

**STAFF REPORT
C06**

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08/23/18
W 27151
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Drum Lodge, LLC, a Delaware limited liability company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 7741 State Highway 89, near Meeks Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and one mooring buoy previously authorized by the Commission, and one existing boat lift not previously authorized by the Commission.

LEASE TERM:

10 years, beginning August 23, 2018.

CONSIDERATION:

\$1,025 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. 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.

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3. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoy 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 authorization within the time limit, they may be required to remove the buoy.
4. 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.

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 January 29, 2009, the Commission authorized the issuance of Lease No. PRC 7182.9, a Recreational Pier Lease, for an existing pier and two mooring buoys to Michael Alan Jonsson; Robert Erik Jonsson; Margaret Anne Jonsson Sedillo; and David Mark Jonsson and Joyce Spilman Jonsson, Trustees of the Jonsson Family Trust of April 1, 1994 ([Item C10, January 29, 2009](#)). That lease expires on August 5, 2018. On July 21, 2010, a lot line adjustment was recorded and the Jonsson's original parcel was divided into two separate parcels. The Jonsson Trustees have applied for a new lease (Lease No. PRC 7182.1) for the use and maintenance of the one existing mooring buoy they retained ownership of, adjacent to their littoral parcel (Assessor's Parcel Number 016-300-60).

On March 15, 2017, ownership of one portion of the split parcel (including ownership of the existing pier and one of the two existing mooring buoys) transferred to Drum Lodge, LLC, a Delaware limited liability company. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and one mooring buoy previously authorized by the Commission and an existing boat lift not previously authorized by the Commission. This application is one of two applications appearing on this agenda submitted by Drum Lodge, LLC. The other application requests authorization for an existing pier, marine rail, three freshwater intake pipelines, and two mooring buoys adjacent to 7701 State Highway 89, Meeks Bay, El Dorado County. The boat lift has

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been in place for many years but was not previously included in the lease. Staff recently became aware of the existence of the boat lift through the lease application process. Staff recommends issuance of a new lease to the Applicant for the pier, boat lift, and one mooring buoy, effective August 23, 2018.

The Applicant occupied State land from the period of March 15, 2017, through August 22, 2018. Because the Applicant is a limited liability company, and not a natural person, it did not meet the prior statutory requirements for an exception to the imposition of rent during the period prior to the beginning date of the new lease. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,390 for the period beginning March 15, 2017, through August 22, 2018, the day before the new lease becomes effective.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, boat lift, and mooring buoy 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 pier, boat lift, and buoy have existed for many years at this location. The pier is built on single pilings. The immediate area of the existing pier is gently sloped and made up of sand with the occasional boulder scattered around enabling public access along the Public Trust easement. The buoy is located directly lakeward of the upland parcel and occupies 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 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

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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; 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 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. Staff recommends that the Commission find that issuance of the lease 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).

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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the

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

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$1,390 for the unauthorized occupation of state land for the period beginning March 15, 2017 to August 22, 2018.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 23, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier and one mooring buoy previously authorized by the Commission and one existing boat lift not previously authorized by the Commission, 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 \$1,025, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 27151

LAND DESCRIPTION

One parcel of submerged land situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 20, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and boat lift lying adjacent to that parcel as described in Grant Deed recorded March 15, 2017 as Document Number 2017-0010473 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 – BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Grant Deed recorded March 15, 2017 as Document Number 2017-0010473 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/06/2018 by the California State Lands Commission Boundary Unit.



