

**STAFF REPORT  
C27**

A 1  
S 1

12/03/18  
PRC 7773.1  
S. Avila

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Sonja L. Vukasin, Trustee of the Generation-Skipping Bypass Trust UA Vukasin Family Living Trust dated October 10, 1994

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 980 West Lake Boulevard, near Tahoe City, Placer County.

*AUTHORIZED USE:*

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

*LEASE TERM:*

10 years beginning July 1, 2018.

*CONSIDERATION:*

\$6,026 per year, with an annual Consumer Price Index adjustment.

*SPECIFIC LEASE PROVISIONS:*

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
- The lease contains provisions stating that the existing sundeck, 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 must be removed from the lease premises.

## STAFF REPORT NO. C27 (CONT'D)

- If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the certification 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 authorization within the time limit, they may be required to remove the buoys.
- 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.

### **STAFF ANALYSIS AND RECOMMENDATION:**

#### **Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

#### **Public Trust and State's Best Interests Analysis:**

On January 29, 2009, the Commission authorized a General Lease – Recreational Use, for an existing pier, boathouse, sundeck with stairs, two boat hoists, and two mooring buoys, to George J. Vukasin and Sonja L. Vukasin, Trustee of the Vukasin Family Living Trust dated October 10, 1994 ([Item C27, January 29, 2009](#)). On September 20, 2013, the Executive Officer approved a continuation of annual rent in the amount of \$1,085 ([Item III, Executive Officer's Report, September 20, 2013](#)). Pursuant to Public Resources Code Section 6503.5, in effect at the time, the pier, boathouse, boat hoists, and mooring buoys qualified for rent-free status, only the sundeck with stairs was assessed for rent. Public Resources Code Section 6503.5 has since been amended to authorize the assessment of rent on the pier, boathouse, boat hoists, and mooring buoys.

On November 3, 2017, ownership of the upland parcel transferred to Sonja L. Vukasin, Trustee of the Generation-Skipping Bypass Trust UA Vukasin Family Living Trust dated October 10, 1994. The lease expired on June 30, 2018. The Applicant is applying for a General Lease – Recreational Use, for the existing pier, boathouse, sundeck with stairs, two boat hoists, and two mooring buoys.

The existing sundeck is not associated with traditional Public Trust uses. While sundecks are generally not favored, sundecks that have been in

STAFF REPORT NO. **C27** (CONT'D)

place for years have been permitted if, as is the case 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 Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. Other than the sundeck, the subject facilities are used for the docking and mooring of boats and facilitate 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 been in Lake Tahoe for many years at this location. The pier is built on single pilings supporting the boathouse and sundeck. The immediate area of the pier is gently sloped and made up of sand with the occasional boulder scattered around, enabling public access along the Public Trust easement. The mooring buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

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 from State land 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, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the state.

STAFF REPORT NO. **C27** (CONT'D)

**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 land along the State's inland and coastal waterways.
2. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a new Final Environmental Impact Report and adopted Lake Tahoe Shorezone Ordinance Amendments. These Amendments are anticipated to take effect on December 23, 2018.
3. 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).

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

**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:**

1. Find that the existing and, for a limited period, continuing use and maintenance of the pier, boathouse, two boat hoists, and two mooring buoys will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and,

STAFF REPORT NO. **C27** (CONT'D)

2. Find that the existing and, for a limited period, continuing use and maintenance of the sundeck with stairs is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and,
3. Find that issuing the proposed lease is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning July 1, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse, sundeck with stairs, two boat hoists, and two mooring buoys, 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 \$6,026 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 7773.1**

**LAND DESCRIPTION**

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 7, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as follows:

**PARCEL 1 - PIER**

All those lands underlying an existing pier, catwalk, boathouse with two boat hoists, sundeck with stairs lying adjacent to parcel as described in Exhibit A of that Grant Deed as Document Number 2017-0086881 recorded November 3, 2017 as 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.

