

**UPPER TRUCKEE MARSH PUBLIC ACCESS IMPROVEMENTS  
(LONG-TERM LEASE AND LEASE/OPTION)**

**Summary:** Staff recommends the Conservancy authorize staff to enter into two agreements with the Tahoe Keys Marina and Yacht Club LLC (TKM), affecting a portion of Conservancy lands within the Upper Truckee River and Marsh Restoration Project Area, including:

- (1) a long-term lease to TKM of approximately 1.3 acres of Conservancy land and the allocation of up to 45,000 square feet of land coverage rights to support TKM's construction, operation, and maintenance of shared public and private parking and public restrooms; together with reciprocal easements in favor of TKM and the Conservancy, during the lease term, over the parties' respective lands within the shared-use parking area; and
- (2) a lease for up to seven (7) years of one acre of Conservancy property, with an option by TKM to purchase the property and 3,000 square feet of land coverage.

**Location:** Near the terminus of Venice Drive East in the City of South Lake Tahoe, El Dorado County. The proposed agreements directly affect two Conservancy parcels: a 1.3-acre portion of El Dorado County Assessor's Parcel Number (APN) 22-210-50 and all of 22-210-41 (Attachments 1 and 2).

**Fiscal Summary: Direct fiscal effects of the proposed transactions include:**

Agreement 1 (APN 22-210-50): \$5,000 annual contribution from TKM, during the term of the lease, to a capital improvement replacement trust fund.

Agreement 2 (APN 22-210-41): \$5,000 in annual lease revenue for a period of up to seven (7) years; \$1 in cash consideration for the option to purchase, and, if the option is exercised, \$261,000 in sale proceeds, during 2015 or after.

**Recommended Action:** Adopt Resolution 11-01-08 (Attachment 3).

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## **Background**

In 1988 and 1991, the Board authorized acquisitions totaling 212 acres in and around the area then referred to as Cove East, near the mouth of the Upper Truckee River. This area, in combination with later Conservancy acquisitions in the same vicinity, is now part of a larger Conservancy landholding of approximately 525 acres, generally known as the Upper Truckee Marsh (UTM). As a result of the above acquisitions, the Conservancy has the opportunity to carry out a major restoration of stream environment zone (SEZ) and wetlands around the lower reaches of the Upper Truckee River, and to enhance the public's access to the southern shore of Lake Tahoe.

Shortly after the acquisitions in 1988-91, the Conservancy began exploring restoration and public access options for the UTM. In 2002, after years of planning, the Conservancy authorized \$8.4 million to restore 11 acres of wetlands as part of the Lower West Side SEZ Restoration Project. The Conservancy is now working towards continuing these initial restoration efforts by expanding the restoration area to include the entire UTM as part of a comprehensive restoration of the Upper Truckee River, also incorporating various measures to provide and enhance public access. The Upper Truckee River and Marsh Restoration Project is currently undergoing environmental review. Staff briefed the Board on the project alternatives at the July 2009 Board meeting and tour.

For decades, the public has informally used the area that is now within the Conservancy's UTM property in order to reach the shore of Lake Tahoe. People typically arrive by motor vehicle and park along Venice Drive East (part of which abuts the property) or in the TKM parking lot located at the end of Venice Drive East. Others ride bicycles or walk from nearby neighborhoods, traveling north along Venice Drive East and across Conservancy land to the lake.

During the years since 1988, the Conservancy has carefully investigated the possibility of providing public parking to serve members of the public seeking access to the UTM for purposes of recreation and nature observation. There are two primary options: (1) to construct a dedicated public parking facility on Conservancy land, either on the Conservancy's 1-acre parcel west of Venice Drive East (APN 22-210-41), or on the Conservancy's large acreage parcel directly to the north of the terminus of Venice Drive East (APN 22-210-50); or (2) by joint arrangement with the TKM, to install a shared parking facility on adjacent portions of APN 22-210-50 and the TKM property.

After close consideration of both approaches, and the fiscal implications of each, staff has concluded that the most viable alternative is to locate off-street parking on the larger of the two Conservancy parcels, APN 22-210-50, adjacent to TKM's property, and to partner with TKM to create a shared-use parking facility (Attachment 3). This option, staff believes, is not only the most cost-effective, but makes most efficient use of the available land, by removing the need for two separate but adjacent parking facilities (one for the Conservancy, and one for TKM), each of which would require its own traffic entry and circulation corridors. A shared-use parking area would allow greater flexibility in design and a more streamlined facility, and would provide the best opportunity for centralized parking management.

In 2001, the previous owners of the Tahoe Keys Marina prepared, and the Tahoe Regional Planning Agency (TRPA) and City of South Lake Tahoe adopted, a Master Plan for the Tahoe Keys Marina. The approved Master Plan includes the Conservancy-TKM shared use parking facility.

