

**STAFF REPORT
C31**

A 1, 5
S 1

04/19/18
PRC 8705.1
M. Schroeder

**ACCEPTANCE OF A QUITCLAIM DEED AND
ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE**

LESSEE:

Lake Tahoe Cruises, LLC

APPLICANT:

Fred & Ginger, Inc. dba Tahoe Cruises

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 900 Ski Run Boulevard, city of South Lake Tahoe, El Dorado County and various locations around Lake Tahoe, El Dorado and Placer Counties.

AUTHORIZED USE:

Commercial operation, maintenance, and overnight berthing of two passenger vessels, known as the *Safari Rose* and the *Spirit of Tahoe* at Ski Run Marina, and docking at various locations around Lake Tahoe for the loading and off-loading of passengers.

LEASE TERM:

20 years, beginning June 21, 2017.

CONSIDERATION:

~~\$9,16865,500~~ per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$5,000,000 per occurrence.
2. \$25,000 bond.
3. Applicant is required to maintain an agreement with Ski Run Marina throughout the term of the lease authorizing the use of its pier.

STAFF REPORT NO. **C31** (CONT'D)

4. Applicant agrees to the implementation of the Commission's "Best Management Practices (BMP) for Berth Holders / Guest Dock Users / Boaters," including additional BMPs the Commission subsequently deems appropriate for the above category. Lessee shall post the BMPs in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease and on every third anniversary thereafter, a report on compliance with all BMPs.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On October 16, 2015, the Commission authorized a 20-year General Lease – Commercial Use to Lake Tahoe Cruises, LLC, for commercial operation, maintenance, and overnight berthing of two passenger vessels, known as the *Tahoe Queen* and the *Tahoe Paradise* at Ski Run Marina, and docking at various locations around Lake Tahoe for the loading and off-loading of passengers ([Item C24, October 16, 2015](#)). That lease will expire on December 7, 2035.

In 2016, the *Tahoe Queen* was damaged during renovation and could not be repaired. Subsequently, the *Tahoe Queen* was scrapped, and the Lessee did not renew their lease with Ski Run Marina. The *Tahoe Paradise* has since been relocated and now operates out of Zephyr Cove Resort in Zephyr Cove, Nevada as a private charter boat. A lease with the Commission for the commercial operation, maintenance, and overnight berthing of the *Tahoe Paradise* is no longer required as the boat no longer berths overnight in California and all ticket sales are conducted out of offices in Zephyr Cove, Nevada. On June 20, 2017, the Lessee executed a quitclaim deed releasing their interest in the lease. Staff recommends acceptance of the lease quitclaim deed.

Upon the Lessee vacating the lease premises, Ski Run Marina sought a new commercial boating operation as a replacement. The Applicant signed a lease agreement with Ski Run Marina and now has the right to use the upland adjoining the lease premises and the pier facilities owned by Ski Run Marina and authorized under Lease No. 8655.1. On April 20, 2017, the Commission authorized an extension of the pier to Ski Run Marina ([Item C22, April 20, 2017](#)). The extension was completed in June 2017. The Applicant is now applying for a General Lease – Commercial

STAFF REPORT NO. C31 (CONT'D)

Use for commercial operation, maintenance, and overnight berthing of two passenger vessels, known as the *Safari Rose* and the *Spirit of Tahoe*.

The Applicant has authorization from the Tahoe Regional Planning Agency to dock at various locations around the lake for the loading and offloading of passengers. Those locations are the Gar Woods Building, Tahoe City Campground, Tahoe City Marina, Sunnyside Marina, Sugar Pine Point (Ehrman Mansion), Camp Richardson, and Ski Run Marina.

The two passenger vessels are privately owned and maintained. Ski Run Marina is open to the public where the public can access the beach, rent a boat or use a fishing company to access Lake Tahoe. The subject vessels operated and maintained by the Applicant and the amenities at the marina facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited term of 20 years, and a non-exclusive use provision. In addition, the lessee is required 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 this lease is consistent with the common law Public Trust Doctrine 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. The prior Lessee was a long-term, well established operator of tour boats on Lake Tahoe. The Applicant is a new, smaller-scale operator with limited financial history. Since the publishing of this staff report, staff received a more detailed breakdown of financial projections from the Applicant resulting in a new recommended rent. The new proposed annual rental amount was calculated using the updated information and is consistent with the rent methodology used in the prior lease.

STAFF REPORT NO. **C31** (CONT'D)

3. This lease will be subject to rent reviews every 5 years which will capture changes in the Applicant's business as they gain more experience over the term of the lease.

2.4. Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3.5. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

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

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease 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 14, section 15301.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the acceptance of a lease quitclaim deed and issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the 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.

STAFF REPORT NO. **C31** (CONT'D)

AUTHORIZATION:

1. Authorize acceptance of a quitclaim deed, effective June 20, 2017, of Lease No. PRC 8705.1, a General Lease – Commercial Use, issued to Lessee.

