

**STAFF REPORT
C20**

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04/05/19
PRC 8554.1
N. Lee

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

J. Robert Taylor and Donna C. Taylor, Co-Trustees of the 2005 Taylor Family Trust dated January 6, 2005; Michael Robert Taylor; Bret Matthew Taylor; and Jaime Taylor LaChance

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 636 Olympic Drive, Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning April 9, 2019.

CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
- Lessee shall provide proof of a Tahoe Regional Planning Agency (TRPA) buoy permit or proof that unpermitted buoys have been removed by October 23, 2020.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

STAFF REPORT NO. **C20** (CONT'D)

authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and State's Best Interests Analysis:

On August 17, 2004, the Commission authorized a General Lease – Recreational Use to South Valley Properties, a California Corporation, for the use and maintenance of two mooring buoys ([Item C56, August 17, 2004](#)). That lease expired on August 16, 2014. On December 28, 2011, the upland was deeded to J. Robert Taylor, Donna C. Taylor, Michael Robert Taylor, Bret Matthew Taylor, and Jaime Taylor LaChance. On November 30, 2017, J. Robert and Donna C. Taylor deeded their interest in the upland to J. Robert Taylor and Donna C. Taylor, Co-Trustees of the 2005 Taylor Family Trust, dated January 6, 2005. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the two mooring buoys.

Lessee paid rent up through August 16, 2016. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,995 for the period beginning August 17, 2016, through April 8, 2019, the day before the proposed lease would begin.

The Applicant owns the upland adjoining the lease premises. The subject facility is privately owned and maintained. The mooring buoys are used for the docking and mooring of boats. 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 mooring buoys have existed for many years at this location. The buoys are located directly lakeward of the upland parcel and occupy a relatively small area of the lake.

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 and does not grant the lessee exclusive rights to the lease premises and reserves an easement to the public for Public Trust-consistent uses. Upon

STAFF REPORT NO. **C20** (CONT'D)

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.

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. These actions are 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. On October 24, 2018, the TRPA Governing Board certified a new Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
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 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 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

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

STAFF REPORT NO. **C20** (CONT'D)

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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that issuance of the proposed 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 foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation in the amount of \$1,995 for unauthorized occupation of State lands for the period beginning August 17, 2016, through April 8, 2019.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 9, 2019, for a term of 10 years, for the continued use and maintenance of two existing mooring buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$754 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8554.1

LAND DESCRIPTION

Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 7, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as follows:

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcel as described in Exhibit "A" of that Trust Transfer Deed recorded November 30, 2017 in Document Number 2017-0094693-00 of Official Records of said County.

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 28, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE

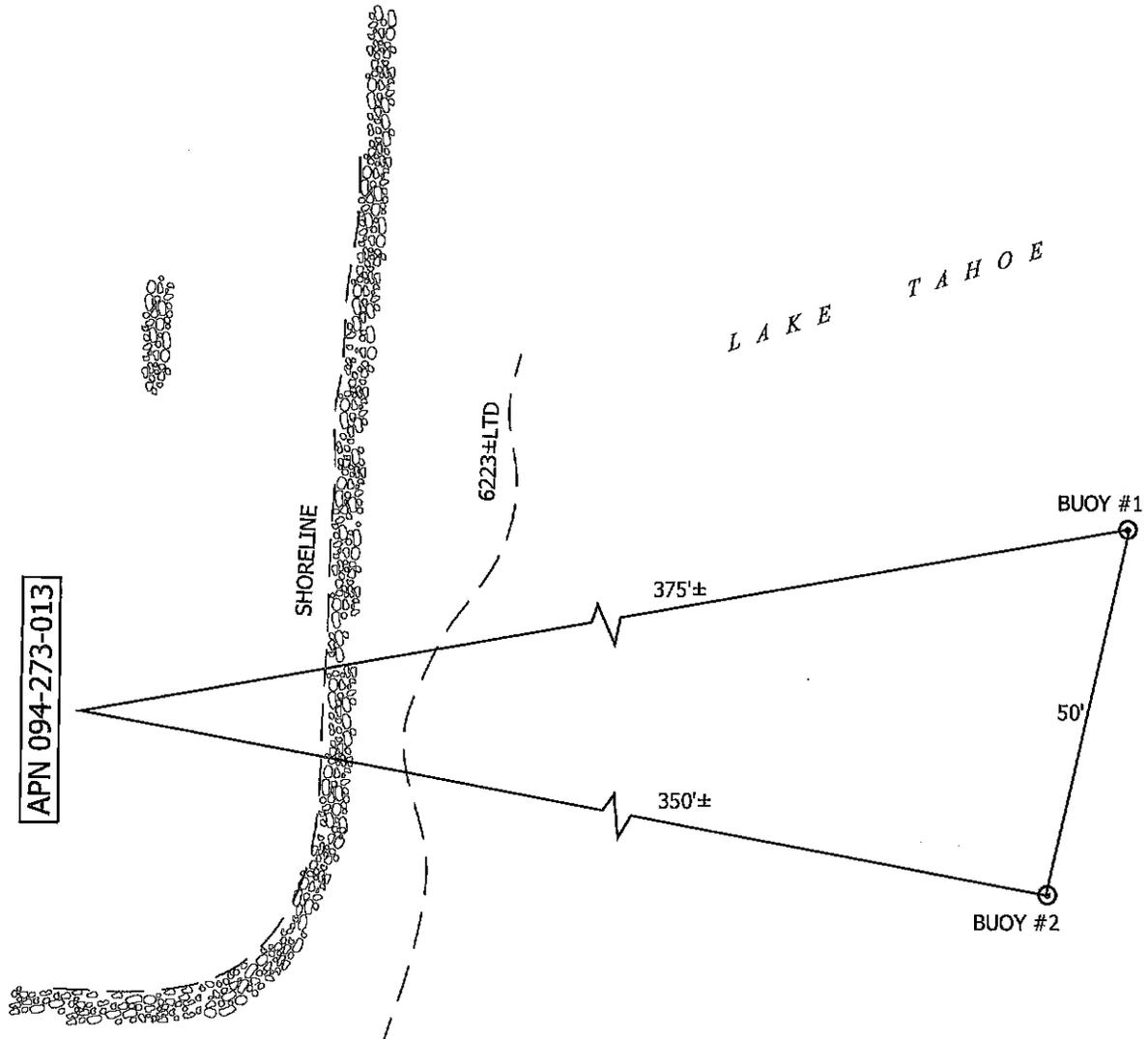


EXHIBIT A

Page 2 of 2

MJJ 1/28/19

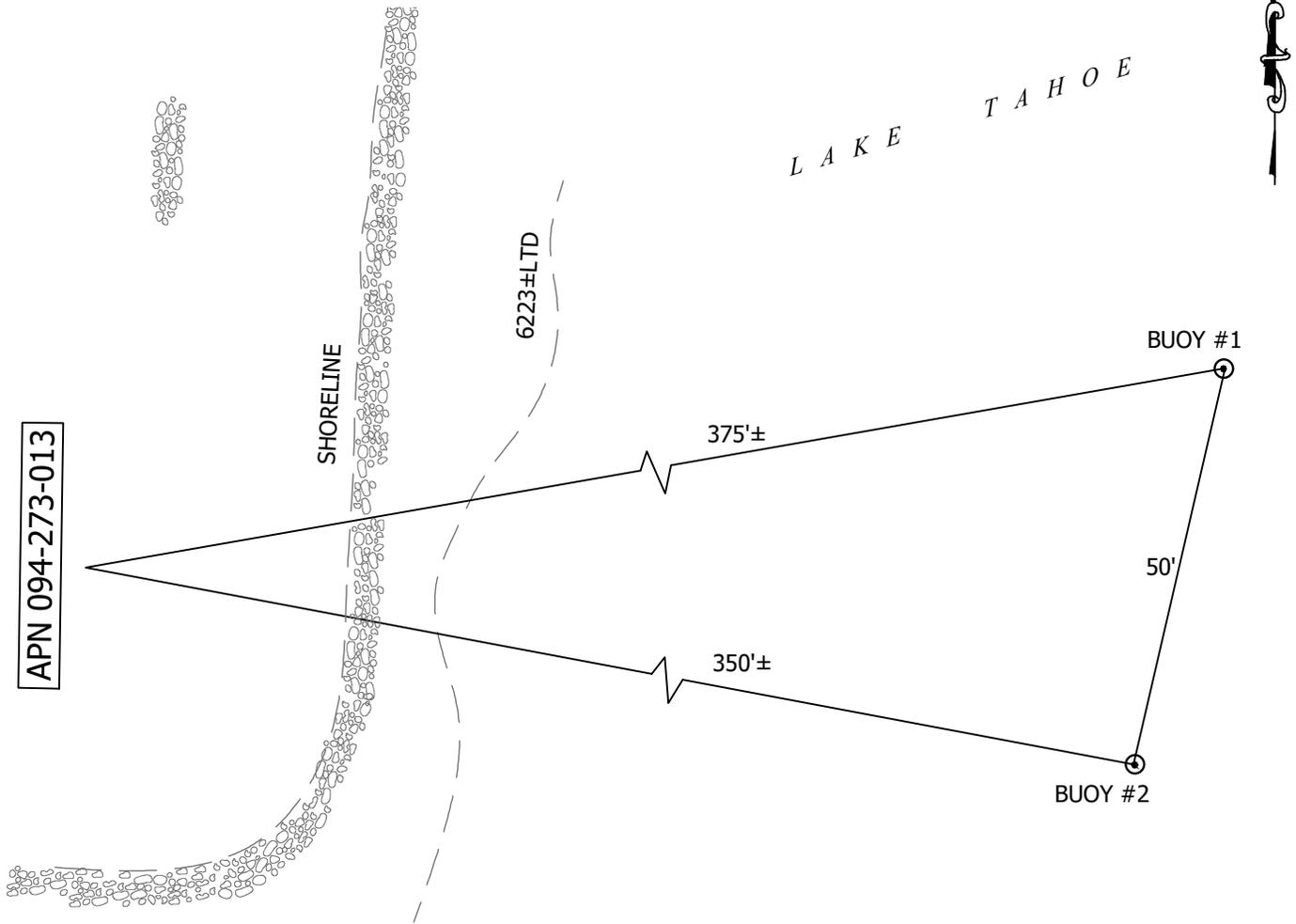
LAND DESCRIPTION PLAT
PRC 8554.1, 2005 TAYLOR FAMILY TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

