

**STAFF REPORT  
C14**

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04/19/18  
PRC 8728.1  
M.J. Columbus

**GENERAL LEASE – RECREAIONAL USE**

**APPLICANT:**

Babbage, LLC, a California Limited Liability Company

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 1530 North Lake Boulevard, near Tahoe City, Placer County.

*AUTHORIZED USE:*

Removal, reconstruction and expansion of an existing pier with adjustable catwalk; installation of a boat lift; removal of one existing mooring buoy; and continued use and maintenance of an existing mooring buoy.

*LEASE TERM:*

10 years, beginning April 19, 2018.

*CONSIDERATION:*

\$1,671 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 public uses for access, navigation, fishing, and lake-related recreational uses.
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

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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.
5. The lease provides that the public will be allowed to pass and re-pass underneath the pier to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum.

### **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 1, 2006, the Commission authorized a Recreational Pier Lease for an existing pier and two existing mooring buoys to Shahin and Shirin D. Hedayat, Trustees of the Shahin and Shirin D. Hedayat Family Trust, Dated March 29, 1999 ([Item C03, December 14, 2006](#)). That lease expired on November 30, 2016. On August 24, 2016, the upland was deeded to Babbage, LLC, a California Limited Liability Company.

The Applicant is applying for a General Lease – Recreational Use for the removal, reconstruction and expansion of an existing pier with adjustable catwalk; installation of a boat lift; removal of one existing mooring buoy; and continued use and maintenance of an existing mooring buoy.

Staff recommends issuance of a new lease beginning April 19, 2018. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$2,088 for the period beginning August 24, 2016, the day the upland was deeded to the Applicant, through April 18, 2018, the day before the effective date of the new lease.

The proposed removal and reconstruction of the pier includes removal of a shed on the pier, extending the pier, and converting the catwalk to an adjustable catwalk. The Applicant also proposes to remove one mooring buoy with all anchor and tackle in exchange for installation of a boat lift. The length of the current pier will be extended from 55 feet to 225 feet.

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The proposed reconstruction will also convert the pier to a tandem pile pierhead. The proposed reconstruction will require the removal of 18 pilings and installation of a minimum of 20 steel piles along with two support pilings for the boat lift.

The proposed project will be performed on-site with access to the site from the lake. The existing pier and structures will be dismantled and removed by manual labor utilizing an amphibious vehicle with a crane and hoist. The wood components of the pier and structures will be removed and disposed of at an approved dumpster or landfill site. The pile driving will be performed by amphibious vehicle with a pile driver or crane, portable equipment, and manual labor. A floating fine mesh, tarps, or small boats will be placed underneath the pier structure, and above water, to prevent any equipment, tools, or other materials to discharge into the lake or onto the shoreline during construction. No construction materials will be stored on the shoreline.

Construction will take place after all required approvals have been obtained. The Applicant will follow all construction methods and timeframes provided by the Tahoe Regional Planning Agency, Lahontan Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers.

The subject improvements facilitate recreational boating. 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 Applicant proposes to remove an existing pier and shed to construct a new pier on pilings. The immediate area of the pier is rocky with large boulders. The construction of the proposed pier design will allow public access laterally across the shoreline. The public may navigate or walk next to and under the pier within the Public Trust easement. With the proposed design, there will be approximately 7 feet of clearance to pass under the pier within the easement. In exchange for approval to install the boat lift, the lessee will remove one existing mooring buoy. The remaining mooring buoy is located directly lakeward of the upland property 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, does not grant the lessee exclusive rights to the lease premises, and

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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.

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 does not substantially interfere with the common law Public Trust Doctrine at this location, at this time, and for the foreseeable term of the 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 and along the State's inland and coastal waterways.
2. **Continued Use of an Existing Buoy:** 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).
3. **Pier Demolition and Removal of Buoy:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.
4. **Pier Reconstruction and Expansion with Boat Lift:** Staff recommends that the Commission find 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; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

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

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**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Continued Use of an Existing Buoy:** 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).

**Pier Demolition and Removal of Buoy:** 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

**Pier Reconstruction and Expansion with Boat Lift:** 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

**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:**

1. Authorize acceptance of compensation from the Applicant in the amount of \$2,088 for unauthorized occupation of State lands for the period beginning August 24, 2016, through April 18, 2018.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 19, 2018, for a term of 10 years, for the removal, reconstruction and expansion of an existing pier with adjustable catwalk; installation of a boat lift; removal of one existing mooring buoy; and continued use and maintenance of an existing

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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 \$1,671, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 8728.1**

**LAND DESCRIPTION**

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 of fractional Section 5, Township 15 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying a proposed pier, adjustable catwalk, and boat lift lying adjacent to that parcel described in Grant Deed recorded April 1, 2004 as Document Number 2004-0038015 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 April 1, 2004 as Document Number 2004-0038015 in Official Records of said County.

