

**CALENDAR ITEM
C13**

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02/07/17
PRC 5676.1
N. Lee

AMENDMENT OF LEASE AND REVISION OF RENT

LESSEE:

Rubicon Tahoe Owners, Inc.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to Assessor's Parcel Numbers 016-142-11 and 016-221-06, Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of two existing piers, two swim areas, two swim floats, 97 mooring buoys, and three marker buoys.

LEASE TERM:

10 years, beginning January 31, 2012.

CONSIDERATION:

This lease provides that the Commission may modify the rent periodically during the lease term. Pursuant to this provision, staff conducted a review of the rent under this lease, and recommends rent be revised from \$19,661 to \$16,006 per year, effective February 1, 2017.

PROPOSED AMENDMENT:

Amend the lease to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only). All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

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Public Trust and the State's Best Interests Analysis:

In 2012, the Commission authorized a 10-year General Lease – Recreational Use to Rubicon Tahoe Owners, Inc., beginning February 1, 2017, for two existing piers, two swim areas, two swim floats, 97 mooring buoys, and three marker buoys ([Calendar Item C21, January 26, 2012](#)). That lease will expire on January 31, 2022.

Staff conducted the rent review called for in the lease and recommends a reduction in the annual rent. When the lease was authorized on January 26, 2012, the Lessee met the statutory requirements for an exception to changes made to Public Resources Code section 6503.5, which as originally enacted exempted private recreational piers and mooring buoys from rent when operated by associations consisting of natural persons who own single-family dwellings on the littoral or upland property. The Lessee is a property owners association consisting of 325 members upon issuance of the lease. Seven percent of the members did not qualify for rent-free status when the lease was issued. The rent was prorated accordingly. Upon review of the current list of members, there has been an increase to 329 members and five percent of those members do not qualify for rent-free status. Rent for the two swim areas with two swim floats is not prorated because swim areas and swim floats did not qualify for rent-free status under former Public Resources Code section 6503.5.

Staff recommends the rent be revised to \$16,006 per year based on changes to impact areas for the piers, a reduced North Field swim area, application of the updated Lake Tahoe Benchmark, and the adjustment in the proration of rent due to the change in the composition of the property owner's association membership. Staff also recommends the lease be amended to reflect the new reduced lease (impact) area and reduced area of the North Field swim area.

The recommended action will not substantially interfere with the Public Trust needs at this time and at this location. For these reasons, staff recommends finding the proposed action is in the best interests of the State at this time.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 2.2 of the Commission's Strategic Plan to ensure timely receipt of revenues and royalties from the use and development of State lands and minerals.
2. Amendment of the lease to make an adjustment in the lease area and the revision of the rent are not projects as defined by the California

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Environmental Quality Act, because they are administrative actions 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).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment of Lease No. PRC 5676.1 will not substantially interfere with the Public Trust needs and values at this location; find these actions are consistent with the common law Public Trust Doctrine and are in the best interests of the State.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 5676.1, a General Lease – Recreational Use, effective February 1, 2017, to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); and approve the revision of rent from \$19,661 to \$16,006 per year, effective February 1, 2017; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

W 5676.1

LAND DESCRIPTION

Two (2) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 8, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – NORTH BUOY FIELD

COMMENCING at a point on the southerly line of Beach Lane which bears South 87° 53' West 4.96 feet, from the southwest corner of Lot 12, Block A of the Rubicon Properties Subdivision, as shown on that certain map filed in Map Book A, at page 52 of Official Records of El Dorado County, thence from said POINT OF COMMENCEMENT North 85° 53' 00" East 62.54 feet to an angle point in the southerly line of Lot 12; thence South 83° 28' 00" East 189.79 feet to the POINT OF BEGINNING as being the southerly angle point of said lot 12; thence North 77° 00' 00" East 70.00 feet; thence South 13° 00' 00" East 30.00 feet; thence North 77° 00' 00" East 725.00 feet; thence North 13° 00' 00" West 233.67 feet; thence South 88° 49' 08" West 498.45 feet; thence South 01° 10' 52" East 25.00 feet; South 88° 49' 08" West 279.40 feet; thence South 08° 10' 58" East 339.71 feet to the POINT OF BEGINNING.

PARCEL 2 – SOUTH BUOY FIELD

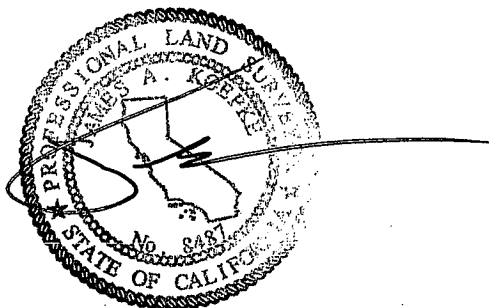
COMMENCING at the southwesterly corner of Lot 12 and the northwesterly corner of Lot 13, Block G of the Rubicon Properties Subdivision, as shown on that certain map filed in Map Book A, at page 52 of Official Records of El Dorado County; thence North 56° 47' 00" East 243.09 feet along the southerly line of Lot 12 to the POINT OF BEGINNING being the to the southeasterly corner of said lot; thence North 56° 47' 00" East 154.55 feet along the prolongation of the southerly line of Lot 11; thence North 62° 42' 50" East 186.85 feet; thence South 34° 36' 28" East 141.50 feet; thence North 53° 29' 29" East 522.43 feet; thence North 33° 46' 26" West 721.21 feet; thence South 56° 15' 18" West 753.20 feet; thence South 22° 59' 37" East 592.87 feet to the POINT OF BEGINNING.

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

Accompanying plat is hereby made part of this description.