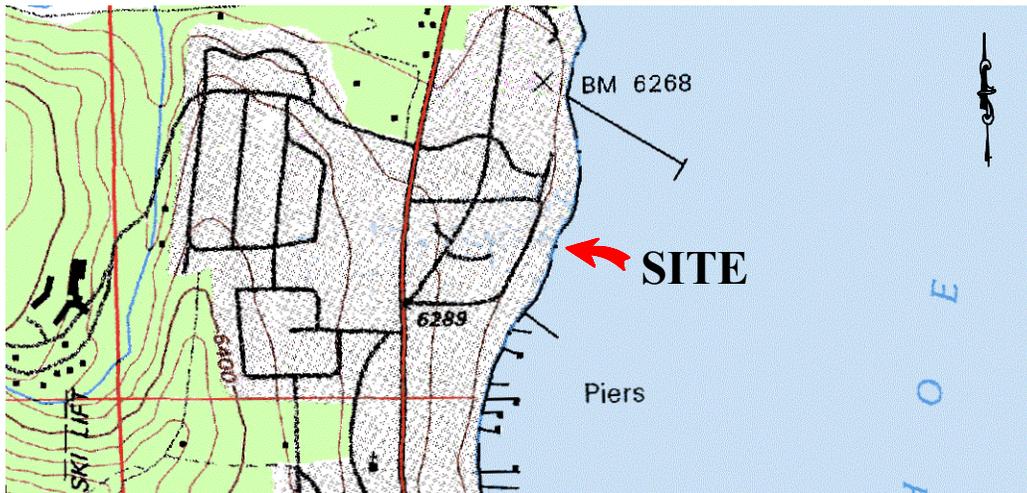
SITE



636 OLYMPIC DRIVE, NEAR TAHOE CITY

NO SCALE

LOCATION

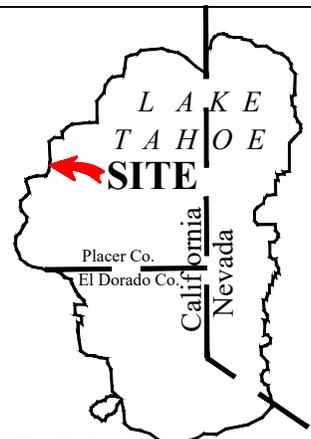


MAP SOURCE: USGS QUAD

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.

Exhibit B

PRC 8554.1
2005 TAYLOR
FAMILY TRUST
APN 094-273-013
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 1/28/19