

Staff Report 20

LESSEE:

Lakeland Village Owners Association

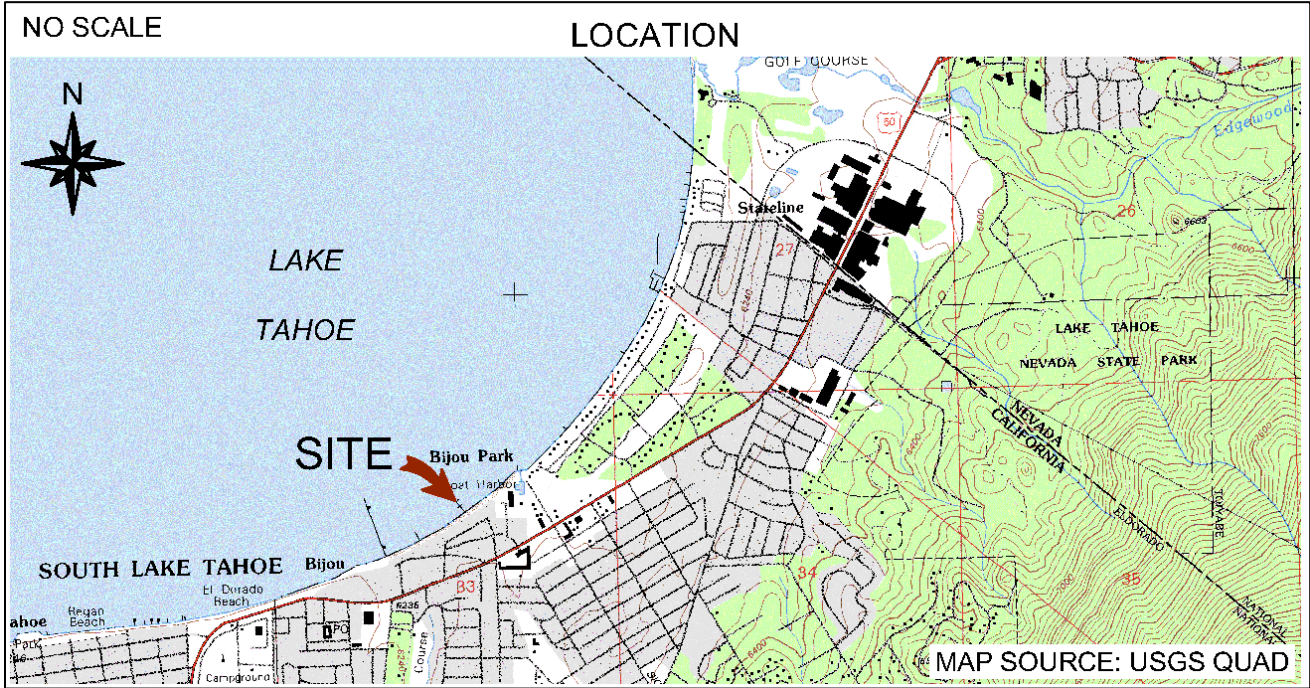
PROPOSED ACTION:

Amendment of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 3535 Lake Tahoe Boulevard, near South Lake Tahoe, El Dorado County (as shown in Figure 1).

