

**CALENDAR ITEM
C07**

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S 1

04/20/17
W 26645
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Kanigo Pier Association, Inc.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to Assessor's Parcel Number (APN) 097-073-044, near Homewood, Placer County.

AUTHORIZED USE:

Use and maintenance of six existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning April 20, 2017.

CONSIDERATION:

\$2,262 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. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the adoption of a Final Environmental Impact Statement (FEIS) 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 buoys.
3. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

CALENDAR ITEM NO. **C07** (CONT'D)

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

4. Lessee shall not store any personal items or construct any improvements within the Public Trust easement which may impair the public uses.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The Applicant, Kanigo Pier Association, Inc. (Association), has applied for a General Lease – Recreational Use for the use and maintenance of six existing mooring buoys. The Applicant's six mooring buoys are privately owned and maintained and have been in Lake Tahoe for many years, but were not previously authorized by the Commission.

The littoral parcel, APN 097-073-044, adjacent to the six mooring buoys is owned by Donald S. MacLean and Brenda MacLean, members of the Association. The Association owns and maintains the mooring buoys and has a right to use the upland adjacent to the mooring buoys. The Association consists of six member lots. The mooring buoys are for the use of members only.

The buoys are for the 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 buoys are located directly lakeward of the upland property, APN 097-073-044, and occupy a relatively small area of the lake. The mooring buoys do not substantially interfere with the Public Trust needs at this time and at this location.

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

CALENDAR ITEM NO. **C07** (CONT'D)

termination of the lease, the lessee may be required to remove all improvements from State land.

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, Commission staff believes the issuance of the lease for six mooring buoys is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The Applicant originally submitted an application for a pier and six buoys. The pier is in front of a neighboring property. The Applicant has elected to remove the pier from the application and move forward with bringing the buoys under lease at this time while they work to resolve access to the pier with the neighboring property owners. Staff will bring the pier to the Commission for consideration once those issues are resolved.
2. 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.
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.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

CALENDAR ITEM NO. **C07** (CONT'D)

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 public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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 section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Kanigo Pier Association, Inc., beginning April 20, 2017, for a term of 10 years, for the use and maintenance of six existing mooring buoys 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 \$2,262 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 26645

LAND DESCRIPTION

Six parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 1, Township 14 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

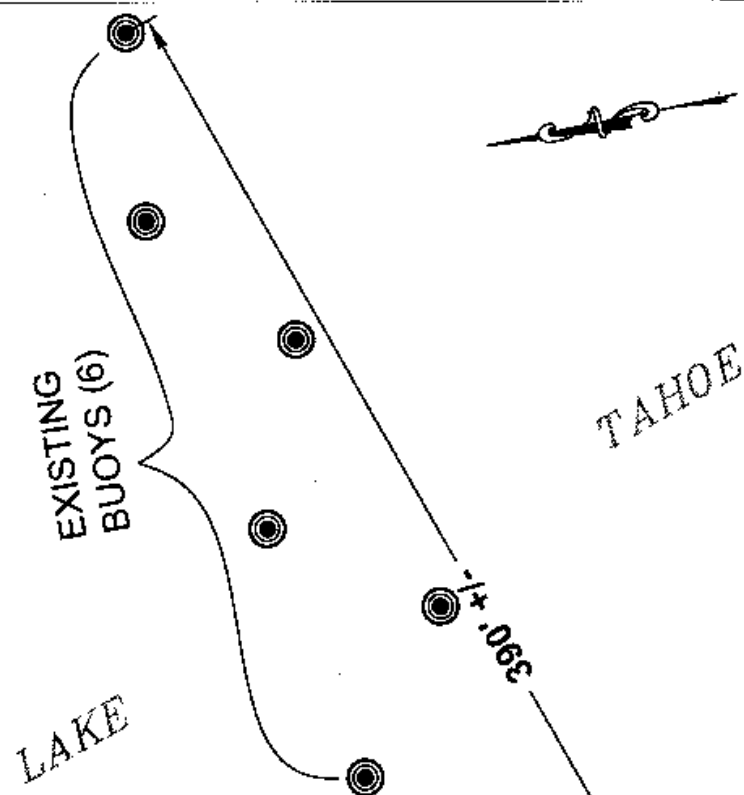
Six circular parcels of land, being 50 feet in diameter, underlying six existing buoys lying adjacent to those parcels described in Individual Grant Deed recorded June 27, 1997 as Document Number 97-0037333-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 02/23/2017 by the California State Lands Commission Boundary Unit.





