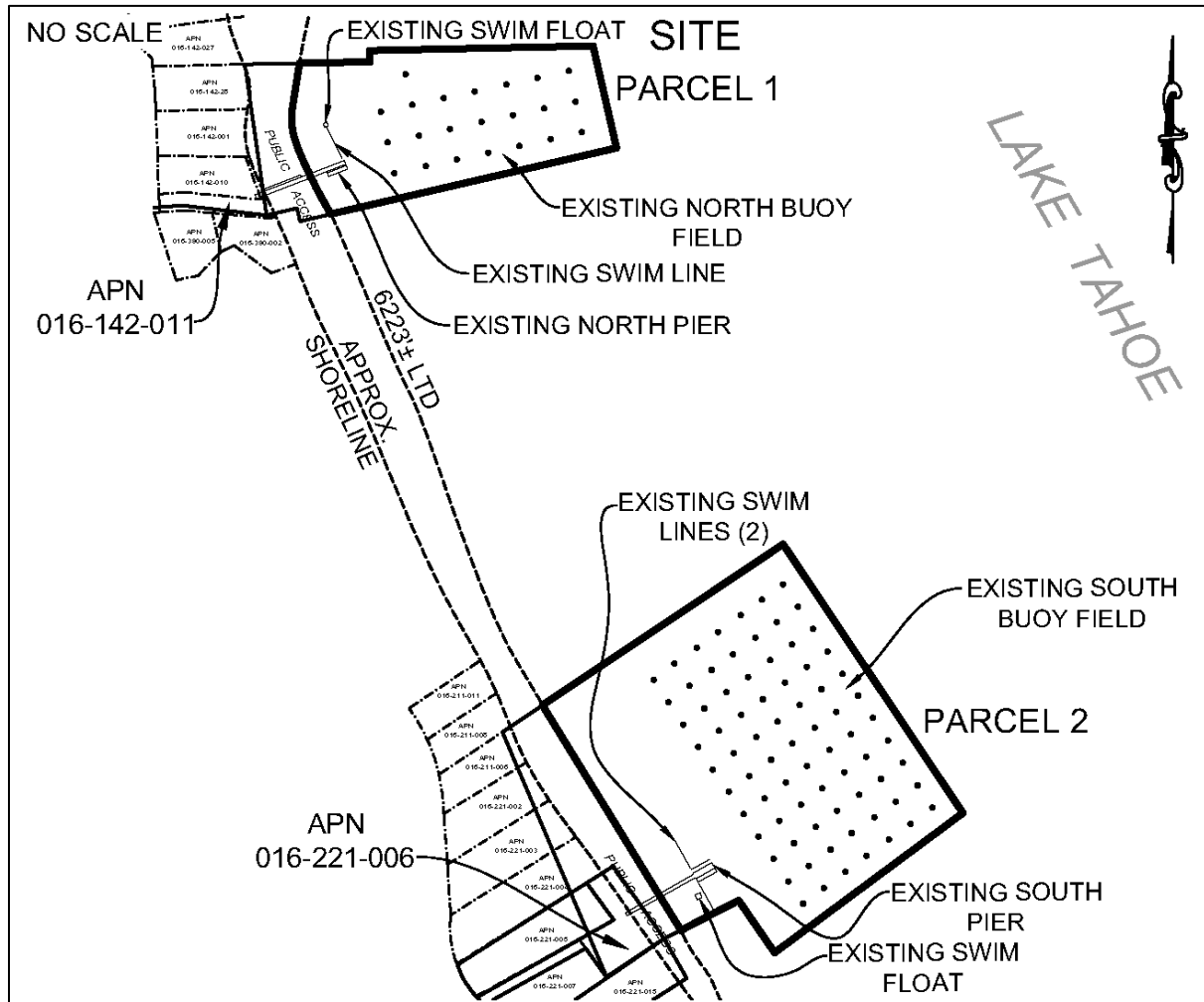
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of two existing piers, three seasonal open swim lines, two swim floats, 97 mooring buoys, and three marker buoys (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

10 years, beginning February 1, 2022.

CONSIDERATION:

\$39,440 per year, with Annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Revise the annual rent from \$39,440, with an annual Consumer Price Index adjustment, to \$29,440, with an annual Consumer Price Index adjustment, effective February 1, 2023.
- 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.

All other terms and conditions of the lease to remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5, 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 27, 2021, the Commission authorized the issuance of a General Lease – Recreational Use, to Rubicon Tahoe Owners, Inc. for the use and maintenance of two existing piers, three seasonal open swim lines, two swim floats, 97 mooring buoys, and three marker buoys ([Item 20, April 27, 2021](#)). This lease expires January 31, 2032.

The annual rent for Lease 5676 was based upon the 2012 Lake Tahoe Benchmark rates in effect at the time of the 2021 authorization. On December 8, 2021, the Commission authorized the 2021 Lake Tahoe Benchmark rates ([Item 02, December 8, 2021](#))

The Applicant is now applying for an amendment of a General Lease – Recreational Use to utilize the new 2021 Lake Tahoe Benchmark and revise annual rent from \$39,440 per year, with an annual Consumer Price Index adjustment to \$29,440 per year, with an annual Consumer Price Index. The Commission's accounting records show that the Applicant has paid the annual rent through February 1, 2024. Staff recommends the proration of rent from May 1, 2023 through January 31, 2024 be refunded in the amount of \$2,849.21.

The lease with the proposed amendment, 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. The 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. 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.

For all the reasons above, staff believes the issuance of this lease amendment will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the lease; 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 Lessee's current annual rent for the authorized improvements will not be revised. The Lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Leading Climate Change Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Amendment of lease to revise the annual rent 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).

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment 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 amendment to include Section 1, CONSIDERATION, revise the annual rent from \$39,440, with an annual Consumer Price Index adjustment, to \$29,440, with an annual Consumer Price Index adjustment, effective February 1, 2023, the anniversary date.
2. Apply a refund \$2,849.21 for the proration of rent from May 1, 2023 through January 31, 2024.