

**CALENDAR ITEM  
C05**

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02/07/17  
PRC 8739.1  
M.J. Columbus

**AMENDMENT OF LEASE**

**LESSEE:**

Arthur Grant Burton and Kathleen Keane Burton, Trustees of The Burton Family Trust

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in Lake Tahoe, adjacent to 3216 Edgewater Drive, near Tahoe City, Placer County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing pier and two mooring buoys.

**LEASE TERM:**

10 years, beginning February 1, 2017.

**CONSIDERATION:**

\$1,533 per year, with an annual Consumer Price Index adjustment.

**PROPOSED AMENDMENT:**

Amend the lease to:

1. Authorize the proposed expansion of the existing pierhead, removal of an existing catwalk including steel stairway and fender piling, and installation, use, and maintenance of a new adjustable catwalk including an 11-inch diameter steel pile.
2. Include special lease provisions related to construction.
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).

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

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**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

**Public Trust and the State's Best Interests Analysis:**

The Lessee owns the upland adjoining the lease premises. On June 28, 2016, the Commission authorized a 10-year General Lease – Recreational Use to Arthur Grant Burton and Kathleen Keane Burton, Trustees of The Burton Family Trust, for an existing pier and two mooring buoys ([Calendar Item C02, June 28, 2016](#)). That lease will expire on January 31, 2027.

The Lessee is now applying to amend the lease for the proposed expansion of the existing pierhead, removal of an existing catwalk including steel stairway and fender piling, and installation of a new adjustable catwalk including an 11-inch diameter steel pile. While the pierhead will be slightly extended, the new catwalk will be smaller than the existing catwalk. The proposed construction will not result in a change to the overall footprint and the annual rent will remain unchanged.

Proposed construction of the pierhead expansion and adjustable catwalk will be performed on site with most of the construction above the water. The existing pierhead, catwalk, steel stairway, and fender piling will be dismantled by manual labor. The pile driving is to be performed by an amphibious vehicle with pile driver and/or crane, portable equipment, and manual labor. Placement of decking will be performed by manual labor and portable equipment.

Construction will take place after all required approvals have been obtained. No construction activity shall occur within 50 feet of the Tahoe yellow cress (TYC) plants identified with the TYC survey performed on September 26, 2016, by Tahoe Regional Planning Agency staff.

During construction, no lake bottom disturbance will occur below the surface elevation of Lake Tahoe from May 1 through October 1.

The lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area. The proposed facilities will not significantly alter the land, alienate the State's fee simple interest, or permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the

CALENDAR ITEM NO. **C05** (CONT'D)

lease premises to their original condition. Based on the foregoing, Commission staff believes that the proposed construction to expand the pierhead and installation of an adjustable catwalk will not substantially interfere with Public Trust needs, at this location, at this time, or for the foreseeable term of the lease.

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. For all the reasons above, Commission staff believes the issuance of this lease amendment is consistent with the common law Public Trust Doctrine and in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. The 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 14, section 15302.

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

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS REQUIRED:**

U.S. Army Corps of Engineers  
California Department of Fish and Wildlife  
Lahontan Regional Water Quality Control Board  
Tahoe Regional Planning Agency

CALENDAR ITEM NO. **C05** (CONT'D)

**EXHIBITS:**

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

**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 14, section 15302.

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed amendment of Lease No. PRC 8739.1 will not substantially impair public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

Authorize the amendment of Lease No. PRC 8739.1, a General Lease – Recreational Use, effective February 7, 2017, to approve the proposed expansion of the existing pierhead, removal of an existing catwalk including steel stairway and fender piling, and installation, use, and maintenance of a new adjustable catwalk including an 11-inch diameter steel pile; to include special lease provisions related to construction; and 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 (for reference purposes only); all other terms and conditions of the lease shall remain in effect without amendment.

**EXHIBIT A**

**PRC 8739.1**

**LAND DESCRIPTION**

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 32 Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

**PARCEL 1 –PIER**

All those lands underlying an existing pier and one (1) proposed adjustable catwalk adjacent to those parcels described in Exhibit "A" of that Grant Deed recorded March 13, 2006 as Document Number 2006-0026541 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

**PARCEL 2 & 3 – BUOYS (2)**

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcels.

Accompanying plat is hereby made part of this description.

