

**CALENDAR ITEM
C21**

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01/26/12
WP 5676.1
N. Lee

GENERAL LEASE - RECREATIONAL USE

APPLICANT:

Rubicon Tahoe Owners, Inc.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, swim area with swim float, 22 mooring buoys, and one marker buoy in the North Field and an existing pier, swim area with swim float, 75 mooring buoys, and two marker buoys in the South Field.

LEASE TERM:

10 years, beginning February 1, 2012.

CONSIDERATION:

\$19,661 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 \$2,000,000.

Other:

Buoy Allotment Program: The use of the buoy fields will be made available to all members of Rubicon Tahoe Owners, Inc. (RTO) in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by RTO's members.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland parcels, Assessor's Parcel Numbers 016-221-06 and 016-142-11, adjoining the lease premises and has permission to maintain the buoys adjacent to eight upland parcels.

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2. On October 20, 2003, the Commission authorized a 10-year General Lease – Recreational Use with RTO. That lease will expire on January 31, 2012.
3. RTO, a voluntary organization representing 325 lot owners in the Rubicon Subdivision adjacent to Lake Tahoe, has applied for a new General Lease – Recreational Use for the continued use and maintenance of two lease areas known as the “North Field” and “South Field.” The “North Field” consists of an existing pier, swim area with swim float, 22 mooring buoys, and one marker buoy. Approximately one mile south of this field is the “South Field” consisting of an existing pier, swim area with swim float, 75 mooring buoys, and two marker buoys.
4. The entire lease premises are adjacent to 10 littoral parcels, two of which are owned as common area parcels by RTO with each located adjacent to a lease area. RTO has arranged the existing buoys in a grid pattern approved by the U.S. Army Corps of Engineers and the Tahoe Regional Planning Agency. The grid pattern provides two buoy positions for each of the littoral owners. Six of the eight littoral parcel owners have separate leases with the Commission and their buoys are interspersed in the fields.
5. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State Lands Commission “shall charge rent for a private recreational pier constructed on state lands.” The law provides for two exceptions to the imposition of rent. Those exceptions are for:
 - a. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and
 - b. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.
6. Because the application was submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease. Therefore, the annual rent for the two piers and buoy fields has been prorated according to the number of members that qualify for rent-free status. Of the 325 members, 303

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qualify for rent-free status. The rent for the two swim areas with swim floats are subject to full rent.

7. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit 14, § 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; California Code of Regulations, Title 2, section 2905 subdivision (a)(2).

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

8. 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 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.

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 (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 section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Rubicon Tahoe Owners, Inc. beginning February 1, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, swim area with

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swim float, 22 mooring buoys, and one marker buoy in the North Field and an existing pier, swim area with swim float, 75 mooring buoys, and two marker buoys in the South Field 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 \$19,661, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance with coverage of no less than \$2,000,000.

**EXHIBIT A
LAND DESCRIPTION**

PRC 5676

Four parcels of land in the bed of Lake Tahoe, EL Dorado County, California situated in fractional Sections 32 and 33, T14N, R17E, MDM, said parcels being more particularly described as follows:

NORTH BUOY FIELD AREA

PARCEL 1 – Pier, Float, Swim Line and Swim Area

All that land lying immediately beneath an existing pier and 9 feet by 9 feet swim float lying easterly of Lots 10 and 12, Block A as said lots are shown on that certain Map of Rubicon Properties, filed in Book A of Maps, Page 52, El Dorado County Records, TOGETHER WITH a necessary use area extending no more than 10 feet from said pier and said swim float, ALSO TOGETHER WITH all that land lying 2.5 feet on each side of a swim line extending 80 feet northerly from the northerly side of the 10 foot use area of said pier to the southerly side of swim float. ALSO TOGETHER WITH a swim area bounded on the west by the contour of elevation 6223.0 feet Lake Tahoe Datum (LTD) on the shore of Lake Tahoe; bounded on the south by the north side of said 10 foot wide necessary use area for said pier; bounded on the east by the west side of the 5 foot use area of said swim line and the south and west sides of the 10 foot necessary use area of said swim float; bounded on the north by a line intersecting the northwest corner of said swim float and parallel with said pier.

EXCEPTING THEREFROM and portion of Parcel 1 lying landward of elevation 6223.0 feet Lake Tahoe Datum on the shore of Lake Tahoe.