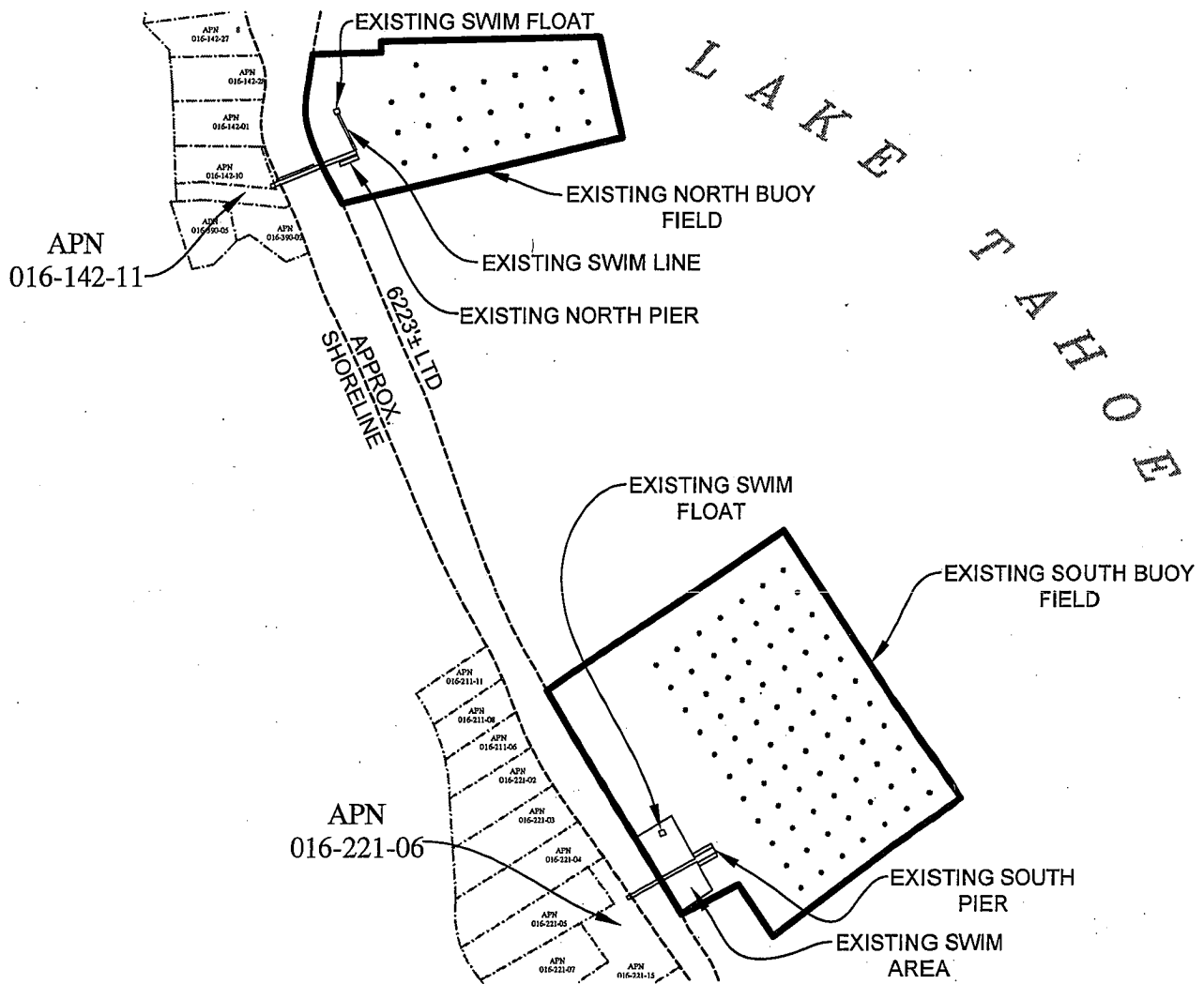
END OF DESCRIPTION

Prepared 12/08/2016 by the California State Lands Commission Boundary Unit.



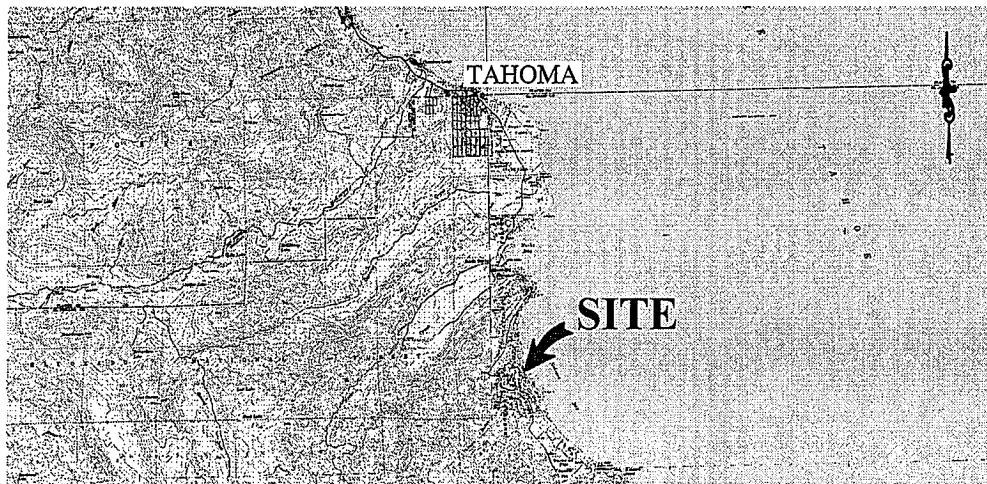
NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

PRC 5676.1
 RUBICON TAHOE OWNERS,
 INC.
 APN 016-221-06 & 016-142-11
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY

