

**CALENDAR ITEM
C01**

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02/07/17
PRC 5055.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Gordon P. Andrews, Successor Trustee of the George A. Pope Trust dated December 30, 1935

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 9800 Brockway Springs Drive, Kings Beach, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse, four boat hoists, sundeck with stairs, and two mooring buoys.

LEASE TERM:

10 years, beginning January 1, 2017.

CONSIDERATION:

\$3,368 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.
3. 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 two 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

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authorization within the time limit, they may be required to remove the buoys.

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 contains provisions stating that the existing sundeck with stairs, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck with stairs must be removed from the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On May 10, 2007, the Commission authorized a General Lease – Recreational Use to Union Bank of California, National Association, a National Banking Association, as Trustee under that certain Declaration of Trust by George A. Pope dated December 30, 1935 ([Calendar Item C58, May 10, 2007](#)). That lease expired on December 31, 2016. The trustee of the George A. Pope Trust has since changed and is now Gordon P. Andrews. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, boathouse, four boat hoists, sundeck with stairs, and two mooring buoys. The facilities are privately owned and maintained.

The subject facilities are used for 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 subject facilities have existed for many years at this location. The pier is built on pilings and the immediate area of the pier is sloped and rocky with large boulders. The topography and the location of upland structures provides access for the pier and allows the public to walk or navigate

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under the pier within the Public Trust easement. There is not much vertical public access to the shoreline along this stretch of Lake Tahoe. The sundeck is built onto the existing boathouse and does not expand the footprint of the pier. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The sundeck with stairs is not associated with traditional trust uses. While new sundecks are generally disfavored, sundecks that have been in place for years have been permitted if, as in this instance, they do not significantly interfere with trust activities. However, the lease contains provisions that the sundeck may not be expanded nor rebuilt if substantially destroyed.

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 termination of the lease, the lessee may be required to remove all improvements 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. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and 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. 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).

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

3. 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.

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 the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, 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 Gordon P. Andrews, Successor Trustee of the George A. Pope Trust dated December 30, 1935, beginning January 1, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse, four boat hoists, sundeck with stairs, and two mooring buoys as described in

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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 \$3,368, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5055.1

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 30, Township 16 North, Range 18 East, M.D.B.&M., as shown on Official Government Township Plat approved January 2, 1875, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, two catwalks, four boat hoists and boathouse with sundeck and stairs lying adjacent to that parcel described in Trust Transfer Deed recorded April 7, 2016 as Document Number 2016-0025402-00 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 & 3 – BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Trust Transfer Deed recorded April 7, 2016 as Document Number 2016-0025402-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 09/27/2016 by the California State Lands Commission Boundary Unit.





