

**CALENDAR ITEM
C76**

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04/23/14
W 26723
K. Colson
B. Terry

CONSIDER THE APPROVAL OF THE PURCHASE, WITH KAPILOFF LAND BANK FUNDS, OF A PORTION OF A PARCEL OF LAND AND APPROVAL OF A GENERAL LEASE – PUBLIC AGENCY USE

PARTIES:

California Tahoe Conservancy

Alta Mira Ltd.

California State Lands Commission, as Trustee of the Kapiloff Land Bank Fund

PROPOSED ACQUISITION:

The California Tahoe Conservancy (CTC) has requested the California State Lands Commission (Commission), as Trustee of the Kapiloff Land Bank Fund, contribute \$500,000 towards the acquisition of a 0.86 acre property (Subject Property) located adjacent to Lake Tahoe at 3339 Lake Tahoe Boulevard, South Lake Tahoe, El Dorado County. (Assessor's Parcel Number 027-010-16)

The Subject Property is located next to the South Lake Tahoe El Dorado Recreation Area and acquisition by the State will help to expand public lakefront access immediately adjacent to the largest assemblage of public lakefront ownership and recreation amenities in all of South Lake Tahoe. Once acquired, the Subject Property will provide the opportunity to expand public access to the shores of Lake Tahoe, provide storm water treatment, extend the bike path and incrementally improve the scenic quality of this stretch of U.S. Highway 50 and the shoreline of Lake Tahoe.

The CTC has an option to purchase the Subject Property from the owner, Alta Mira Ltd. (Grantor), for a price of \$2,500,000. The CTC has \$2,000,000 available for the purchase and therefore requests the Commission's \$500,000 contribution to complete the purchase.

Prior to the close of escrow, the Subject Property will be legally split into two parcels. The Commission seeks to acquire the 0.44-acre parcel between the high watermark and the low watermark as well as a 12-foot wide pedestrian access path running along

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the eastern edge of the property to U.S. Highway 50 (Exhibit A). The other parcel will consist of the remaining area above the high watermark fronting U.S. Highway 50 (Exhibit B).

Title shall be conveyed in two separate grant deeds to the State, one on behalf of the CTC and the other on behalf of the Commission. The title to be conveyed in both grant deeds is the fee simple interest, including all mineral and subsurface rights. Additionally, the Subject Parcel is already burdened with an easement for telephone poles, a drainage easement and an easement for a bike trail. The Commission will accept and hold title as sovereign lands subject to the Public Trust, pursuant to provisions of Division 6 of the Public Resources Code section 6000 et seq. A title insurance policy in the amount of the purchase price will be taken out in the name of the state.

The Subject Property is currently improved with a 5,402 square foot, two-story, mixed-use building constructed in 1957 which must be removed prior to the close of escrow. Other structures currently located on the Subject Property that will also be removed prior to the closing of escrow are exterior stairs, concrete patios, and related walkways, concrete stairs and railing, concrete picnic table, and concrete barbeque, and a 330-gallon inactive heating oil fuel tank filled with concrete. The building and most of the soon to be removed improvements are located on the portion of the Subject Property to be acquired by the CTC. An appraisal done to determine the sale price concluded that the two-story building added no value to the Subject Property. In other words, the \$2,500,000 sale price represents the underlying land value of the Subject Property. Accordingly, the option agreement requires the Grantor, at its sole cost, to demolish the building prior to the close of escrow and deliver separate unimproved parcels to the CTC and the Commission.

PROPOSED LEASE:

Upon approval of the acquisition, staff recommends that the Commission also authorize a General Lease – Public Agency Use with the CTC for the management of the Commission's parcel, depicted on Exhibit A, for a term of 49 years to provide public pedestrian access, recreation, and passive open space, with the consideration being the benefit to provide regional and statewide public access to Lake Tahoe associated with such a lease.

Any improvements to the Lease Area would require Commission approval and an amendment of the proposed lease.

CALENDAR ITEM NO. **C76** (CONT'D)

LEASE TERM:

49 years, beginning on the close of escrow. (Scheduled to close on or before October 31, 2014.)

LEGAL REQUIREMENTS:

The Kapiloff Land Bank Act (Act), Public Resource Code sections 8600 et seq., was enacted in 1982 and is an extension of the Commission authority provided for in Public Resources Code section 6307. The Act was created to facilitate settlements of title to real property with cash payments where exchange parcels are not readily available or are not of equal or greater value. The Commission holds and administers the acquired lands as sovereign public trust lands of the legal character of tide and submerged lands.