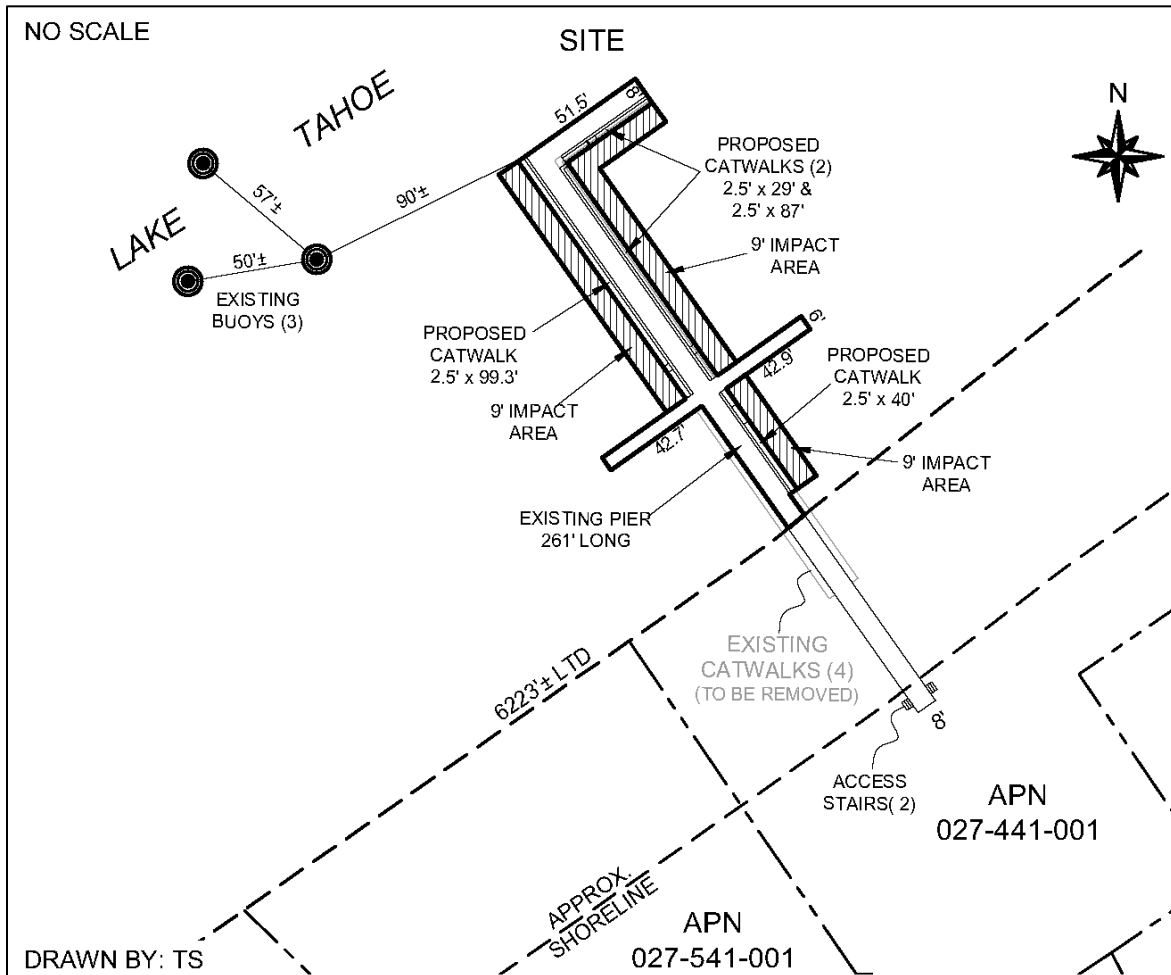
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of an existing pier and three mooring 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 May 19, 2020.

CONSIDERATION:

\$4,501 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Authorize modification of the existing pier (as shown in Figure 2).
- Revise the annual rent from \$4,501, with an annual Consumer Price Index adjustment, to \$5,046, with an annual Consumer Price Index adjustment.
- Require Lessee to acknowledge that a portion of the pier exists within the State administered Public Trust Easement and that Lessee agrees to allow the public to pass and re-pass over the pier using staircases located on both sides of the pier to facilitate continuous access to and along the Public Trust Easement.
- Require that Lessee post signs on each side of the pier which provide public passage over the pier to clearly designate the presence of the public passageway.
- 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.
- Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only), in the lease.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A, Land Description, and Exhibit B, Site and Location Map, to the lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by the Lessor's Executive Officer or designee, the revised Exhibits shall replace the Exhibits incorporated in the lease at the time of lease execution. The replaced Exhibits shall be incorporated in the lease as though fully set forth therein.
- Provide that construction activities will be performed pursuant to the specific terms identified in the Lease, including requirements pertaining to construction equipment, debris, and the delivery to Lessor of specified documents related to the construction activities; and that the Lessee obtain all necessary permits and authorizations prior to commencing work.