PARCEL 2 – Buoy Grid Pattern

Twenty two (22) circular parcels of submerged land sized and configured according to approved permits from the U.S. Army Corps of Engineers and the Tahoe Regional Planning Agency and lying within a parcel bounded on the west by the contour of elevation 6223.0 feet Lake Tahoe Datum on the shore of Lake Tahoe; bounded on the east by a straight line with its southerly terminus located on the easterly prolongation of the south line of Lot 12, Block A, as shown on said Rubicon Properties map distant 705 feet easterly along said south line from the 6223.0 feet LTD elevation, and a northerly terminus of said straight line located on

the easterly prolongation of the north line of Lot 9, Block A, as shown on said Rubicon Properties map distant 732 feet easterly along said north line from 6223.0 feet LTD elevation; bounded on the north by easterly prolongation of the north line of Lot 9, Block A, as shown on said Rubicon Properties map; bounded on the south by the easterly prolongation of the south line of Lot 12, Block A, as shown on said Rubicon Properties Map.

TOGETHER WITH one (1) circular parcel of submerged land 20 feet in diameter lying at or near the easterly line of the above described parcel 2; said parcel to be used for the location of U.S. Coast Guard marker buoy only.

EXCEPTING THEREFROM any portion of Parcel 2 lying landward of elevation 6223.0 feet Lake Tahoe Datum on the shore of Lake Tahoe.

SOUTH BUOY FIELD AREA

PARCEL 3 – Pier, Float, Swim Line, Swim Area

All that land adjacent to Lots 10, 11, and 13, as shown on that certain map of the Rubicon Tahoe Owners Association fronting Lots 6 thru 15, Block G Rubicon Properties, filed in Book A of Maps, Page 52, El Dorado County Records, bounded on the northwest by the prolongation of the northerly line of Lot 10, Block G as shown on said map of Rubicon Properties; bounded on the southwest by the 6223.0 foot contour, Lake Tahoe Datum (LTD); bounded on the southeast by the northwesterly edge of the existing pier that lies within and extends waterward from Lot 13, Block G, as shown on said map of Rubicon Properties; and bounded on the northeast by a line generally parallel with said 6223.0 foot contour, LTD and 47.0 feet landward from the end of the existing pier that lies within and extends waterward from Lot 11, Block G, as shown on said map of Rubicon Properties.

TOGETHER WITH the necessary use area extending 10.0 feet beyond the extremities of said pier lying within and extending waterward from Lot 11, Block G.

EXCEPTING THEREFROM any portion of land lying landward of said 6223.0 foot contour, LTD.

PARCEL 4 – Buoy Grid Pattern

Seventy Five (75) circular parcels of submerged land sized and configured according to approved permits from the U.S. Army Corps of Engineers and the Tahoe Regional Planning Agency and lying within a parcel bounded on the southwest by the contour of elevation 6223.0 feet Lake Tahoe Datum on the shore

of Lake Tahoe; bounded on the northwest by a straight line with its terminus located on the northeasterly prolongation of the northwesterly line of Lot 6, Block G, as said lot is shown on said map of Rubicon Properties map distant 516 feet northeasterly along said northwestern line of Lot 6, Block G, from the contour of elevation 6223.0 feet LTD; bounded on the southeast by a straight line with its terminus located on the northeasterly prolongation of the southeasterly line of Lot 14, Block G, shown on map of said Rubicon Properties map distant 790 feet northeasterly along said southeasterly line of Lot 14, Block G, from the contour of elevation 6223.0 feet LTD; bounded on the northeast by two lines intersecting at a common angle point, the north line bears S 61° 37' 58" E from said terminus of the northeasterly line of Lot 6, Block G, and the south line bears N 35° 03' 03" W from said terminus of the northeasterly line of Lot 14, Block G, to said intersection.

TOGETHER WITH two (2) circular parcels of submerged land 20 feet in diameter lying at or near the north corner and the southeast corner of the above described parcel 4; said parcels to be used for the location of U.S. Coast Guard marker buoys only.

EXCEPTING THEREFROM any portion of Parcel 4 lying landward of elevation 6223.0 feet Lake Tahoe Datum on the shore of Lake Tahoe.

