

Staff Report 14

APPLICANT/SUBLESSOR:

Tahoe Sunnyside, a California limited partnership

SUBLEESSEE:

Sunnyside Waters Sports, Incorporated

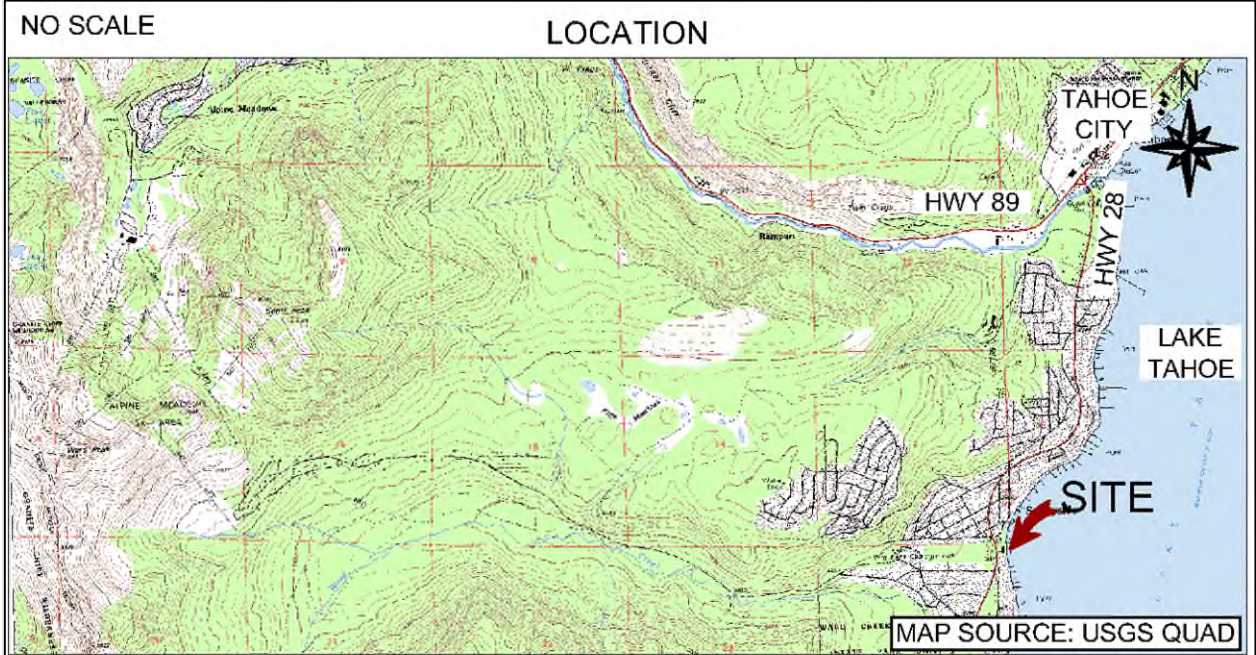
PROPOSED ACTION:

Issuance of a General Lease – Commercial Use and Endorsement of a Sublease.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1890 West Lake Boulevard, near Tahoe City, Placer County (as shown in Figure 1).

