

**STAFF REPORT
C04**

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02/04/19
PRC 3044.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Chambers Landing No. II Homeowners Association

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6400 and 6500 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, 46 mooring buoys, placement of two seasonal swim areas, two swim floats, two marker buoys, and one speed limit buoy.

LEASE TERM:

10 years, beginning October 8, 2018.

CONSIDERATION:

\$22,893 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$3,000,000 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.
- If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the certification of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such

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authorization within the time limit, they may be required to remove the buoys.

- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.
- Buoy Allotment Program: The use of the buoy field will be made available to all members of the Chambers Landing No. II Homeowners Association (Association) in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Association's members.

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 11, 2009, the Commission authorized a General Lease - Recreational Use to Chambers Landing No. II Homeowners Association for an existing pier, 46 mooring buoys, two swim areas, two marker buoys, and one speed limit buoy ([Item C37, August 11, 2009](#)). On February 8, 2011, the Commission authorized an Amendment of Lease to authorize two swim floats, revise the annual rent and replace the land description and the site and location map with a revised land description and site and location map ([Item C32, February 8, 2011](#)). On December 5, 2012, the Commission authorized a second Amendment of Lease to change the two swim areas to seasonal use, revise the annual rent and include additional special lease provisions related to the swim areas ([Item C34, December 5, 2012](#)). On April 23, 2015, the Commission authorized a third Amendment of Lease to relocate two marker buoys, one speed limit buoy, and one row of 12 mooring buoys to form one outer row in the existing buoy field, include additional special lease provisions related to the relocation of the buoys and replace the land description and site and location map with a revised land description and site and location map ([Item C36, April 23, 2015](#)). The lease expired on October 7, 2018. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier, 46 mooring buoys, placement of two seasonal swim areas, two swim floats, two marker buoys, and one speed limit buoy.

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The Applicant owns the upland adjoining the lease premises. The Applicant is a non-profit private corporation and operates as a private membership club limited to property owners of the upland development, Chambers Landing Condominiums. The corporation allows member use of the recreation facilities within the development including use of the pier, mooring buoys, swim areas, and swim floats.

The subject facilities are privately owned and maintained. The pier and 46 mooring buoys accommodate, promote, and support recreational boating and provide access to the adjacent State waterway. 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 subject facilities have been in Lake Tahoe for many years at this location. The pier is built on pilings, meaning the public may navigate or walk next to and, at lower water levels, under the pier. The area around the existing pier is sloped with boulders, cobbles, and a sandy portion of the shore. The buoys are located directly lakeward of the upland property and each one occupies a relatively small area of the lake. The swim areas are located directly lakeward of the upland property and while they occupy larger portions of the lake, the swim areas provide access to the adjacent State waterway. The larger swim area includes the two swim floats with the swim floats occupying relatively small areas of the lake. The stringlines for the swim areas will be placed in the Lake no earlier than the Friday before Memorial Day and completely removed no later than the Tuesday after Labor Day. The marker buoys provide for aide to navigation on the waterway.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and a non-exclusive use provision. The facilities 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.

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.

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For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine; will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is 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 and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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

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).

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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 foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 8, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, 46 mooring buoys, placement of two seasonal swim areas, two swim floats, two marker buoys, and one speed limit buoy 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 \$22,893, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$3,000,000 per occurrence.

EXHIBIT A

PRC3044.1

LAND DESCRIPTION

Fifty two (52) parcels of submerged land lying in the State owned bed of Lake Tahoe, Placer County, State of California, more particularly described as follows:

PARCEL 1 – PIER

A 16 foot wide strip of submerged land lying adjacent to the line between points 36 and 37 as shown on map sheet 3 of 22 of the survey performed by the State of California, State Lands Commission, State Lands Division, filed in Book 2 of Surveys, Page 71, Records of said County, the centerline of which is described as follows:

COMMENCING at said point 36 having California Coordinate System, Zone 2, NAD 1927 coordinates of Northing (Y) = 518,225 feet and Easting (X) = 2,527,249 feet, as shown on said map; thence along the Low Water Mark as shown on said survey N 66°20'45" W a distance of 56.42 feet to the centerline of an existing pier; thence leaving said Low Water Mark, and along said centerline of said pier N 28°50'50" E 58.06 feet to the end of said pier, and the POINT OF BEGINNING; thence along the centerline of said pier S 28°50'50" W 120 feet to the terminus of said strip.

TOGETHER WITH a 9 foot impact area contiguous with the westerly, and easterly sides of said pier.

The sidelines of said strip shall be prolonged or shortened so as to commence at a line perpendicular to the point of beginning and terminate at the Low Water Mark as shown on the Survey of the Low Water Mark on the Shore of Lake Tahoe Vicinity of Chambers Lodge, Placer County, sheet 3 of 22, surveyed by the State Lands Commission, Division of State Lands in September of 1950, filed in Book 2 of Surveys, Page 71, Records of said County.