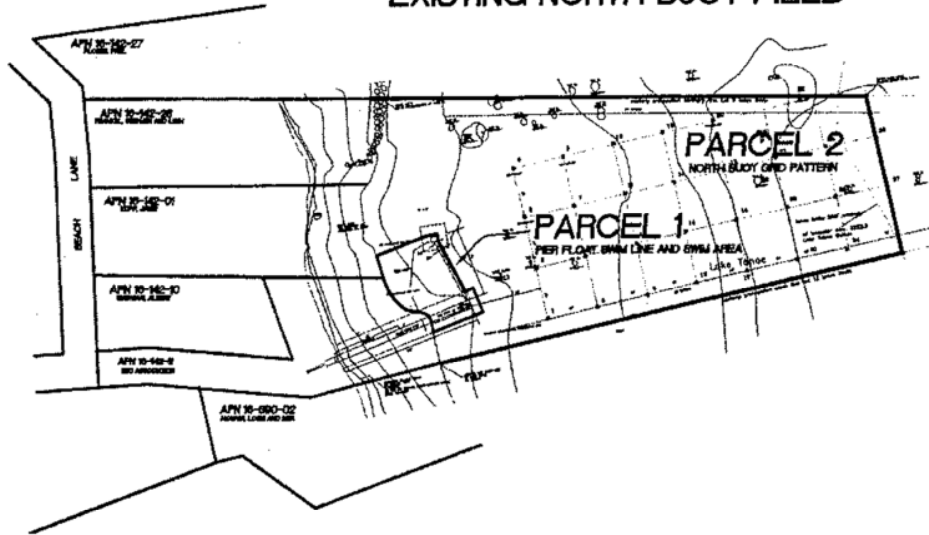
END OF DESCRIPTION



NO SCALE

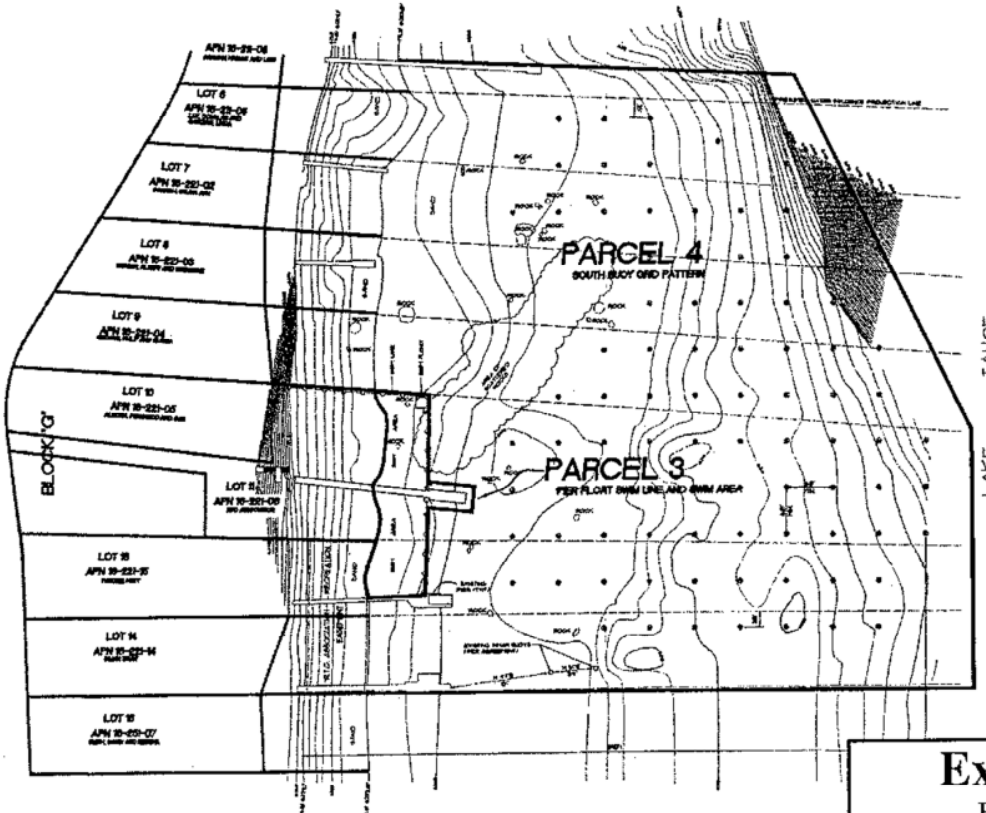
SITE PLAN

EXISTING NORTH BUOY FIELD



NORTH BUOY FIELD NOTE:
 THE DRAWING DEPICTS THE NORTH BUOY FIELD WITH 26 BUOYS AND 1 MARKER BUOY, HOWEVER, ONLY 22 BUOYS ARE OWNED/MAINTAINED BY RTO THE REMAINING 4 BUOYS ARE DEDICATED TO THE TWO LITTORAL PROPERTY OWNERS.

EXISTING SOUTH BUOY FIELD



SOUTH BUOY FIELD NOTE:
 THE DRAWING DEPICTS THE SOUTH BUOY FIELD WITH 87 BUOYS AND 2 MARKER BUOYS, HOWEVER, ONLY 75 BUOYS ARE OWNED/MAINTAINED BY RTO THE REMAINING 12 BUOYS ARE DEDICATED TO THE SIX LITTORAL PROPERTY OWNERS.

Exhibit B

PRC 5676.1
 RUBICON TAHOE OWNERS
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY

JAK 12/11

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.