Figure 1. Location

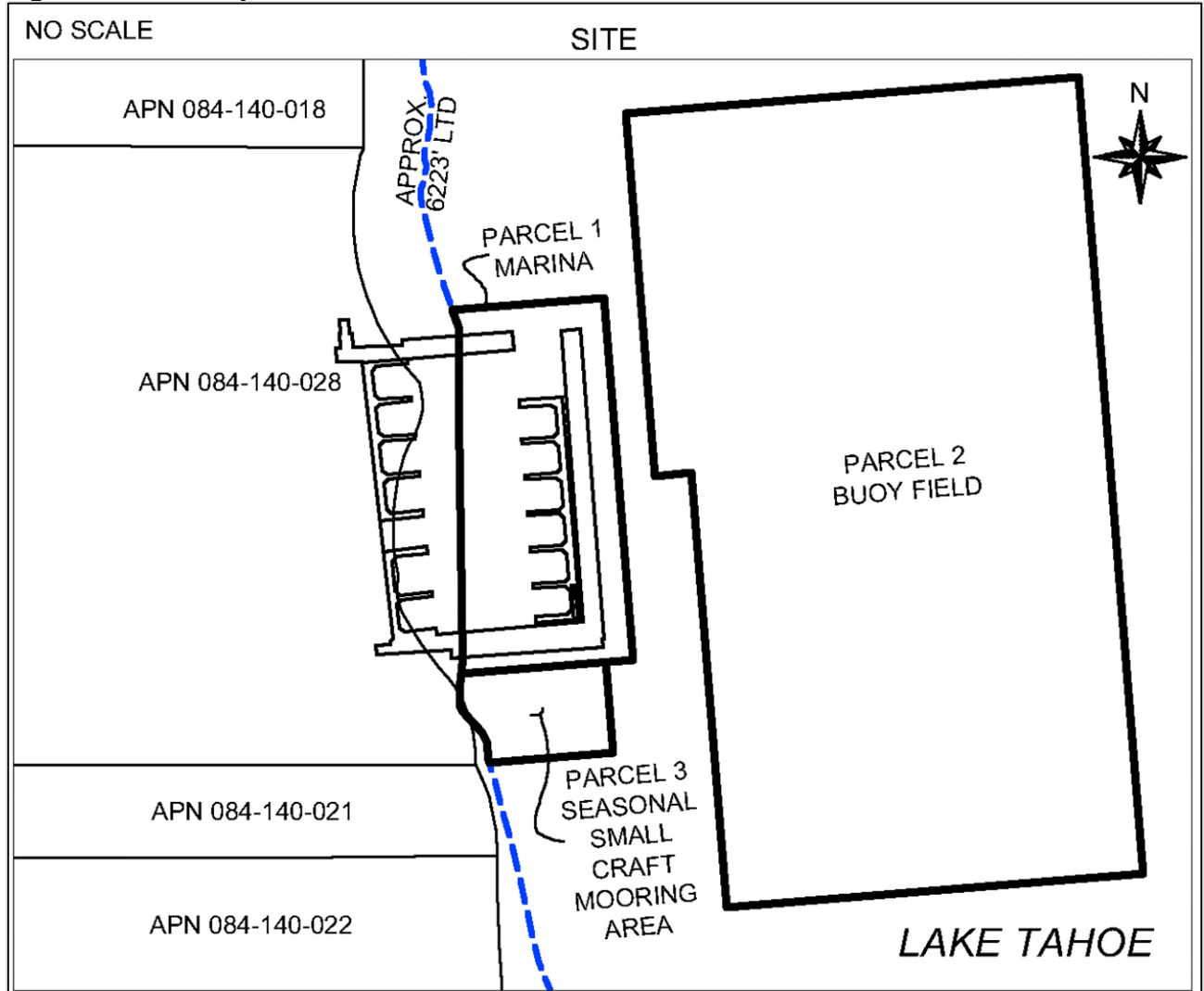


AUTHORIZED USE:

Lease: Operation and use of an existing commercial marina, known as Sunnyside Marina, consisting of an existing rock crib pier with extension, one boat dock, six boat slips, 24 mooring buoys, two string lines, and a fuel station on sovereign land (as shown in Figure 2).

Sublease: Operation and management of watercraft rentals.

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:

Lease: 20 years, beginning July 1, 2024.

CONSIDERATION:

\$11,459 per year with annual CPI adjustments; and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$3,000,000 per occurrence.
- Surety which reaches the full value of \$258,000 through supplemental deposits during the lease term as noted in Section 2 provisions.
- The lease contains provisions requiring implementation of the Commission’s “Best Management Practices for Marina Owners/Operators” and encouraging implementation of the Commission’s “Best Management Practices for Berth Holders and Boaters,” including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.
- Lessee or its sublessee may issue, without Lessor’s prior approval, individual slip rentals (berthing subleases) in conjunction with normal commercial marina subleasing practices for terms of one year or less.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On June 26, 1980, the Commission authorized a General Lease – Commercial Use to Sunnyside Sailing Center Company for operation of a commercial marina, ancillary service, and maintenance dredging, for a term of 40 years ([Item 19, June 26, 1980](#)). On January 23, 1986, the Commission authorized an assignment of the lease from Sunnyside Sailing Center Company to Tahoe Sunnyside, a California Limited Partnership ([Item 17, January 23, 1986](#)). On May 5, 1992, the Commission authorized an amendment of the lease for reconstruction of an existing rock crib

pier, retention of a fuel pump, and an adjustment in rent ([Item 14, May 5, 1992](#)). On June 21, 1993, the Commission authorized an amendment of the lease for reconstruction of an existing rock crib pier at the southern and eastern boundaries of the marina ([Item 07, June 21, 1993](#)). On January 29, 2009, the Commission authorized a third amendment of the lease for dredging ([Item 28, January 29, 2009](#)). The lease expired on June 30, 2020.