EXCEPTING THEREFROM any portion of land lying landward of the Low Water Mark as shown on the Survey of the Low Water Mark on the Shore of Lake Tahoe Vicinity of Chambers Lodge, Placer County, sheet 3 of 22, surveyed by the State Lands Commission, Division of State Lands in September of 1950, filed in Book 2 of Surveys, Page 71, Records of said County.

PARCEL 2 – SWIM AREA #1

A parcel of submerged land lying adjacent to the line between points 30, 31 and 32 as shown on map sheet 3 of 22 of the survey performed by the State of California, State

Lands Commission, State Lands Division, filed in Book 2 of Surveys, Page 71, Records of said County, said parcel described as follows:

BEGINNING at said point 31 having California Coordinate System, Zone 2, NAD 1927 coordinates of Northing (Y) = 517,838 feet and Easting (X) = 2,528,022 feet, as shown on said map; thence along the line of the Low Water Mark as shown on said survey S 72°15'57" E a distance of 70.00 feet; thence leaving said line N 46°47'04" E a distance of 16.42 feet; thence N 16°39'50" E a distance of 87.95 feet; thence N 53°09'11" W a distance of 85.70 feet; thence S 75°14'48" W a distance of 141.91 feet to a point on the line of said Low Water Mark; thence along said line S 48°44'35" E a distance of 135.63 feet to the point of beginning.

EXCEPTING THEREFROM any portion of land lying landward of the Low Water Mark as shown on the Survey of the Low Water Mark on the Shore of Lake Tahoe Vicinity of Chambers Lodge, Placer County, sheet 3 of 22, surveyed by the State Lands Commission, Division of State Lands in September of 1950, filed in Book 2 of Surveys, Page 71, Records of said County.

PARCEL 3 – SWIM AREA #2

A parcel of submerged land lying adjacent to the line between points 32, 33, and 34 as shown on map sheet 3 of 22 of the survey performed by the State of California, State Lands Commission, State Lands Division, filed in Book 2 of Surveys, Page 71, Records of said County, said parcel described as follows:

BEGINNING at said point 33 having California Coordinate System, Zone 2, NAD 1927 coordinates of Northing (Y) = 517,895 feet, and Easting (X) = 2,527,847 feet, as shown on said map; thence along the line of the Low Water Mark as shown on said survey N 54°49'09" E a distance of 24.31 feet; thence leaving said line N 29°51'50" W a distance of 65.42 feet; thence S 61°18'15" W a distance of 51.64 feet; thence S 30°33'25" E a distance of 46.65 feet to a point on the line of said Low Water Mark; thence along said line S 80°26'24" E a distance of 34.76 feet to the point of beginning.

EXCEPTING THEREFROM any portion of land lying landward of the Low Water Mark as shown on the Survey of the Low Water Mark on the Shore of Lake Tahoe Vicinity of Chambers Lodge, Placer County, sheet 3 of 22, surveyed by the State Lands Commission, Division of State Lands in September of 1950, filed in Book 2 of Surveys, Page 71, Records of said County.

PARCELS 4 THROUGH 52 – BUOYS

Forty nine (49) circular parcels of submerged land, each having a diameter of 20 feet, said parcels lying northerly and easterly of the above mentioned pier.

The BASIS OF BEARINGS of this description is the California Coordinate System of 1927, Zone 2. All distances are grid distances.