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On August 20, 2020, the Commission authorized the issuance of a General Lease – Recreational Use to Lakeland Village Owners Association, for the use and maintenance of an existing pier and three mooring buoys ([Staff Report 09, August 20, 2020](#)). The lease is set to expire on May 18, 2030.

The Lessee is now applying for an amendment to this lease for the modification of the existing pier. Staff recommends amending Lease 5490 to authorize this proposed project. The proposed amendment will take effect on February 26, 2024, in order to align with the Commission meeting date.

On May 15, 2023, the Tahoe Regional Planning Agency (TRPA) approved the project to modify the existing pier (File No. ERSP2022-1054). The work for this project will commence after the Lessee has obtained all necessary permits and approvals.

The proposed project consists of replacement of the existing guardrail, installation of downward focused LED lighting, replacement of pier decking, installation of new joists for structural support, reconstruction of the pier access, installation of two additional pilings, removal of wood fender pilings from the east and west pier wings, reconfiguration and relocation of catwalks, and installation of new girders and joists to raise the pier deck elevation on the east and west pier wings.

The proposed pier modifications will reduce the visible mass from 889.53 square feet to 871.11 square feet. This will result in the proposed pier modifications occupying a footprint which is approximately 18.42 square feet smaller than the existing pier.

The topography proximate to the landward end of the pier is flat, sandy, and easy to traverse. Continuous public access within the Public Trust easement will be available by passing over the pier. This passage will be facilitated by the presence of two short stairways located on either side of the pier which will provide access to the pier deck. The proposed amendment includes a provision requiring the Applicant to post signs on each of these stairways which shall clearly identify the designated public passageway over the pier. These signs shall be in place at all times.

The proposed project includes the removal and relocation of the catwalks. These adjustable catwalks will be installed on both sides of the pier with one on the west side of the pier and three on the east side of the pier. To facilitate the modification of the pier, new steel girders, joists, and composite deck material will be utilized.

The project will primarily occur from the lake via an amphibious barge or similar approved equipment. The proposed project will mostly be accomplished through the use of portable equipment and manual labor, with specific tools and methods utilized to minimize pollution and atmospheric or acoustic impacts. Appropriate spill prevention and containment devices, such as a floating fine mesh, will be used to prevent equipment, tools, or hazardous materials from being discharged into the lake during construction. Caissons will be utilized during the removal of the pilings from the lakebed, and the crew will skim the lake surface to dispose of any additional debris.

The pier decking and catwalk and ramp materials will be manufactured and powder-cut off site. All steel components will be pre-fabricated and pre-painted off-site at an on-shore warehouse, except for the final cuts of the steel joists during installation. The materials will be transported by and stored on the barge and protected from discharge into the lake.

The Applicant will follow all construction methods and timeframes provided by TRPA, the Lahontan Regional Water Quality Control Board, the California Department of Fish and Wildlife, the U.S. Army Corps of Engineers, and any other agency exercising pertinent jurisdiction within the lease area.

The Lessee owns the uplands adjoining the lease premises. The subject facilities 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.)

The proposed lease 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.

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 high wind events and damaging waves.

CONCLUSION:

For all the reasons above, staff believes the amendment of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the term of the 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 is 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 would not be allowed to modify the pier. 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 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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

RECOMMENDED ACTION:

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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).

PUBLIC TRUST AND STATE’S BEST INTERESTS:

Find that the proposed amendment of lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the 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 the amendment of Lease Number 5490, a General Lease – Recreational Use, effective February 26, 2024, for the modification of the existing pier; to revise rent from \$4,501 with an annual Consumer Price Index adjustment to \$5,046 with an annual Consumer Price Index adjustment; to incorporate climate change language; and to replace the existing lease Exhibit A, Land Description, and lease Exhibit B, Site and Location Map; all other terms and conditions of the lease shall remain in effect without amendment.
2. Authorize the Executive Office or designee to replace Exhibits to the lease upon submission, review, and approval of as-built plans detailing the final location of the new improvement following installation.