± 390.06

6223'± LTD

APPROX.
SHORELINE
APN
097-073-044

EXHIBIT A

Page 2 of 2

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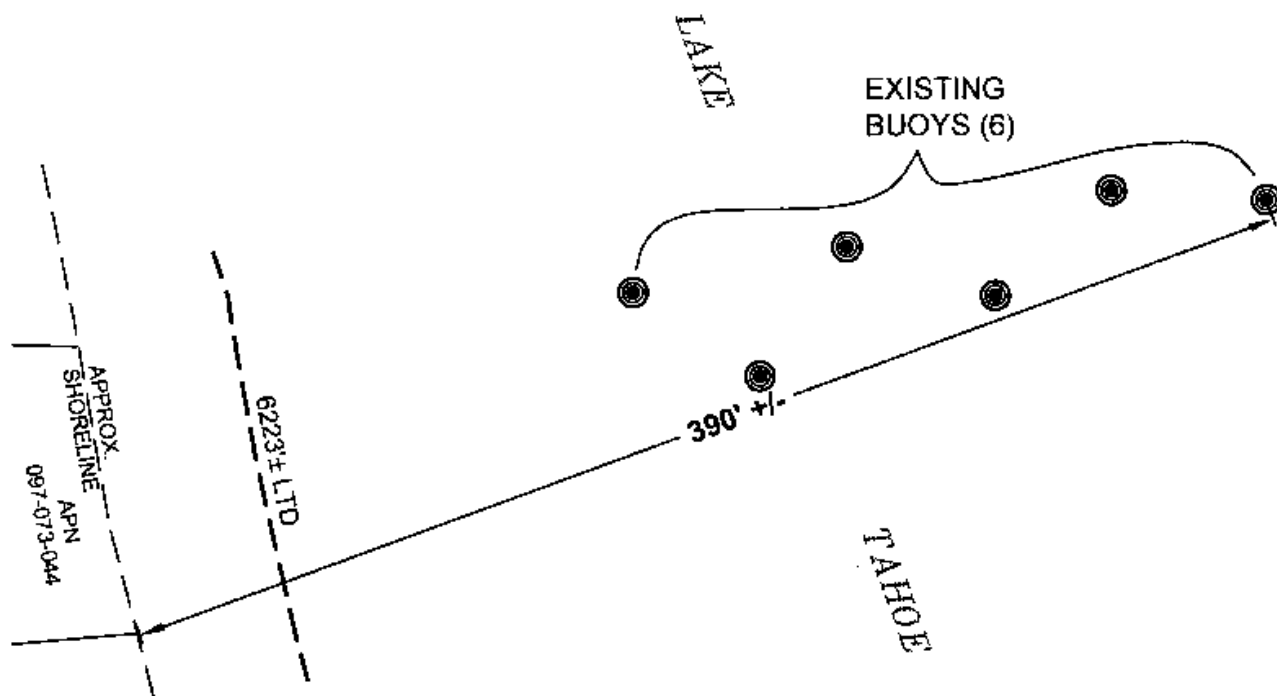
LAND DESCRIPTION PLAT
W26645, KANIGO PIER ASSOCIATION, INC.
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

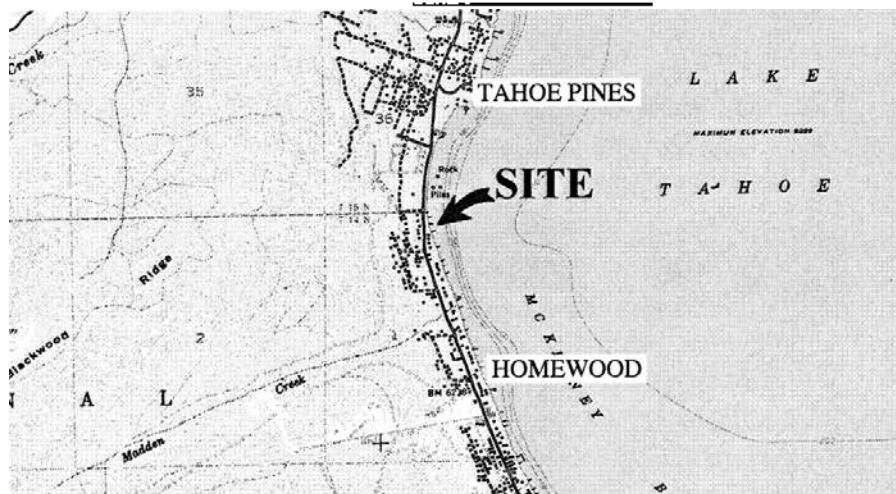
SITE



4745 WEST LAKE BLVD., HOMEWOOD

NO SCALE

LOCATION

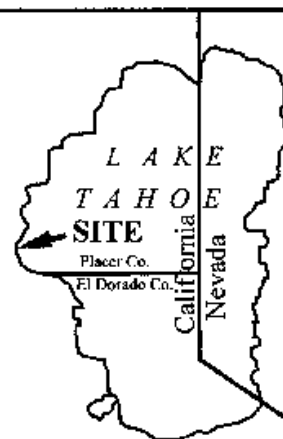


MAP SOURCE: USGS QUAD

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

W 26645
KANIGO PIER
ASSOCIATION, INC.
APN 097-073-044
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY



T'S 02/23/17