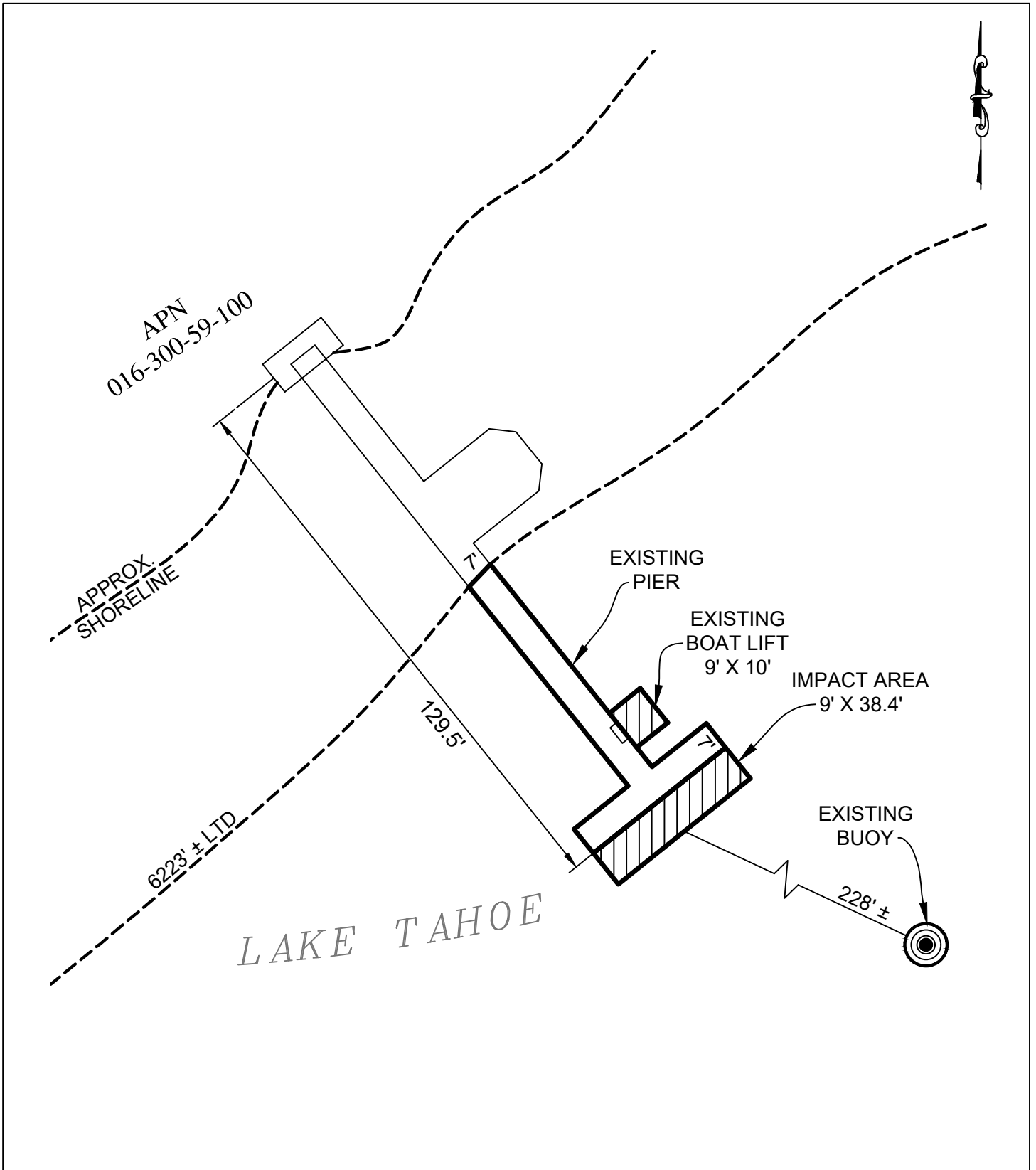


EXHIBIT A

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LAND DESCRIPTION PLAT
W 27151, DRUM LODGE, LLC
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