Pursuant to Public Resources Code section 8613, the Commission, acting as the Kapiloff Land Bank Trustee, may expend monies to purchase outstanding interest in tide and submerged lands whether or not they have been filled, diked, or cut off from tidal waters, lands which have been or may be converted to wetlands, or adjoining or nearby lands where the public use and ownership of the land is necessary or extremely beneficial for furtherance of public trust purposes. The purchase price shall not exceed the fair market value of the outstanding interest to be acquired. Prior to any such acquisition the trustee shall review the evidence and applicable law and shall determine whether the State may have any right, title, or interest therein and deduct from the economic value of the acquisition. The trustee shall make all reasonable attempts to acquire the mineral and other subsurface rights.

STAFF ANALYSIS:

As required by Public Resources Code section 8621, staff reviewed the evidence and the applicable law to determine what interest the State has in the property. At Lake Tahoe, the State owns the bed of the lake on the California side below the elevation of 6223 feet LTD and holds a public trust easement for navigation, commerce, fisheries, recreation and preservation of open space between the high and low water marks.

Staff has conducted an independent analysis of the Subject Property, including reviewing title reports, maps, surveys, appraisals, environmental documents and other relevant information. Staff also conducted a field survey to locate the high watermark, elevation 6228.75 feet, LTD and the low watermark, elevation 6223 feet, LTD which are the boundaries of the majority of the Commission parcel. Staff reviewed the appraisal for the Subject Property and finds the value is equal to or greater than the \$2,500,000 sale price. The appraisal was also approved for use in the transaction by the California Department of General Services. The size and configuration of the Commission's parcel is based on an allocation of the purchase price between the Commission and the CTC and was analyzed by an appraiser and found to be reasonable. The

CALENDAR ITEM NO. **C76** (CONT'D)

Commission's parcel consists of 0.44 acre, which represents 51% of the Subject Property's total area (0.87 acre). The purchase price also takes into account the value of the public trust easement interest the Commission already holds on a portion of the Subject Property.

Previously, the Commission has exercised the public trust easement at Speedboat Beach at the north end of Lake Tahoe because a fence had been erected that blocked public access along the lakefront (October 22, 2009 Calendar Item 61). The Commission declared that the public trust easement area at Lake Tahoe was needed and must be available for public uses of access, navigation, fishing and other lake related recreational uses such as bathing, swimming and open space. Acquiring the underlying fee title of land at Lake Tahoe provides a significant benefit to the trust by ensuring that the public can access and enjoy the lake at this location in perpetuity.

Staff has concluded that the Subject Property is extremely beneficial for the furtherance of public trust purposes including water-related recreation, public access, open space, and wildlife habitat due to its location being immediately adjacent to Lake Tahoe. Additionally, the Commission's parcel will be leased to CTC, which will manage the property and assume all liability.

Based on these findings, staff recommends that the Commission, as Trustee for the Kapiloff Land Bank Fund, authorize the expenditure of funds set forth above.

OTHER PERTINENT INFORMATION:

1. A notice of Potential Land Acquisition containing a short description of the Subject Property, Assessor's Parcel Number, and the Commission meeting date and contact information was issued on March 20, 2014, pursuant to the requirements of Public Resources Code section 8622.
2. A two-story commercial/residential building and other improvements currently exist on the Subject Property. That building and other improvements are to be demolished prior to the close of escrow, which is scheduled to be on or before October 31, 2014.
3. **Acquisition:** The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a statutorily exempt project. The project is exempt because it involves an action taken pursuant to the Kapiloff Land Bank Act, Public Resources Code section 8600 et seq.

Authority: Public Resources Code section 8631.

CALENDAR ITEM NO. **C76** (CONT'D)

4. **Lease:** A Negative Declaration, State Clearinghouse No. 2012022047, was prepared by the California Tahoe Conservancy and adopted on March 15, 2012, for this project. The California State Lands Commission staff has reviewed such document.
5. 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. Commission Parcel Land Description and Plat Map
- B. CTC Parcel Land Description and Plat Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

1. **Acquisition:** Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 8631, an action taken pursuant to the Kapiloff Land Bank Act, Public Resources Code section 3600 et seq.
2. **Lease:** Find that a Negative Declaration, State Clearinghouse No. 2012022047, was prepared by the California Tahoe Conservancy and adopted on March 15, 2012, for this Project and that the Commission reviewed and considered the information contained therein.