Tahoe Sunnyside, a California limited partnership is applying for a General Lease - Commercial Use, for continued operation of an existing commercial marina in Lake Tahoe. It also seeks an endorsement from the Commission for authorization of a sublease to Sunnyside Water Sports, Incorporated, who will operate a watercraft rental business which enhances navigation of the Lake. The marina consists of an existing rock crib pier, one boat dock, six boat slips, 24 mooring buoys, two string lines, and a fuel station on sovereign land. Apart from the improvements under lease, there are two other boat docks and six boat slips which reside landward of elevation 6223 and therefore outside of the Commission's leasing jurisdiction. The mooring buoys under lease are registered with the Tahoe Regional Planning Agency (Registration No. 10337).

In 2024, the Applicant entered into an agreement with Sunnyside Water Sports, Inc. to manage a watercraft rental business consisting of motorized boats, non-motorized boats, and personal water sports equipment. The rental business is seasonal and operates approximately five months per year, during daylight hours. During business hours when the power boats are not in use, they are moored to buoys in the lease premises. The personal watercrafts are tied to string lines during business hours. At the close of business, all watercraft, including the string lines, are removed from the lease premises. At that time, all mooring buoys are available for the public's use. The use will remain seasonal, aligning with the annual tourist season running from late spring to early fall. Given the significant duration that the Lease Premises may be occupied by the sublessee, the Applicant will be required to provide a copy of the primary lease to ensure that Sunnyside Water Sports, Inc. is fully aware of the covenants and lease term limitations that govern its rights as a sublessee.

The Lessee is required to obtain an endorsement of the sublease from the Commission. The lease terms and conditions require the Lessor's evaluation of proposed assignees, sublessees, secured third parties and other transferees and to grant approval or disapproval according to the standard of commercial reasonableness considering the following factors within the context of the proposed use: the proposed party's financial strength and reliability, their business

experience and expertise, their personal and business reputation, their managerial and operational skills, their proposed use and projected rental, as well as other relevant factors. Applying these factors, staff has reviewed the Sublessee's qualifications and deemed them acceptable for this use.

The proposed endorsement of sublease would promote public use and enjoyment of the Lake and not impede public access. The proposed lease will require the Sublessee to insure the lease premises and indemnify the State. The authorized uses under the lease promote water-related public use of Public Trust land and provide a variety of visitor-serving amenities to enhance public access and enjoyment of the lands.

The Commission's accounting records show the annual rent is paid through June 30, 2024. Therefore, staff recommends starting the proposed lease on July 1, 2024 (the lease anniversary date). The proposed lease will require the Applicant to indemnify the State for the entire period of occupation from June 30, 2020, to June 30, 2024, ensuring the State is protected.

The subject commercial marina directly promotes Public Trust uses. The marina improvements accommodate, promote, and foster the public's need for maritime services and the public's enjoyment of the State's waterways. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The adjacent upland is developed as a commercial marina.

The proposed lease includes provisions and BMPs intended to protect the public use of the proposed lease area, including a limited lease term of 20 years. The facilities have existed at this location for many years; they do not significantly alter the land, they do not permanently alienate the State's fee simple interest in the underlying land, and they do not permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Furthermore, the lease requires that the lessee insure the lease premises and provide a bond or some other form of financial security for the faithful performance of the lease obligations. The proposed agreement would require the Lessee to provide an initial surety of \$50,000 within 90 days of the lease authorization date, and thereafter continue with two annual increases of \$25,000 each, until the security reaches a total of \$258,000. 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 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 drier 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 stated above, staff believes that issuance of 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 term of the lease; is consistent with the 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 must remove the improvements and restore the property to its original condition. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs, and "Leading Climate Activism" Strategic Focus Area of the [Commission's 2021-2025 Strategic Plan](#).
3. Endorsement of a sublease 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, sections 15060, subdivision (c)(3), and 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 15061 and California Code of Regulations, title 2, section 2905.

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 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 issuance of a General Lease – Commercial Use to the Applicant beginning July 1, 2024, for a term of 20 years, for the operation and use of a commercial marina, known as Sunnyside Marina, consisting of an existing rock crib pier with extension, one boat dock, six boat slips, 24 mooring buoys, two string lines, and a fuel station; annual rent of \$11,459 with an annual CPI adjustment; liability insurance in an amount no less than \$3,000,000 per occurrence; and an initial surety of \$50,000, that will be increased by \$50,000 per year until it reaches \$258,000, as noted in Section 2 provisions.
2. Authorize endorsement of a sublease between Tahoe Sunnyside, a California limited partnership and Sunnyside Water Sports, Incorporated, with all terms and conditions remaining consistent with those authorized under the primary lease, for the operation and management of watercraft rentals.