

**CALENDAR ITEM
C15**

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02/01/10
WP 1691.1
N. Lee

GENERAL LEASE - RECREATIONAL USE

APPLICANT:

BST III Owners Association, Inc.
P.O. Box 7486
Tahoe City, CA 96145

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 9680 Brockway Springs Drive, near Brockway, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing rock crib pier, hot springs deck and breakwater, swim area with swim line and float, and 15 mooring buoys, and the retention of a floating dock and access ramp as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning October 19, 2007.

CONSIDERATION:

Rock crib pier with floating dock and access ramp and 15 mooring buoys: \$1,739 per year; prorated pursuant to Public Resources Code section 6503.5; and

Hot springs deck, breakwater and swim area with swim line and float: \$4,603 per year.

Total annual rent: \$6,342 per year, beginning October 19, 2009; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance with coverage of no less than \$3,000,000.

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Other:

1. The use of the buoy field will be made available to all members of the BST III Owners Association, Inc. (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.
2. The lease contains provisions stating that the existing hot springs deck, as shown on the attached Exhibit A, cannot be expanded, and if repairs to any portion of the existing hot springs deck cost more than 50 percent of the base value of the hot springs deck, then the hot springs deck must be removed from the lease premises.
3. The lease provides that the Lessee shall not block or otherwise prohibit the public from passing and re-passing across the Public Trust Easement below elevation 6228.75 Lake Tahoe Datum.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On April 9, 2002, the Commission authorized a General Lease - Recreational Use with BST III Owners Association, Inc. That lease expired on October 18, 2007. Applicant is now applying for a new General Lease - Recreational Use.
3. The Applicant is a property owners association consisting of 20 member/lots. Of these member/lots, three are not owned by natural persons and do not qualify for rent-free status pursuant to section 6503.5 of the Public Resources Code. The rent for the rock crib pier with floating dock, access ramp, and mooring buoys has been prorated according to the number of member/lots qualifying for rent-free status. The hot springs deck, breakwater, and swim area with swim line and float are subject to full rent because they are not used for the mooring or docking of boats. The 2007 and 2008 rent is current and staff is recommending acceptance of additional excess holdover rent, pursuant to the Lease, in the amount of \$881 for 2007 and 2008 with the new annual rental of \$6,342 becoming effective beginning October 19, 2009.
4. The Applicant has maintained an access ramp and one or more floating docks connected to the rock crib pier for many years. The current configuration of one access ramp with one floating dock has not been

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previously authorized. It was permitted by the Tahoe Regional Planning Agency (TRPA) on May 13, 2004. The 15 mooring buoys were permitted by TRPA on October 5, 2009.

4. **Pier, Hot Springs Deck and Breakwater, Swim Area with Swim Line and Float, and Mooring Buoys:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

5. **Floating Dock and Access Ramp:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff determined 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; Title 2, California Code of Regulations, section 2905 (c)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Pier, Hot Springs Deck and Breakwater, Swim Area with Swim Line and Float, and Mooring Buoys: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of

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Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Floating Dock and Access Ramp: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

1. Authorize acceptance of excess holdover rent in the amount of \$881 for the period of October 19, 2007 through October 18, 2009.
2. Authorize issuance of a General Lease – Recreational Use, to BST III Owners Association, Inc., beginning October 19, 2007, for a term of ten years, for the continued use and maintenance of an existing rock crib pier, hot springs deck and breakwater, swim area with swim line and float, and 15 mooring buoys and the retention of a floating deck and access ramp as shown on Exhibit A attached and by this reference made a part hereof; consideration for the rock crib pier with floating dock and access ramp and 15 mooring buoys: annual rent in the amount of \$1,739, beginning October 19, 2009, prorated pursuant to Public Resources Code section 6503.5; consideration for the hot springs deck, breakwater and swim area with swim line and float: annual rent in the amount of \$4,603 per year, beginning October 19, 2009, with the State reserving the right to fix a different rent periodically for all facilities during the lease term, as provided in the Lease; and liability insurance with coverage of no less than \$3,000,000.