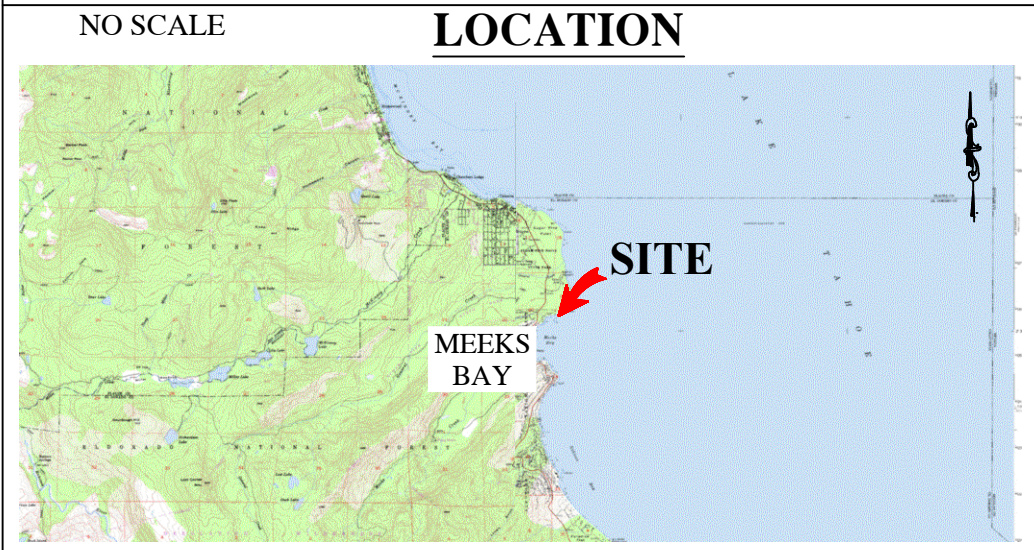
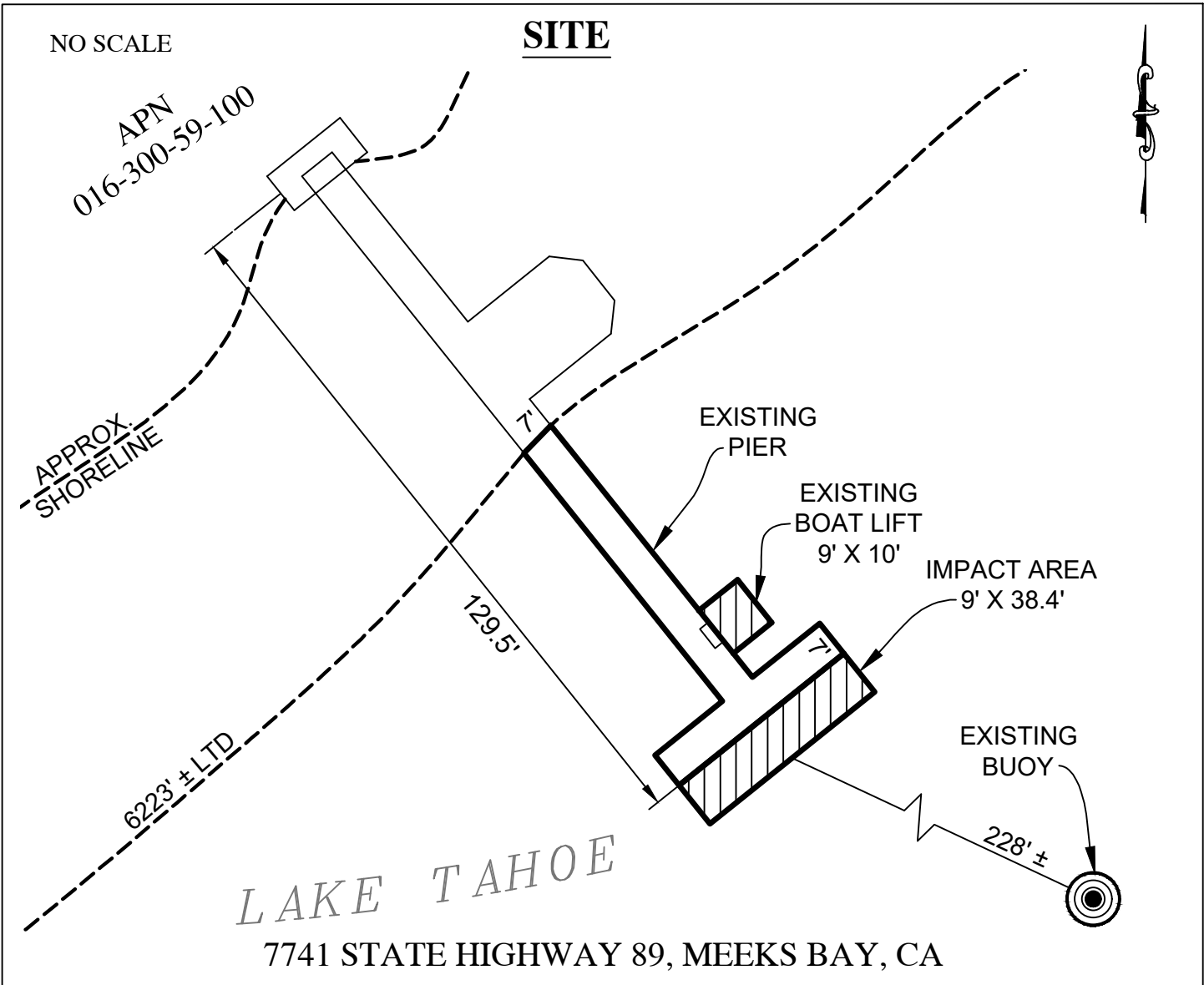


Exhibit B

W 27151
 DRUM LODGE, LLC
 APN 016-300-59-100
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



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.

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