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.

CALENDAR ITEM NO. **C76** (CONT'D)

AUTHORIZATION:

1. Find that the value of the 0.44-acre parcel of land depicted in Exhibit A to be acquired by the Commission, as Trustee of the Kapiloff Land Bank fund, is equal to or greater than \$500,000.
2. Authorize the expenditure of \$500,000 from the Kapiloff Land Bank Fund for the purchase of a 0.44-acre parcel of land, as depicted on Exhibit A attached hereto, and acceptance of title to said parcel.
3. Authorize the Executive Officer of the California State Lands Commission to execute any documents required to effectuate the acquisition of the 0.44-acre parcel of land depicted on Exhibit A and take all necessary and appropriate action to carry out the acquisition and lease.
4. Authorize issuance of a General Lease – Public Agency Use to the California Tahoe Conservancy for a term of 49 years, to begin upon the close of escrow, for the management of the 0.44-acre parcel of land, depicted on Exhibit A, for the purpose of providing regional and statewide public access to Lake Tahoe for pedestrian access, recreation, and passive open space, with the consideration being the public's use and benefit associated with such a lease.

EXHIBIT A

W 26723

**LAND DESCRIPTION
RESULTANT STATE PARCEL**

A portion of that certain parcel of land as described in that certain Grant Deed recorded October 12, 1979 in Book 1811 at Page 393, Official Records of El Dorado County, being a portion of Lot 4, Section 33, Township 13 North, Range 18 East, M.D.M., and being more particularly described as follows:

COMMENCING at the southwest corner of said parcel; thence from said point of commencement, along the westerly line of said parcel, North $00^{\circ}46'27''$ East 95.23 feet to a point on the high watermark of Lake Tahoe, said point being the POINT OF BEGINNING; thence from said point of beginning along the westerly line of said parcel, North $00^{\circ}46'27''$ East 118.57 feet to the low watermark of Lake Tahoe; thence leaving said easterly line and along said low watermark the following four (4) courses:

- 1) North $82^{\circ}06'19''$ East 48.35 feet,
- 2) South $86^{\circ}31'16''$ East 64.76 feet,
- 3) North $68^{\circ}35'19''$ East 56.65 feet, and
- 4) North $71^{\circ}11'55''$ East 2.98 feet to a point on the easterly line of said parcel;

thence leaving said low watermark and along the easterly and southeasterly lines of said parcel the following four (4) courses:

- 1) South $07^{\circ}25'48''$ East 142.00 feet,
- 2) South $74^{\circ}34'12''$ West 39.58 feet,
- 3) South $07^{\circ}13'43''$ East 68.28 feet, and
- 4) To the right along the arc of a non-tangent 20.00 foot radius curve, having a radial bearing of North $81^{\circ}24'14''$ East, a central angle of $104^{\circ}16'26''$, and an arc length of 36.40 feet to a point on the northerly Right of Way line of State Highway No. 50;

thence along said Right of Way and southerly line of said parcel to the left along the arc of a non-tangent 1540.00 foot radius curve, having a radial bearing of North $04^{\circ}09'45''$ East, a central angle of $00^{\circ}08'29''$, and an arc length of 3.80 feet; thence leaving said Right of Way and southerly line, North $32^{\circ}52'00''$ East 25.13 feet to a point on a line that is parallel with the easterly and southeasterly lines of said parcel, and lying 12.00 feet westerly and northwesterly at right angles therefrom; thence along said parallel line the following three (3) courses:

- 1) North $07^{\circ}13'43''$ West 78.68 feet,
- 2) North $74^{\circ}34'12''$ East 39.54 feet, and
- 3) North $07^{\circ}25'48''$ West 48.33 feet to a point on said high watermark;

thence leaving said parallel line and along said high watermark the following four (4) courses:

- 1) South 71°36'27" West 44.10 feet,
- 2) South 71°23'11" West 49.25 feet,
- 3) South 71°03'25" West 51.76 feet, and
- 4) South 68°16'54" West 33.46 feet to the point of beginning.

The BASIS OF BEARINGS of this description is a tie line between found monuments at the southwest corner of said parcel and the northwest corner of that parcel as described in that certain Quitclaim Deed recorded in Volume 407 at Page 129, Official Records of said county, and shown on an unrecorded survey prepared by LS 2725 and dated May 1959, the bearing of which is calculated to be North 60°08'32" East.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/19/2014 by the California State Lands Commission Boundary Unit.



LAKE TAHOE

LOW WATERMARK
AS SURVEYED
NOV. 20, 2013

HIGH WATERMARK
AS SURVEYED
NOV. 20, 2013

**RESULTANT
STATE PARCEL**

O.R. 1811-393

CITY OF
SOUTH LAKE
TAHOE
O.R.
1195-556

MCCALL
O.R. 2012-
0069244

**RESULTANT CA TAHOE
CONSERVANCY PARCEL**

O.R. 1811-393

STATE HIGHWAY NO. 50

COUNTY OF EL DORADO
O.R. 407-129

NOTE:
(R) - RADIAL BEARING

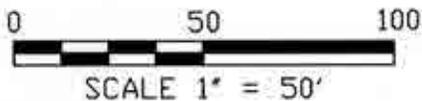


EXHIBIT A

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JWP 03/19/14

LAND DESCRIPTION PLAT
W 26723 3339 LAKE TAHOE BLVD.,
SOUTH LAKE TAHOE, EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



EXHIBIT B

W 26723

**LAND DESCRIPTION
RESULTANT CALIFORNIA TAHOE CONSERVANCY PARCEL**

A portion of that certain parcel of land as described in that certain Grant Deed recorded October 12, 1979 in Book 1811 at Page 393, Official Records of El Dorado County, being a portion of Lot 4, Section 33, Township 13 North, Range 18 East, M.D.M., and being more particularly described as follows:

BEGINNING at the southwest corner of said parcel, said point being on a 1540.00 foot radius curve on the northerly Right of Way line of State Highway 50, having a radial bearing of North 00°58'36" West; thence from said point of beginning, along the westerly line of said parcel, North 00°46'27" East 95.23 feet to a point on the high watermark of Lake Tahoe; thence leaving said westerly line, along said high watermark the following four (4) courses:

- 1) North 68°16'54" East 33.46 feet,
- 2) North 71°03'25" East 51.76 feet,
- 3) North 71°23'11" East 49.25 feet, and
- 4) North 71°36'27" East 44.10 feet to a point on a line that is parallel with the easterly and southeasterly lines of said parcel, and lying 12.00 feet westerly and northwesterly at right angles therefrom;

thence along said parallel line the following three (3) courses:

- 1) South 07°25'48" East 48.33 feet,
- 2) South 74°34'12" West 39.54 feet, and
- 3) South 07°13'43" East 78.68 feet;

thence leaving said parallel line, South 32°52'00" West 25.13 feet to a point on said Right of Way line and southerly line of said parcel; thence along said Right of Way line and southerly line of said parcel, to the left along the arc of a non-tangent 1540.00 foot radius curve, having a radial bearing of North 04°01'16" East, a central angle of 04°59'52", and an arc length of 134.33 feet to the point of beginning.

The BASIS OF BEARINGS of this description is a tie line between found monuments at the southwest corner of said parcel and the northwest corner of that parcel as described in that certain Quitclaim Deed recorded in Volume 407 at Page 129, Official Records of said county, and shown on an unrecorded survey prepared by LS 2725 and dated May 1959, the bearing of which is calculated to be North 60°08'32" East.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/19/2014 by the California State Lands Commission Boundary Unit.



LAKE TAHOE

LOW WATERMARK
AS SURVEYED
NOV. 20, 2013

HIGH
WATERMARK
AS SURVEYED
NOV. 20, 2013

RESULTANT
STATE PARCEL
O.R. 1811-393

MCCALL
O.R. 2012-
0069244

CITY OF
SOUTH LAKE
TAHOE
O.R.
1195-556

RESULTANT
CALIFORNIA TAHOE
CONSERVANCY PARCEL
O.R. 1811-393

COUNTY OF EL DORADO
O.R. 407-129

STATE HIGHWAY NO. 50

NOTE:
(R) - RADIAL BEARING

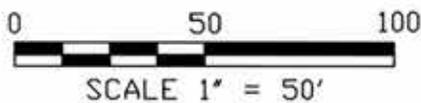


EXHIBIT B

LAND DESCRIPTION PLAT
W 26723 3339 LAKE TAHOE BLVD.,
SOUTH LAKE TAHOE, EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