LAKE
TAHOE

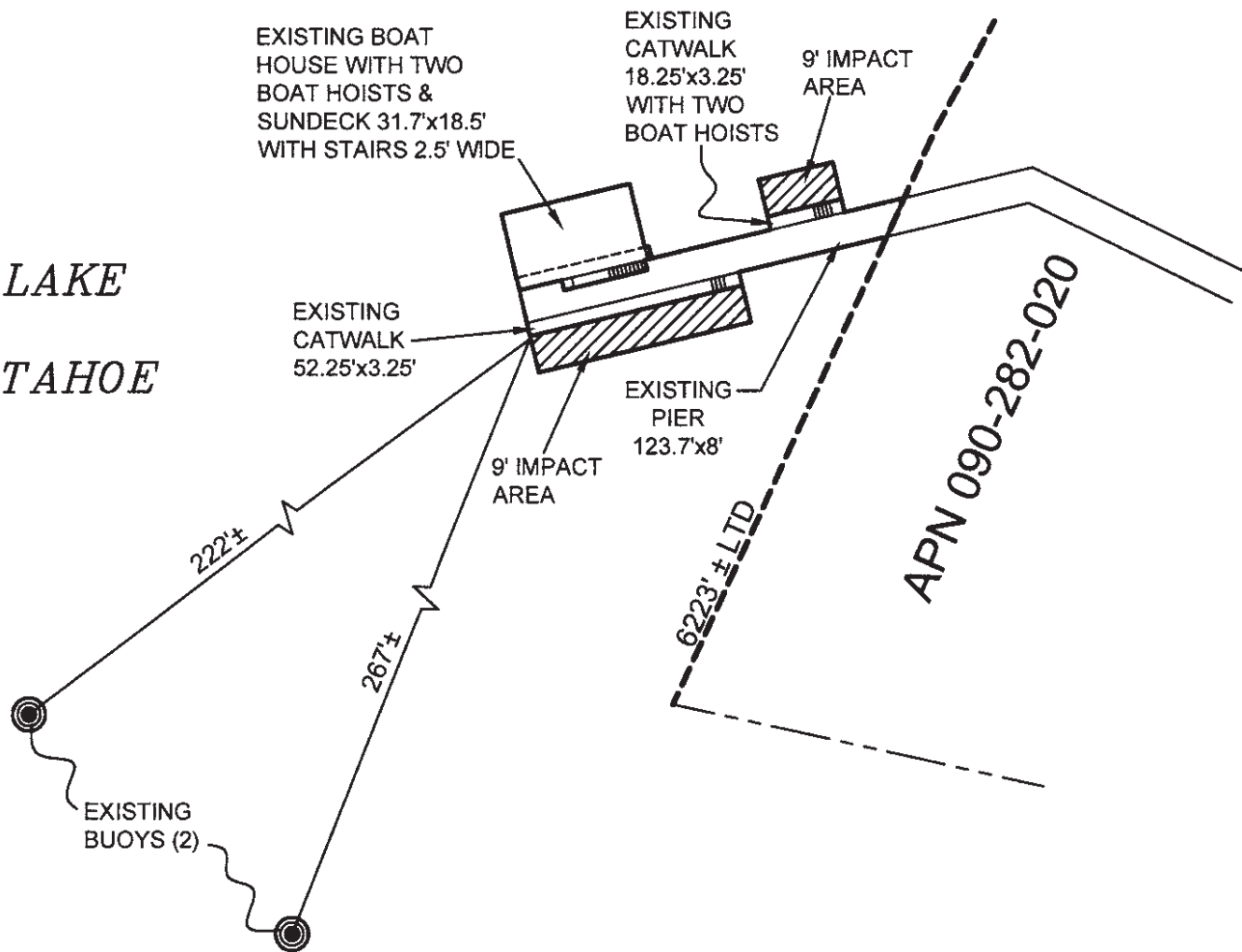
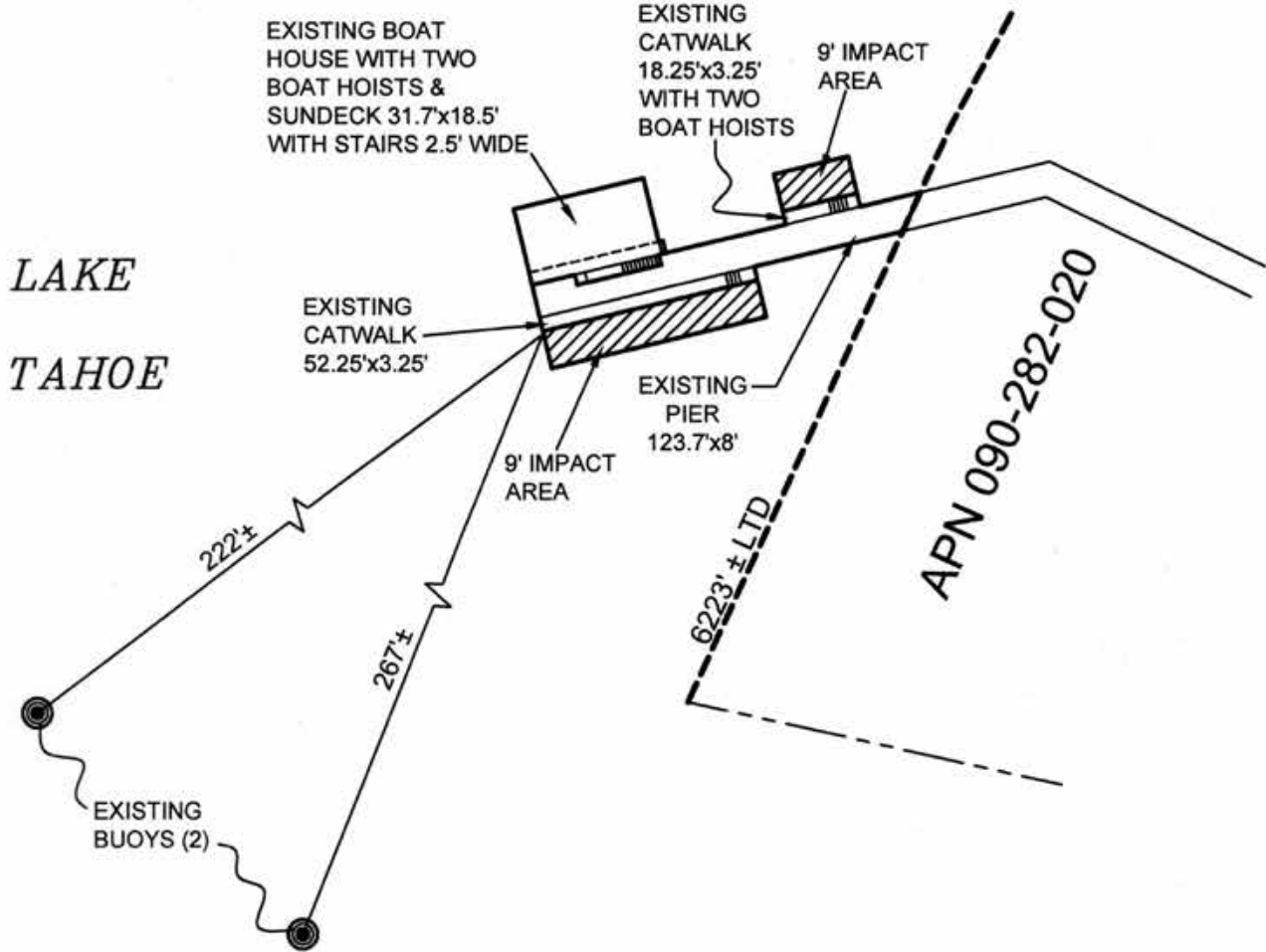