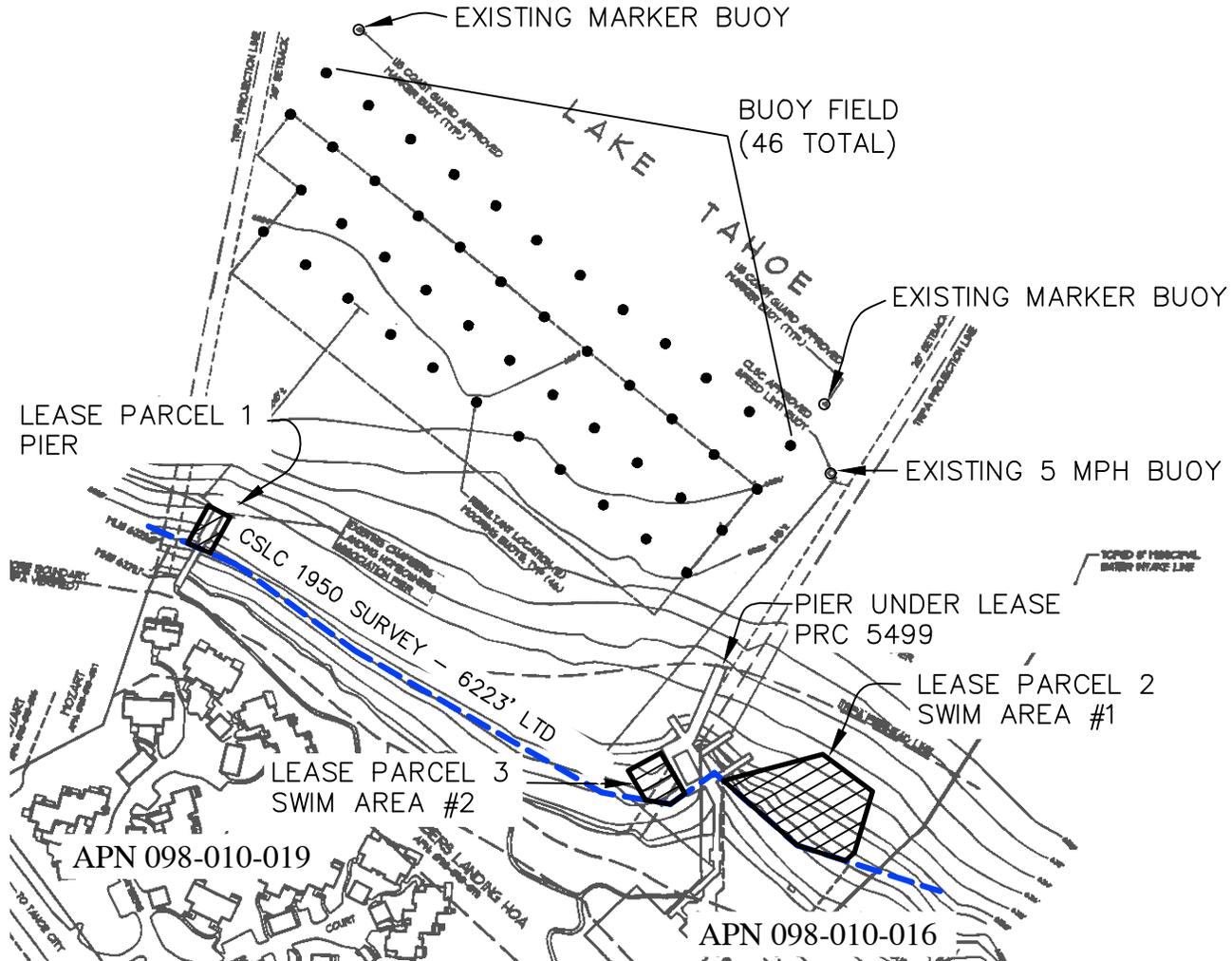
END OF DESCRIPTION

Revised 12/3/2018 by the California State Lands Commission Boundary Unit.



NO SCALE

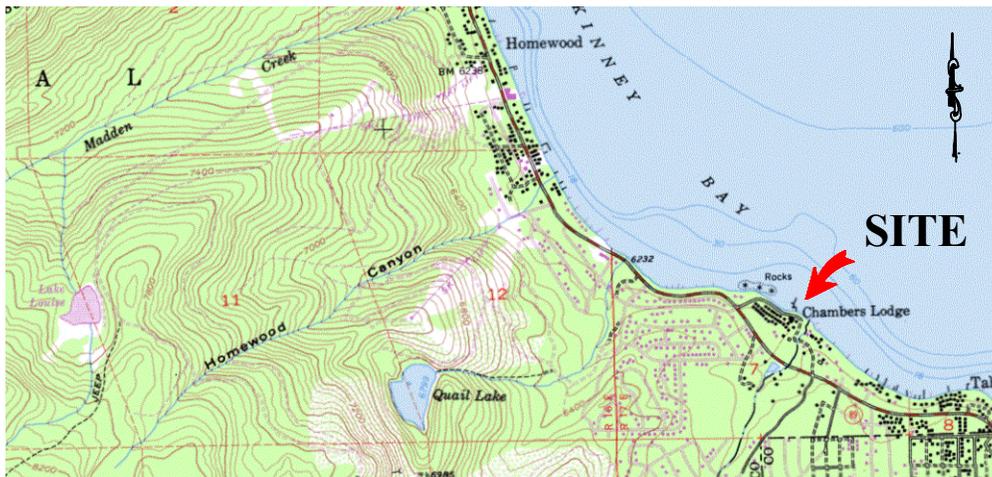
SITE



6400 & 6500 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

LOCATION

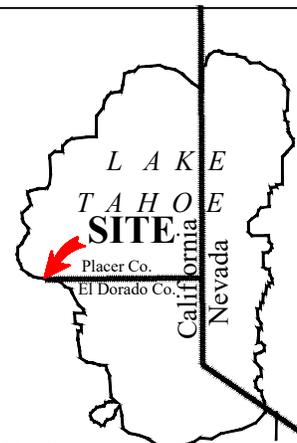


MAP SOURCE: USGS QUAD

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 3044.1
 CHAMBERS LANDING HOA
 APN 098-010-016 & 019
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



DJF 12/3/18