

**CALENDAR ITEM
C16**

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02/08/11
WP 8052.1
N. Lee

**GENERAL LEASE - COMMERCIAL USE
AND APPROVAL OF A SUBLEASE**

APPLICANT/SUBLESSOR:

WSC Investors, LLC
c/o JMA Ventures, LLC
P.O. Box 3938
Truckee, CA 96160

SUBLESSEE:

Homewood Village Resorts, LLC

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5160 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

LEASE: Continued use and maintenance of an existing restaurant accommodation pier as shown on the attached Exhibit A.

SUBLEASE: Operation and maintenance of a restaurant accommodation pier.

LEASE TERM:

LEASE: 15 years, beginning August 13, 2010.

SUBLEASE: 15 years, beginning August 13, 2010.

CONSIDERATION:

\$1,721 per year, against three percent of the annual gross income derived from food and beverage sales; five percent of the annual gross income derived from wedding and other events; and 10 percent of the annual gross income derived from all other unauthorized activities conducted on or over the Lease Premises.

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SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$3,000,000.

Bond:

Surety in the amount of \$20,000.

Other:

1. 30 days prior to start of any concession operations on the Lease Premises, Lessee must submit a detailed plan of operation for Lessor's staff's review and approval, and submit copies of permits and authorizations from all applicable agencies.
2. The lease requires that the Lessee implement the State Lands Commission's (Commission) "Best Management Practices for Guest Dock Users and Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. Lessee shall post the "BMPs for Guest Dock Users and Boaters" in prominent places within the Lease Premises. The Lessee shall provide the Commission, on the first anniversary of the lease and tri-annually thereafter, a report on compliance with all BMPs.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On December 16, 1998, the Commission authorized a 10-year General Lease – Recreational Use with Homewood Marina Lodge for construction, use, and maintenance of a restaurant accommodation pier. That lease expired on September 30, 2008. On August 13, 2010, the upland parcel was sold to WSC Investors, LLC (WSC). WSC is now applying for a General Lease – Commercial Use and approval of a sublease of the pier to Homewood Village Resorts, LLC.
3. The upland parcel is improved with a building containing a restaurant, known as the West Shore Café, exercise room, and six upstairs tourist accommodation lodging units. WSC leases the upland and all improvements to Homewood Village Resorts, LLC (Homewood Village). In addition to a new lease, WSC is requesting approval of a sublease of the Lease Premises to Homewood Village for a term of 15 years, beginning August 13, 2010. All terms of the sublease agreement are consistent with the terms of the lease.
4. After obtaining operation permits from all applicable agencies, Homewood Village plans to extend the café food and beverage service and

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accommodate weddings and other reception events on the pier during the summer months. Prior to the start of these operations, a detailed schedule and plan must be submitted to Commission staff for review and approval along with copies of all permits.

5. The pier is open to the public and is improved with two three-foot wide catwalks to facilitate loading and unloading of the public and guests from their boats. The pier is also improved with steps on both sides to provide continuous shoreline access to the Public Trust Easement below the high water mark of elevation 6228.75 feet, Lake Tahoe Datum.
6. **Pier:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has 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.

7. **Sublease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

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

FURTHER APPROVALS REQUIRED:

Concession Activities on the Pier:
Tahoe Regional Planning Agency
Placer County

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EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Pier: 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 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Sublease: Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060(c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

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 issuance of a General Lease – Commercial Use to WSC Investors, LLC, beginning August 13, 2010, for a term of 15 years, for the continued use and maintenance of an existing restaurant accommodation pier as shown on Exhibit A attached and by this reference made a part hereof; minimum annual rent in the amount of \$1,721 against three percent of the annual gross income derived from food and beverage sales; five percent of the annual gross income derived from wedding and other events; and 10 percent of the annual gross income derived from all other unauthorized activities conducted on or over the Lease Premises; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; surety in the amount of \$20,000; and liability insurance with coverage of no less than \$3,000,000.
2. Authorize a sublease of the Lease Premises between WSC Investors, LLC and Homewood Village Resorts, LLC of Lease No. PRC 8052.1, for a term of 15 years, beginning August 13, 2010 and ending August 12, 2025.