

Staff Report 13

LESSEE/ASSIGNOR:

Christopher David Plona and Anne L. Hoffman, as Trustees of the Plona Hoffman Trust, under agreement dated 13 February 2007; and John Walker and Marian B. Walker

APPLICANT:

John Walker and Marian B. Walker; and Anne L. Hoffman 2019 Revocable Trust

PROPOSED ACTION:

Assignment and Amendment of a General Lease - Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign Land in Lake Tahoe, adjacent to 8632 and 8634 Brockway Vista Avenue, Kings Beach, Placer County (as shown in Figure 1, below).

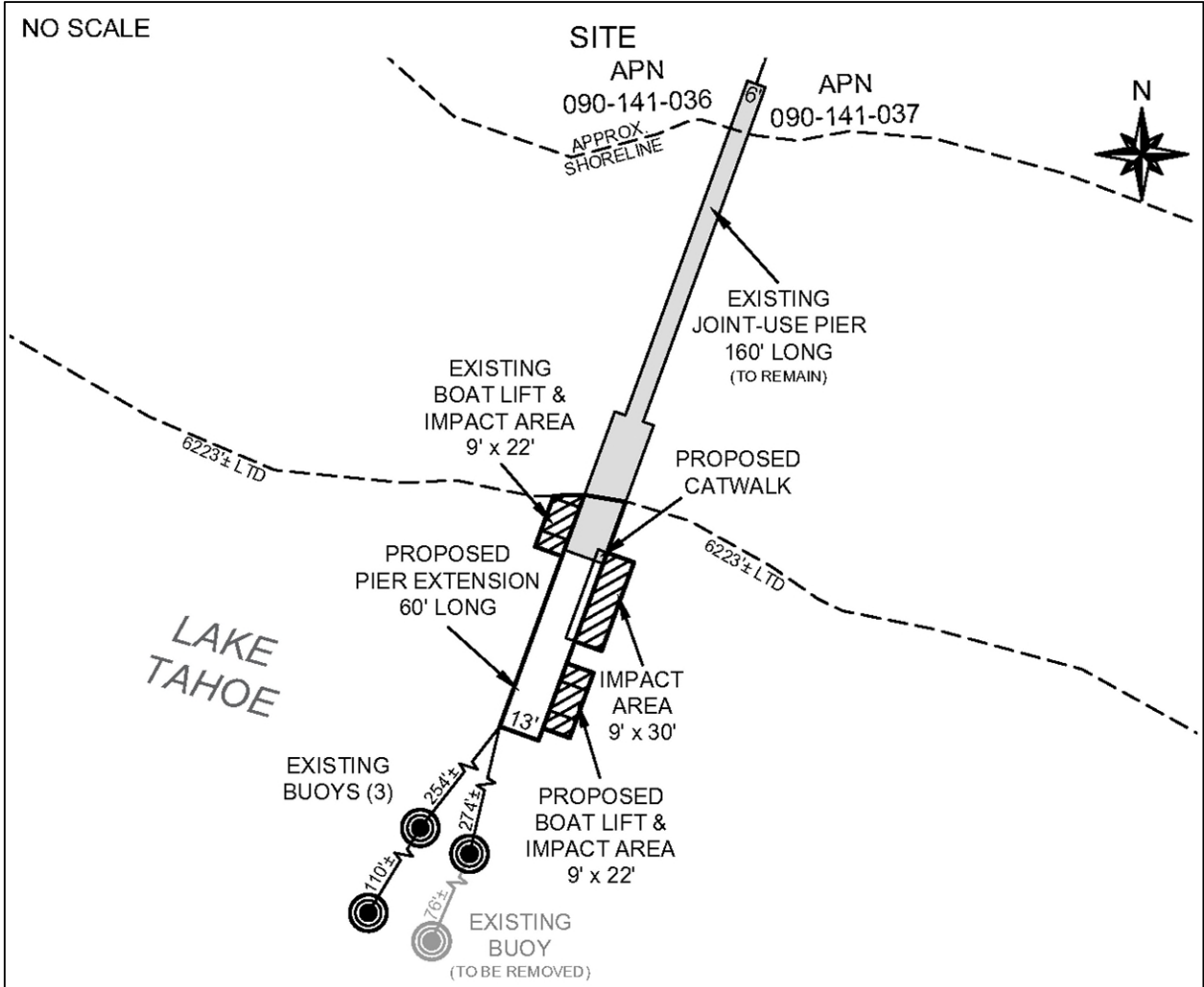
Figure 1. Location



AUTHORIZED USE:

Continued use and maintenance of a joint-use pier, boat lift, and four mooring buoys.

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 August 23, 2018.

CONSIDERATION:

\$1,985 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Removal of one mooring buoy; expansion of a joint-use pier; and installation and use of a boat lift (as shown in Figure 2, below).
- Revise the annual rent from \$1,985 to \$2,040, with an annual Consumer Price Index adjustment, effective August 23, 2025.
- Replace the existing Exhibit A, Land Description and Exhibit B, Site and Location Map (for reference purposes only), in the Lease.
- Replace Special Provisions, Section 2, Paragraph 4 with the following: Lessee acknowledges that a permit or registration from the Tahoe Regional Planning Agency (TRPA) may be required for the Authorized Improvements and failure to obtain a permit or registration from TRPA and maintain compliance with that permit or registration may result in TRPA imposing civil penalties and will constitute a breach of the lease.
- Lessee acknowledges annual consideration shall be adjusted based on the actual area of improvements as constructed should they vary from the plans submitted.
- Lessee agrees that the public will be allowed to pass underneath the pier. Lessee will post signs on each side of the pier, to indicate continuous shoreline access to the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum (LTD).
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including that the Applicant obtain all necessary permits and authorizations prior to commencing work, including requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities.
- Within 60 days of completing the construction of the 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 and Lessee, 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.