**PARCELS 2, 3 - BUOYS**

Two circular parcels of land, each being 50 feet in diameter, underlying four existing buoys lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

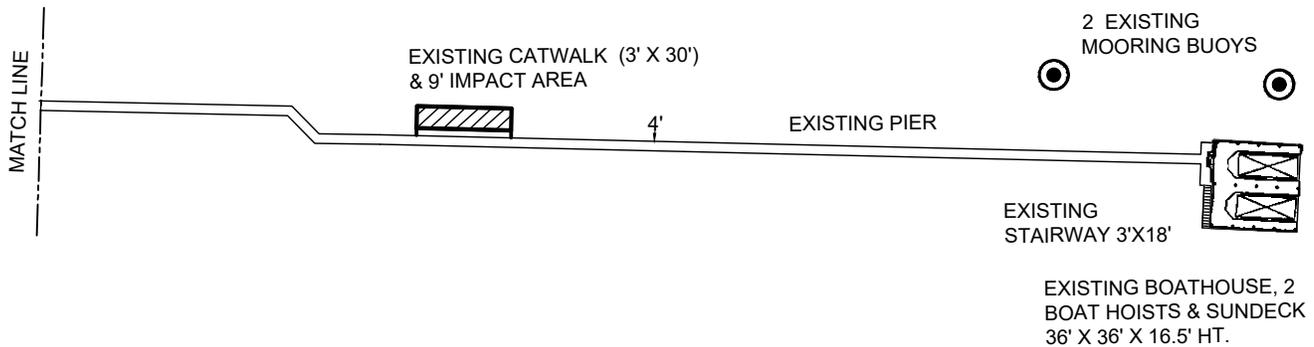
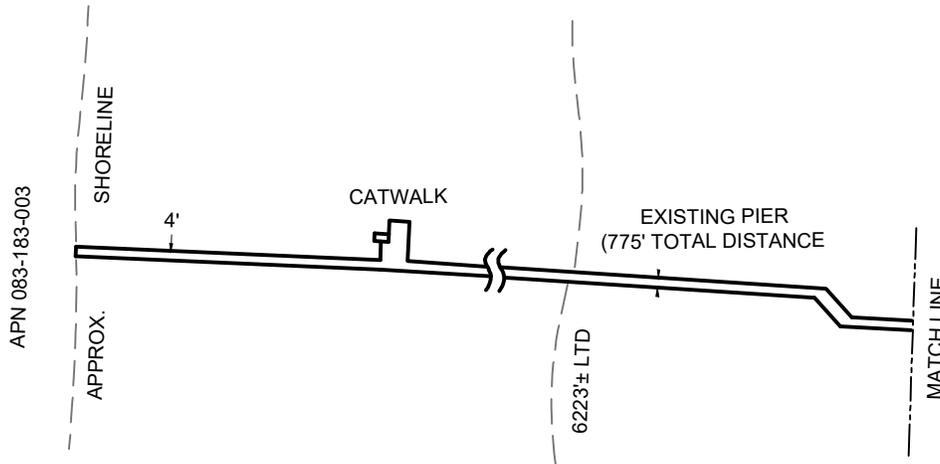
Prepared September 1, 2018 by the California State Lands Commission Boundary Unit.