2. Authorize issuance of a General Lease – Commercial Use to the Applicant beginning June 21, 2017, for a term of 20 years, for the commercial operation, maintenance, and overnight berthing of two passenger vessels, known as the *Safari Rose* and the *Spirit of Tahoe* at Ski Run Marina, and docking at various locations around Lake Tahoe for the loading and off-loading of passengers, 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 ~~\$9,16865,500~~ with an annual Consumer Price Index adjustment, and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; a surety bond in the amount of \$25,000, and liability insurance in an amount no less than \$5,000,000 per occurrence.

EXHIBIT A

PRC 8705.1

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to and northwesterly of that parcel of land as described in Grant Deed, recorded March 20, 2003 in Document Number 2003-50219 in Official Records of El Dorado County, State of California, more particularly described as follows:

BEGINNING at the point which bears North $36^{\circ} 58' 15''$ East 8810.17 feet from the NGS monument PID AE9848 (Epoch 2010.00) having CCS83 Zone 2 coordinates of Northing (y) = 2107517.07 feet, Easting (x) = 7136557.88 feet; thence from said point of beginning the following four (4) courses:

1. North $15^{\circ} 13' 04''$ West 274.61 feet;
2. North $74^{\circ} 46' 56''$ East 87.64 feet;
3. South $15^{\circ} 13' 04''$ East 274.61 feet;
4. South $74^{\circ} 46' 56''$ West 87.64 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

END OF DESCRIPTION

Prepared 09/20/2017 by the California State Lands Commission Boundary Unit



NO SCALE

SITE

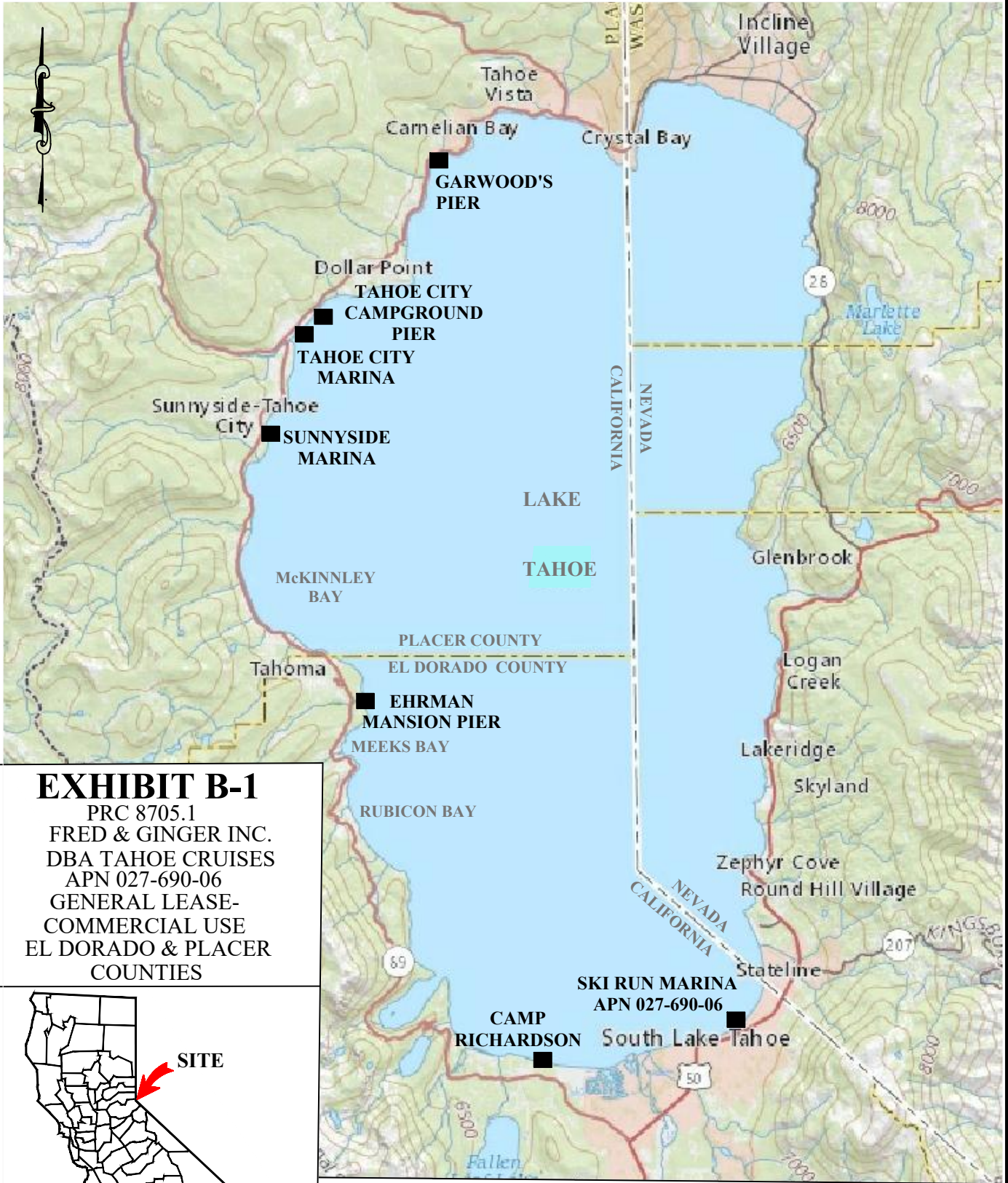


EXHIBIT B-1

PRC 8705.1
 FRED & GINGER INC.
 DBA TAHOE CRUISES
 APN 027-690-06
 GENERAL LEASE-
 COMMERCIAL USE
 EL DORADO & PLACER
 COUNTIES