EXHIBIT A



NO SCALE

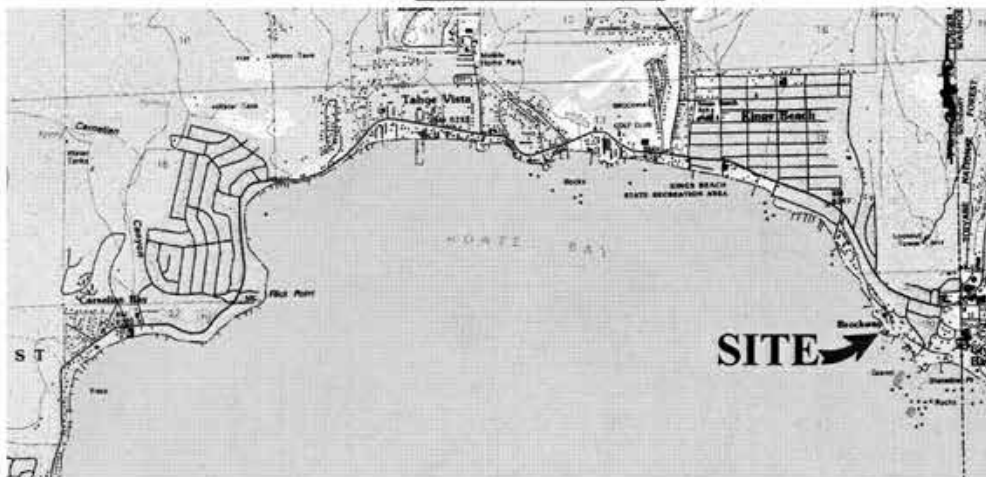
SITE



9800 BROCKWAY SPRINGS DRIVE, NEAR KINGS BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B
 PRC 5055.1
 POPE TRUST
 APN 090-282-020
 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.