

**STAFF REPORT  
C17**

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12/03/18  
PRC 4053.1  
S. Avila

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

McKinney Shores Property Owners Association

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to Assessor's Parcel Numbers 097-191-001; 098-021-001; and 098-041-006, near Homewood, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of two existing piers, 66 mooring buoys, and one swim float.

*LEASE TERM:*

10 years beginning November 22, 2018.

*CONSIDERATION:*

\$27,154 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 McKinney Shores Property Owners 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 December 17, 2009, the Commission authorized a General Lease - Recreational Use for two existing piers, 66 two mooring buoys, and one swim float to McKinney Shores Property Owners Association ([Item C27, December 17, 2009](#)). That lease expired on November 21, 2018.

The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the two existing piers, 66 mooring buoys, and one swim float. The Applicant is a property owners association consisting of 82 member lots. The piers, mooring buoys, and swim float are only for the use of members.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and mooring buoys are used for the mooring and docking of boats and facilitate recreational boating. Recreational boating and swimming are water-dependent uses that are 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 piers, mooring buoys, and swim float have been in Lake Tahoe for many years at this location. The piers are built on pilings with the

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immediate area of the piers being flat with cobbles and small boulders making up most of the shoreline. The topography and the location of upland structures provide access for the pier and allow the public to navigate under the pier within the Public Trust easement. The 66 buoys are located directly lakeward of the upland property 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 the Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all 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.

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. 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 land along the State's inland and coastal waterways.
2. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a new Final Environmental Impact Report and adopted Lake Tahoe Shorezone Ordinance Amendments. These Amendments are anticipated to take effect on December 23, 2018.
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).

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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 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 November 22, 2018, for a term of 10 years, for the continued use and maintenance of two existing piers, 66 mooring buoys, and one swim float 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 \$27,154, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$3,000,000 per occurrence.

**EXHIBIT A**

**PRC 4053.1**

**LAND DESCRIPTION**

Sixty nine parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 7, Township 14 North, Range 17 East, and fractional Section 12, Township 14 North, Range 16 East M.D.B.&M., as shown on Official Government Township Plats approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

**PARCEL 1 – PIER (WEST PIER)**

All those lands underlying an existing pier and catwalks lying adjacent to Lots A, B, and C described in Grant Deed as shown on the map entitled "McKinney Shores", filed in Official Records of said County on June 26, 1961 in Book G of Maps, page 25.

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 – PIER (EAST PIER)**

All those lands underlying an existing pier and catwalks lying adjacent to Lots A, B, and C described in Grant Deed as shown on the map entitled "McKinney Shores", filed in Official Records of said County on June 26, 1961 in Book G of Maps, page 25.

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 3 – SWIM FLOAT 1**

All those lands underlying an existing swim float lying adjacent to Lots A, B, and C described in Grant Deed as shown on the map entitled "McKinney Shores", filed in Official Records of said County on June 26, 1961 in Book G of Maps, page 25.

PARCELS 4 through 69 – BUOYS

Sixty six circular parcels of land, each being 50 feet in diameter, underlying sixty six existing buoys lying adjacent Lots A, B, and C described in Grant Deed as shown on the map entitled "McKinney Shores", filed in Official Records of said County on June 26, 1961 in Book G of Maps, page 25.

Accompanying plat is hereby made part of this description.