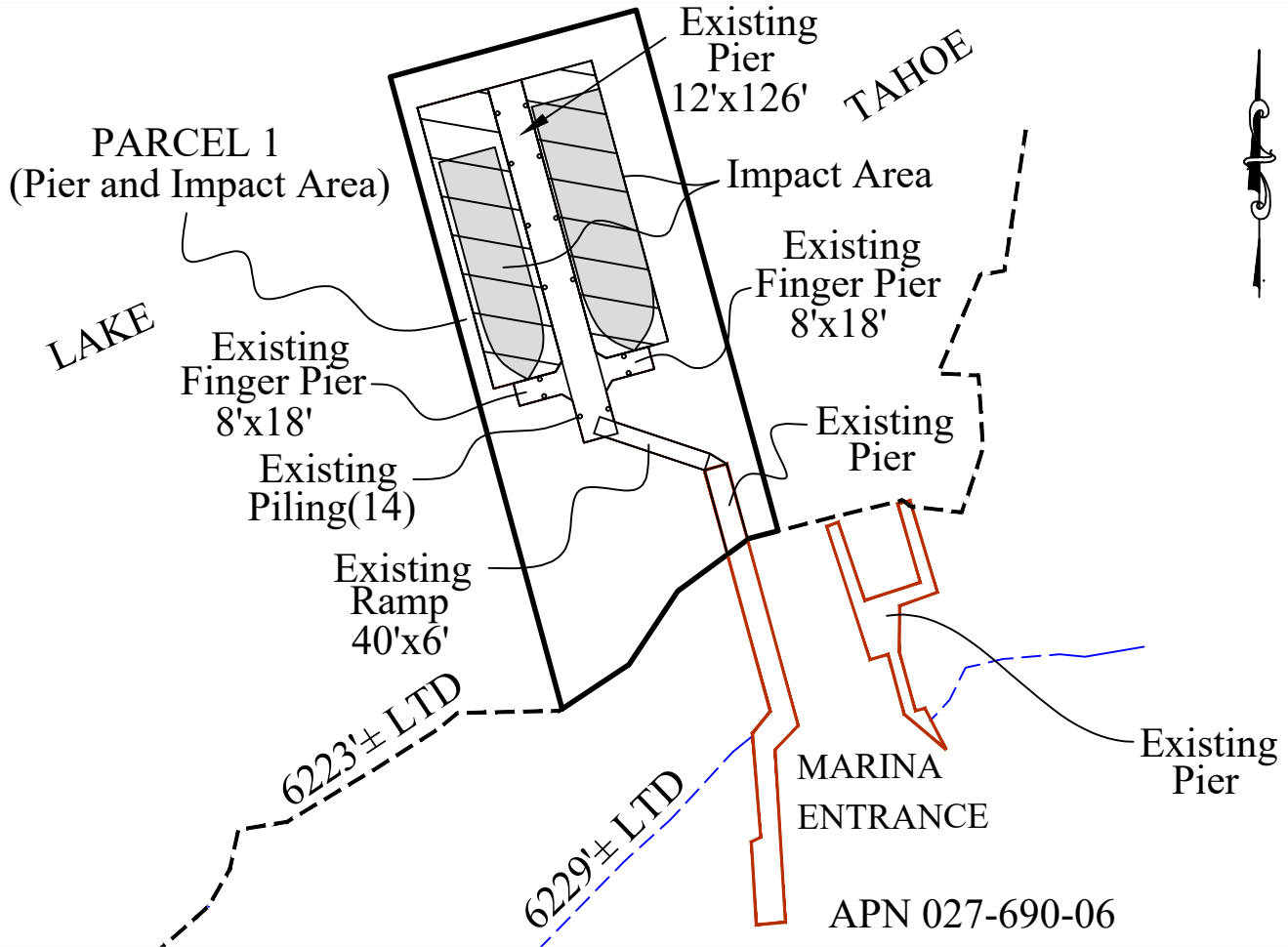


MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by Lessee or other parties, 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.

NO SCALE

SITE



900 SKI RUN BLVD., SOUTH LAKE TAHOE

NO SCALE

LOCATION MAP



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by 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-2

PRC 8705.1

FRED & GINGER INC.

DBA TAHOE CRUISES

APN 027-690-06

GENERAL LEASE-
COMMERCIAL USE

EL DORADO COUNTY