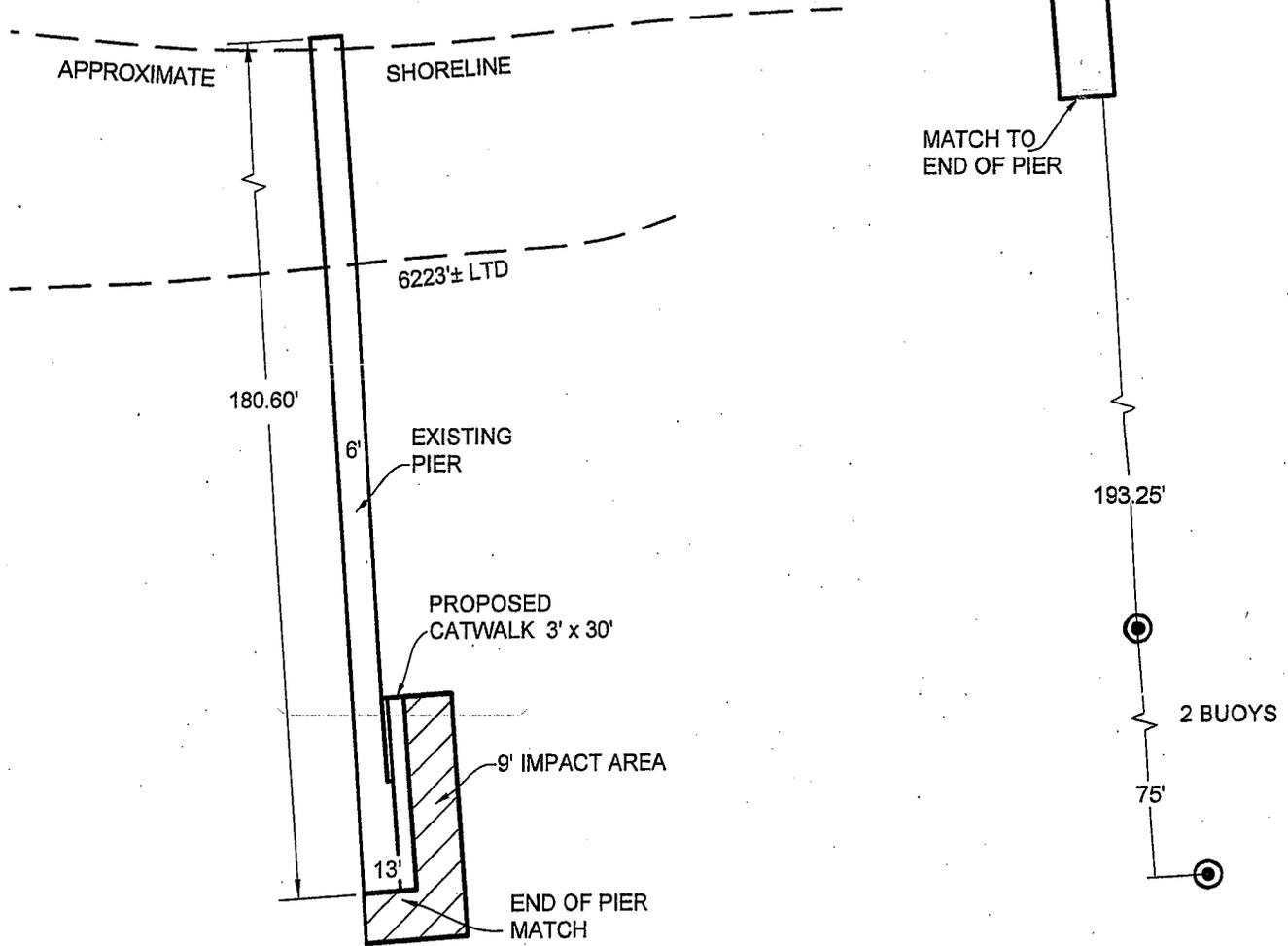
This description is based on Applicant provided design plans found in the Applicant for Lease of State Lands for a proposed adjustable catwalk, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

**END OF DESCRIPTION**

Prepared December 8, 2016 by  
The California State Lands Commission Boundary Unit.



APN 093-072-013  
APN 093-072-027



L A K E T A H O E

# EXHIBIT A

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MJJ 12/19/2016

LAND DESCRIPTION PLAT  
PRC 8739.1, BURTON  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION

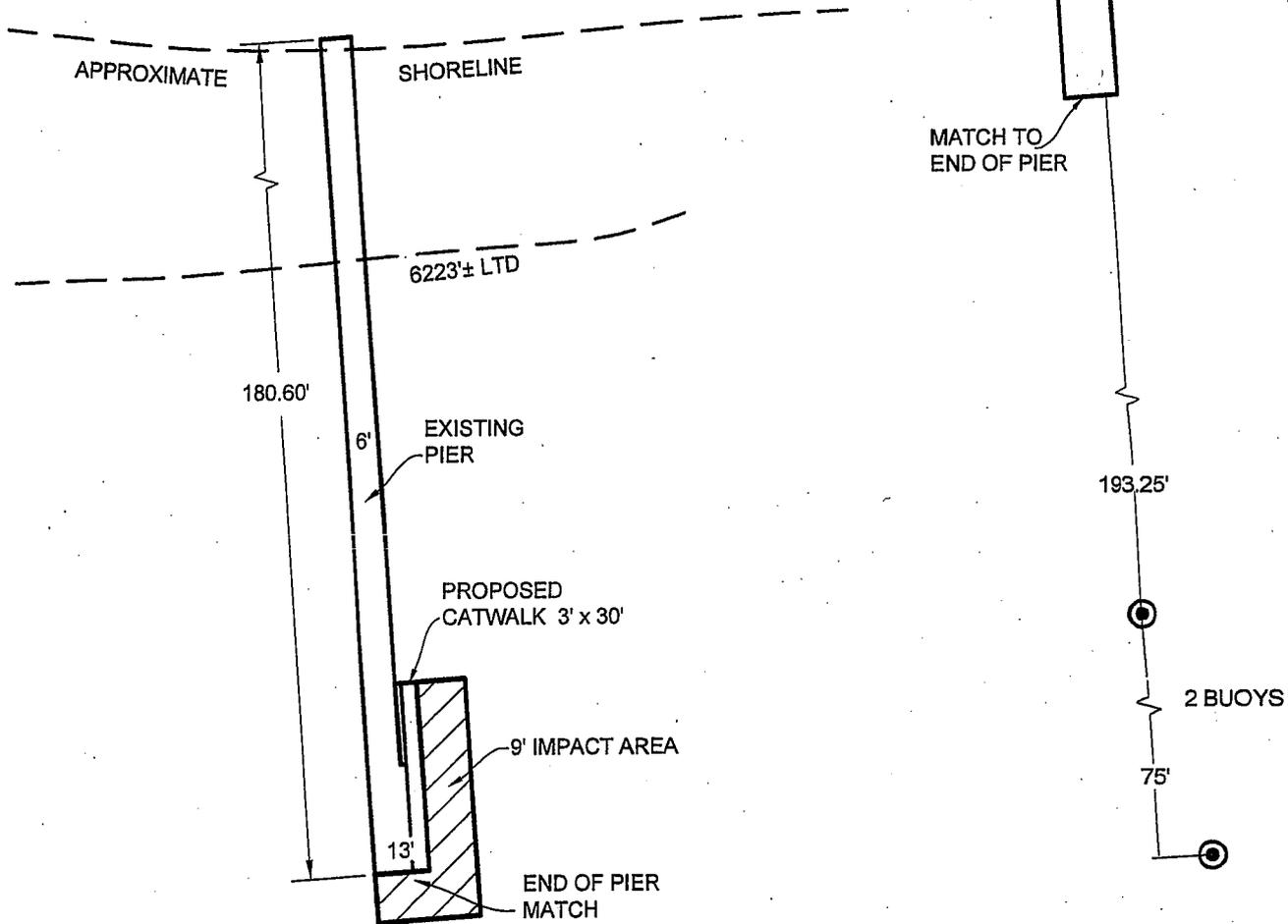


NO SCALE

APN 093-072-013

APN 093-072-027

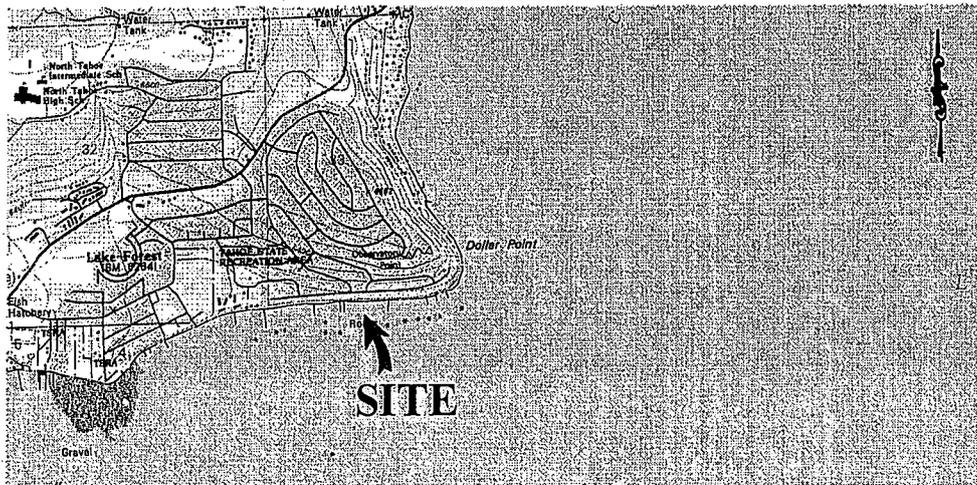
### SITE



3216 EDGEWATER DRIVE, NEAR TAHOE CITY

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

### Exhibit B

PRC 8739.1

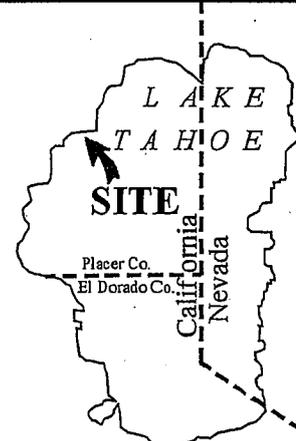
BURTON

APN 093-072-013 & 027

GENERAL LEASE -

RECREATIONAL USE

PLACER COUNTY



MJJ 12/19/2016

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.