This description is based on Applicant provided design plans for a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

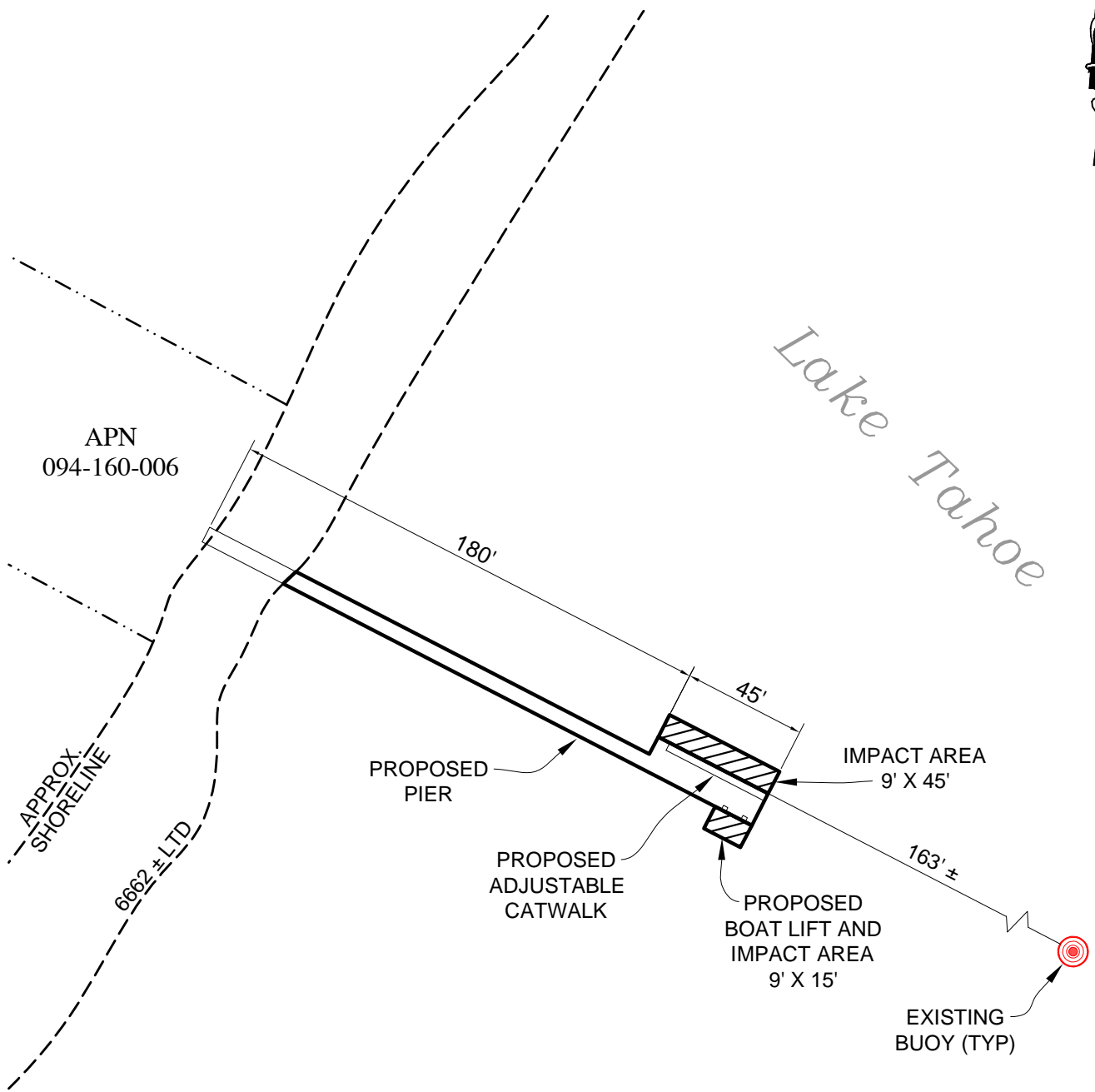
Prepared 12/20/2017 by the California State Lands  
Commission Boundary Unit.





