

**STAFF REPORT
C07**

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04/19/18
PRC 5013.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Newport Federal, a California corporation

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 741 Lakeview Avenue, city of South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of one existing mooring buoy.

LEASE TERM:

10 years, beginning February 27, 2018.

CONSIDERATION:

\$377 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.

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 3, 2007, the Commission authorized the issuance of Lease No. PRC 5013.1, a General Lease – Recreational Use, for one existing mooring buoy to Newport Federal, a California corporation, ([Item C23, December 3, 2007](#)). That lease expired on December 2, 2017. The

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Applicant is applying for a General Lease – Recreational Use for the one existing mooring buoy. There is also a pier extending from the upland into the lake, as shown on Exhibit B; however, the pier does not extend below the low-water line and therefore is not within the Commission's leasing jurisdiction. Consequently, a lease for the pier is not required at this time.

Staff recommends that the Commission authorize a new lease beginning February 27, 2018. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$89 for the period beginning December 3, 2017, the day after the prior lease expired, through February 26, 2018.

Applicant owns the upland adjoining the lease premises. The subject facility is privately owned and maintained. The mooring buoy is 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 mooring buoy has existed for many years at this location. The buoy is located directly lakeward of the upland parcel and occupies a relatively small area of the lake.

On March 22, 1982, the Tahoe Regional Planning Agency (TRPA) issued a permit for the mooring buoy adjacent to the upland parcel. The Applicant's TRPA permit is currently valid.

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 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 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. The proposed lease was previously scheduled for Commission consideration at the February 27, 2018 meeting. At that meeting, the Commission considered updates to the Lake Tahoe benchmarks ([Item 90, February 27, 2018](#)). The Commission deferred action on revising the existing Lake Tahoe benchmark and directed staff to identify funding options to conduct a thorough evaluation of the various methodologies available to the Commission to assess rent for piers, buoys and other structures located on state property in Lake Tahoe. The Commission further directed staff to continue applying the 2012 Lake Tahoe benchmarks for the next 5 years. Consequently, this item was removed from the February agenda, revised to reflect the current benchmark rates, and rescheduled for the Commission's consideration at the Commission's April meeting.
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 and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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

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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 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 \$89 for unauthorized occupation of State land for the period beginning December 3, 2017, through February 26, 2018.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 27, 2018, for a term of 10 years, for the continued use and maintenance of one existing mooring 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 \$377 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5013.1

LAND DESCRIPTION

One parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 fractional Section 32, Township 13 North, Range 18 East, MDM., as shown on Official Government Township Plat approved July 8, 1875 County of El Dorado, State of California, and more particularly described as follows:

One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to those parcels as described in that Grant Deed recorded December 18, 1998 in Document Number 98-0075340 of Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared November 20, 2017 by the California State Lands Commission Boundary Unit.





EXISTING BUOY

152'±

L A K E

T A H O E

6223'± LTD

PIER
8' X 40'

APPROXIMATE SHORELINE

APN 026-021-05

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 5013.1, NEWPORT FEDERAL
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

L A K E
T A H O E

EXISTING BUOY

152'±

6223'± LTD

PIER
8' X 40'

APPROXIMATE SHORELINE

APN 026-021-05



741 LAKEVIEW AVE., CITY OF SOUTH LAKE TAHOE

NO SCALE

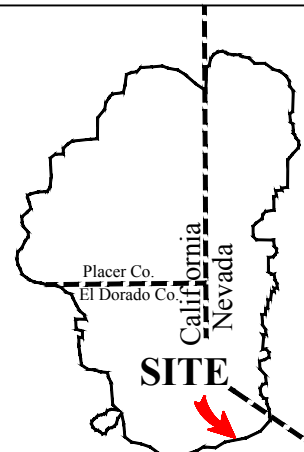
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5013.1
 NEWPORT FEDERAL
 APN 026-021-05
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



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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.