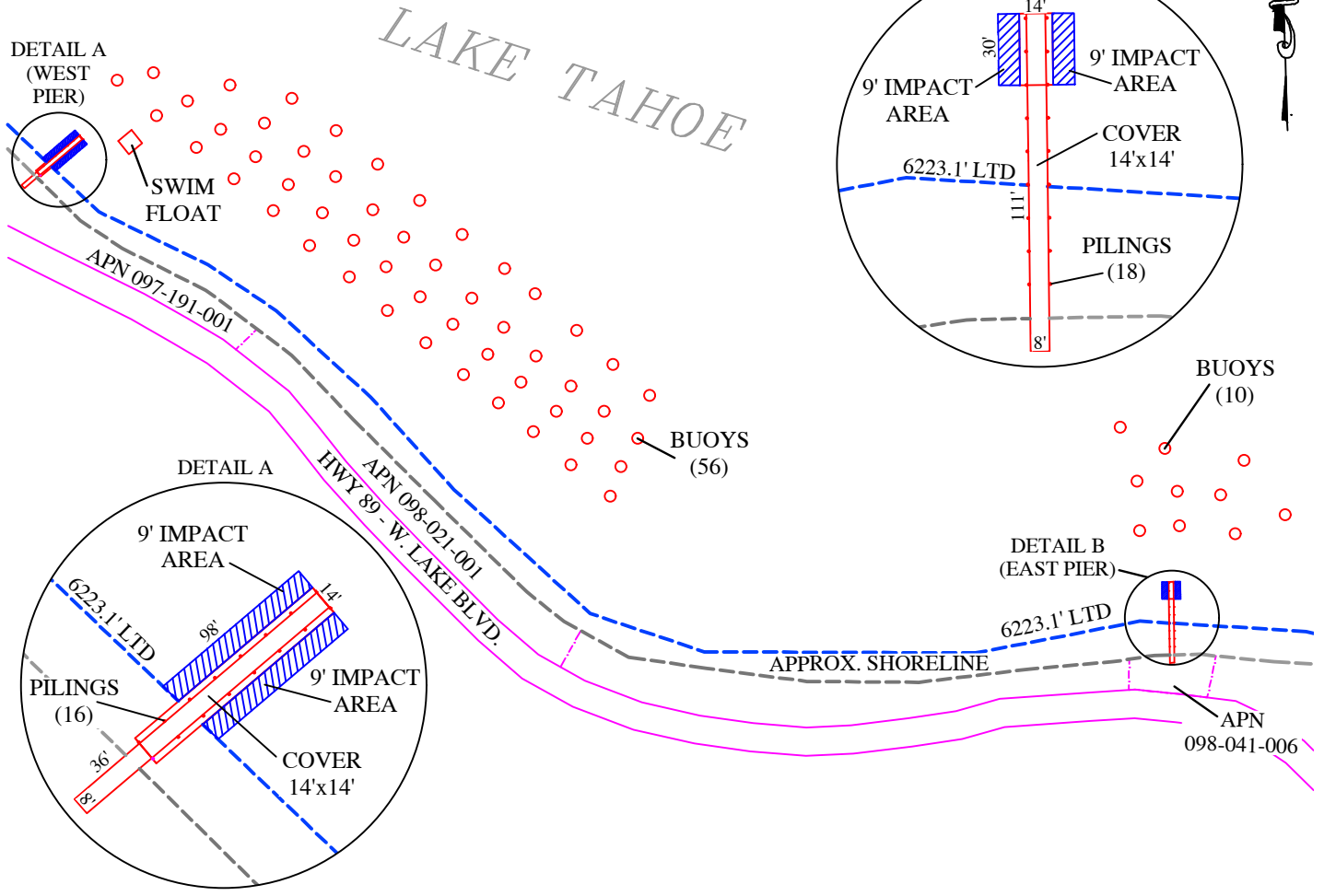
**END OF DESCRIPTION**

Prepared 09/17/2018 by the California State Lands Commission Boundary Unit.



NO SCALE

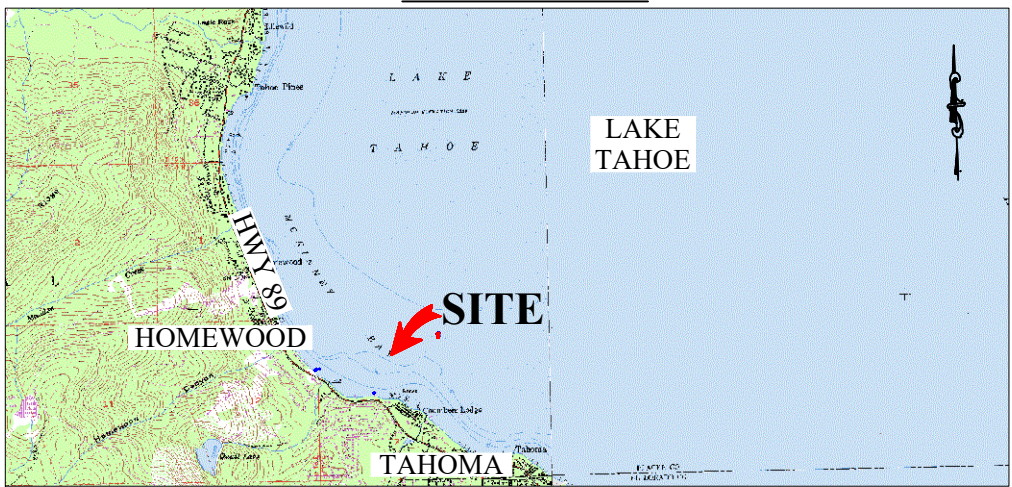
# SITE



5200 & 6271 WEST LAKE BLVD., HOMEWOOD

NO SCALE

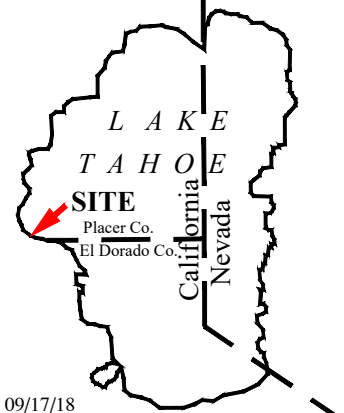
# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 4053.1  
 MCKINNEY SHORES  
 APN 097-191-001 &  
 098-041-006 &  
 098-021-001  
 GENERAL LEASE-  
 RECREATIONAL USE  
 PLACER 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.