Lake Tahoe

APN  
094-160-006



# EXHIBIT A

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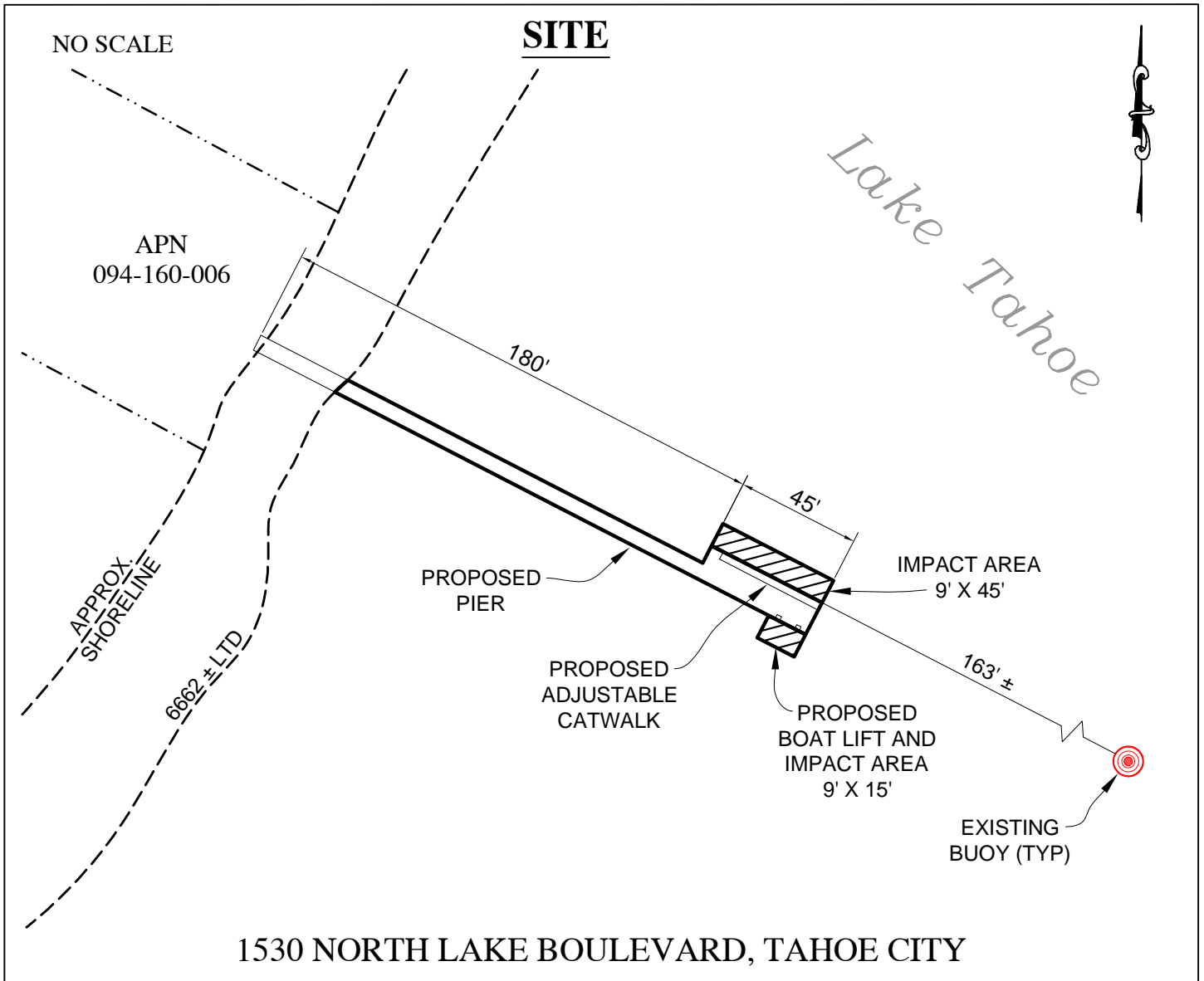
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LAND DESCRIPTION PLAT  
PRC 8728.1, BABBAGE, LLC  
PLACER COUNTY

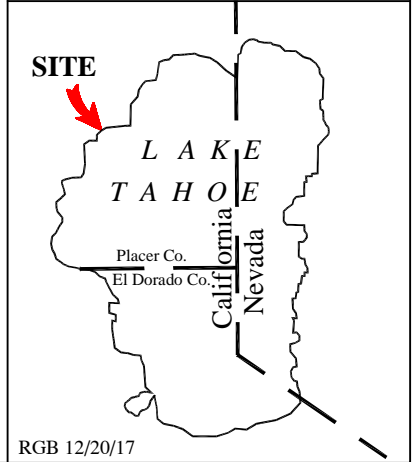
CALIFORNIA STATE  
LANDS COMMISSION







**Exhibit B**  
 PRC 8728.1  
 BABBAGE, LLC  
 APN 094-160-006  
 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.