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 23, 2018, the Commission authorized the issuance of a General Lease – Recreational Use to Christopher David Plona and Anne L. Hoffman, as Trustees of the Plona Hoffman Trust, under agreement dated 13 February 2007; and John Walker and Marian B. Walker for the use and maintenance of a joint use pier, boat lift, and four mooring buoys ([Item 21, August 23, 2018](#)). The lease will expire on August 22, 2028.

On October 1, 2019, the Trustees of the Plona Hoffman Trust, under agreement dated 13 February 2007, deeded ownership of 8632 Brockway Vista Avenue, Placer County, to the Anne L. Hoffman 2019 Revocable Trust.

The Applicants, John Walker, Marian B. Walker, and Anne L. Hoffman 2019 Revocable Trust, are applying firstly for the assignment of the Plona Hoffman Trust's interest in the Lease to the Anne L. Hoffman 2019 Revocable Trust, and secondly for the amendment of a General Lease – Recreational Use for the removal of one mooring buoy; expansion and use of a joint-use pier; and installation and use of a boat lift.

On November 6, 2024, TRPA permitted the expansion of the joint-use pier, the removal of a buoy, and the installation of a boat lift (Permit No. ERSP2025-0379). The proposed joint-use pier will extend approximately 204.4 feet from the highwater line with room for passage below for public easement access. Per the TRPA conditional permit, one of the four registered buoys (TRPA Registration No. 8093) associated with the parcels will be retired in exchange for the boat lift. Furthermore, the TRPA conditional permit requires the Applicant to provide underwater photos of the project area indicating the conditions prior to the start of construction and post-

construction underwater photos of the same locations of the project area indicating that the existing mooring buoy and anchor were permanently removed.

The proposed expanded joint-use pier will be approximately 219 feet in total length, approximately 6 feet wide, single piled, with a pierhead approximately 106 feet by 13 feet in width, and with a catwalk approximately 30 feet by 3 feet in width. The additional boat lift will be installed to the opposite side of the pierhead from the existing boat lift.

The improvements will be located directly lakeward of the upland properties and occupy a relatively small area of the lake. The subject pier is built on pilings, providing public access for pedestrians and lake related activities at varying water levels underneath the pier. The immediate area surrounding the pier is rocky and sloped. The proposed lease includes a provision requiring the Applicant to post signs on each side of the pier identifying the designated public passageway. These signs shall be in place at all times and will ensure that the public is aware of the designated public passageway within the Public Trust easement.

The Applicants own severally the uplands adjoining the lease premises. The subject improvements 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 project will be performed on-site with access to the site from the lake. The project will be constructed with the use of a floating/amphibious barge, and materials will be transported via barge to the site. Construction materials will be stored within the barge, rather than on the shoreline, and protected from discharge into the lake. Materials, equipment storage, and fabrication will take place in a shop on the barge. Construction of the beams, joists, and decking will take place above the surface of Lake Tahoe.

Construction will take place after all required approvals have been obtained and will occur between October 1 and May 11, to minimize the disturbance to natural habitats and public enjoyment of the lake during peak seasons. 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, and the U.S. Army Corps of Engineers.

The proposed lease 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. 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.

The proposed 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. The proposed assigned and amended lease will also require the Applicant to indemnify the state for the period between October 1, 2019, the day the ownership of the 8632 Brockway Vista Avenue property was deeded to the Applicant, through April 1, 2025, the day preceding the new lease.

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 above, staff believe the assignment and amendment of this lease will not substantially interfere with the 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 in the best interests 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, and the Applicant cannot proceed with the construction activities. 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. Assignment of a lease 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. **Joint-Use Pier Expansion:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(2).

Buoy Removal: Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061 and California Code of Regulations, title 2, section 2905.

APPROVALS OBTAINED:

- U.S. Army Corps of Engineers
- Tahoe Regional Planning Agency
- Lahontan Regional Water Quality Control Board

APPROVAL REQUIRED:

- California Department of Fish and Wildlife

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that amendment 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 through the combination of the following exemptions: Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section

2905, subdivision (c)(2) and Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

Find that the proposed assignment and 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; is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the assignment of Lease Number PRC 8217, a General Lease – Recreational Use of sovereign land, effective October 1, 2019 to coincide with the Applicant’s acquisition of the upland property, from Christopher David Plona and Anne L. Hoffman, as Trustees of the Plona Hoffman Trust, under agreement dated 13 February 2007, to the Anne L. Hoffman 2019 Revocable Trust.
2. Authorize amendment of Lease Number 8217, a General Lease – Recreational Use, for the removal of one buoy; expansion and use of a joint-use pier; installation of a boat lift.
3. Authorize the amendment to include Section 1, CONSIDERATION, revise the annual rent from \$1,985, with an annual Consumer Price Index adjustment, to \$2,040, with an annual Consumer Price Index, effective August 23, 2025.
4. Authorize the amendment to include additional lease terms in Section 2, SPECIAL PROVISIONS, including, but not limited to, the replacement of Paragraph 4 with the following: A permit or registration from the Tahoe Regional Planning Agency (TRPA) may be required for the Authorized Improvements and failure to obtain a permit or registration from TRPA and maintain compliance with that permit or registration may result in TRPA imposing civil penalties and will constitute a breach of the lease.
5. Authorize the Executive Officer or designee to replace Exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the improvements following construction.