

**CALENDAR ITEM
C72**

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06/28/10
WP 5405.1
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

John D. Brady, Trustee of the John D. and Judy V. Brady 1980 Revocable Living Trust as Amended and Restated December 13, 1990

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to Assessor Parcel Number 092-180-008, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and boat lift as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning May 14, 2010.

CONSIDERATION:

\$1,389 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$1,000,000.

Other:

The lease contains a provision that the Applicant must obtain and maintain continuous authorization from the littoral property owner, Cedar Flat Improvement Association (Association), to maintain and access the pier and boat lift on the littoral property (APN 092-180-008) adjacent to the lease premises. The lease shall terminate if the Association's consent lapses or is revoked.

OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the uplands adjoining the lease premises, which is owned by the Association. The right granted to the Applicant by

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the Association is limited to the use and maintenance of the Applicant's pier and boat lift.

2. On July 11, 1997, the Commission authorized a General Lease – Recreational Use with John D. Brady, Trustee of the John D. and Judy V. Brady 1980 Revocable Living Trust as Amended and Restated December 13, 1990. That lease expired on May 13, 2006. Applicant is now applying for a new General Lease – Recreational Use.
3. The Applicant's continued use of the lease premises after the lease expired constitutes a month-to-month tenancy. Under the terms of the prior lease, such holding over increases the annual rent by 25%. Accordingly, back rent in the amount of \$374 is owed for the four years between expiration of the lease and the effective date of the proposed new lease.
4. Applicant does not qualify for rent-free status because the Applicant is not the owner of the littoral property adjacent to the lease premises.
5. The boat lift was permitted by the Tahoe Regional Planning Agency on September 18, 2009.
6. 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. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site and Location Map

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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).

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:

Authorize issuance of a General Lease – Recreational Use to John D. Brady, Trustee of the John D. and Judy V. Brady 1980 Revocable Living Trust as Amended and Restated December 13, 1990, beginning May 14, 2010, for a term of ten years, for the continued use and maintenance of an existing pier and boat lift as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$1,389, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the Lease; and liability insurance in the amount of no less than \$1,000,000.