NO SCALE



L A K E T A H O E



# EXHIBIT A

Page 2 of 2

MJJ 10/25/18

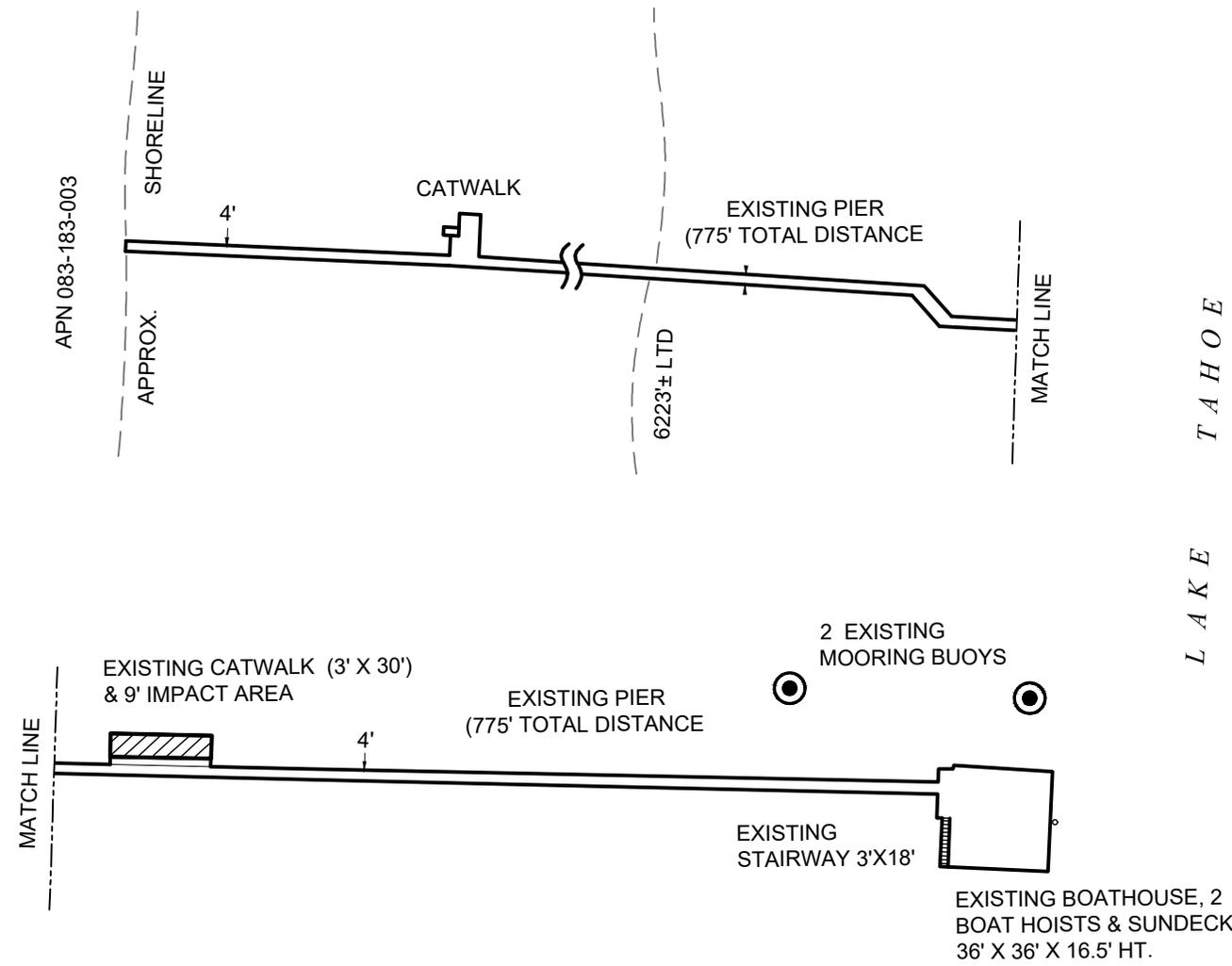
LAND DESCRIPTION PLAT  
PRC 7773.1, VUKASIN TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



980 WEST LAKE BLVD., TAHOE CITY

NO SCALE

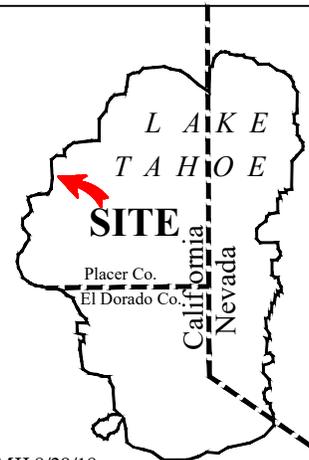
# LOCATION



MAP SOURCE: USGS QUAD

## Exhibit B

PRC 7773.1  
 VUKASIN TRUST  
 APN 083-183-003  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER COUNTY



MJJ 8/29/18

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.