Staff has provided briefings to the Board in closed sessions in May 2009 and March 2010, outlining possible agreements with TKM. Discussions with TKM have now advanced to the point where staff is prepared to make a formal recommendation to the Board.

### **Project Description**

Staff recommends that the Conservancy Board authorize two agreements with TKM, as follows:

- (1) A long-term lease of approximately 1.3 acres of Conservancy land on a portion of APN 22-210-50 (hereafter referred to as "Parcel A"), and assignment of up to 45,000 square feet of land coverage rights for construction of shared-use parking, restrooms, and a blue- boating boat launching lane. Throughout a 30-year lease term, TKM will construct, operate, and maintain shared-use parking and public restroom facilities that will serve users of both the UTM and the marina (Attachment 2). The shared-use parking facility will provide approximately 91 parking spaces for use by visitors to both the UTM and the marina. Thirty of these spaces are designed to meet the Conservancy's public access needs for the UTM. There will be a separate entry lane for boat launchers to queue for Blue Boating Inspections, so that the general public's access to parking is not impeded.

The public restroom facility will include at least two family-style (unisex), fully accessible restrooms, as well as an outdoor shower. The restroom facility area may also incorporate day use amenities (telescope and picnic tables for meadow viewing, etc.), private restrooms to serve the TKM slip owners, as well as facilities supporting field office needs (such as computers for entering data, etc.) for Tahoe's Blue Boating Program. The design of the restroom and the adjacent landscaping will integrate with the adjacent beach access walkway.

- (2) A lease of one acre of Conservancy-owned land, APN 22-210-41 (hereafter referred to as "Parcel B") for up to 7 years, with an option on the part of TKM to purchase the property together with 3,000 square feet of potential land coverage.

The key terms of both of the proposed agreements are summarized in greater detail below:

#### **Agreement 1 (Long-Term Lease of Parcel A):**

The Conservancy would lease to TKM approximately 1.3 acres of land, located within a portion of Parcel A measuring approximately 100 feet from east to west and 700 feet from north to south. In exchange for the lease of this property, TKM will construct and maintain the shared-use parking, Blue Boating Lane, and restroom facilities. Each party would receive an easement of ingress and egress, for the duration of the lease, over the other party's land within the shared-use parking area. The leasehold and reciprocal easements would be appurtenant to the Marina's property (APNs 022-210-21, -32, -40, and -44), meaning that any purchaser or transferee of that the Marina's property would be subject to the terms and requirements of the lease and easements. The Conservancy will provide up to 45,000 square feet of land coverage for the facilities.

TKM will design, obtain permits for, develop (through a bid process that meets the standards for public works projects under the California Public Contract Code), operate, maintain, and pay utilities for the shared-use parking, restroom facilities, associated landscaping, and water quality treatment facilities. The parking lot will include the provision of a separate Blue Boating Lane for boat inspections and queuing of vehicles and boats for launching. The initial term of the lease will be 30 years.

During a 6-month period commencing at the start of the final year of the lease, TKM would have the right to seek an extension of the lease for up to an additional 30 years, the terms of which would be fully updated to reflect the circumstances at that time. Any such extension would be subject to Conservancy Board approval, including agreement on financial terms and the adoption of specific findings<sup>1</sup> by the Conservancy and any other applicable State approvals.

Finally, TKM will also make a \$5,000 annual payment to a Capital Improvement Replacement Trust Fund to build an endowment for future capital projects. Upon approval by Conservancy staff, this fund can be used by TKM for projects such as roof replacement, parking lot replacement, etc. Under the proposed agreement, the Conservancy would have the ability to terminate the lease early, either in the event of a breach or default by TKM, or if the Conservancy finds, after conducting public surveys and reviewing documentation, that the public interest is not being met or that the general public is no longer able to make effective use of, or derive reasonable enjoyment from, the improvements within the leasehold area. In the event the Conservancy believes that the public interest is not being met or that the general public is no longer able to make effective use of, or derive reasonable enjoyment from, the improvements within the leasehold area due, partially or wholly, to the Marina's management of the Marina and the leasehold area, the Conservancy will provide the Marina with a specified period within which to cure its management practices prior to terminating the lease.

## **Agreement 2 (Lease with Option to Buy Parcel B):**

The Conservancy would lease Parcel B to TKM, and would grant TKM an option to purchase the parcel. The term of the lease is up to 7 years. TKM may exercise its option to buy the parcel, during a stated period, for a cash payment of \$261,000. The purchase price includes 3,000 square feet of potential land coverage that would be transferred to the property by the Conservancy following the sale, when TKM permanently improves the land, in compliance with TRPA rules and regulations. TKM may exercise its right to acquire the parcel no sooner than January 1, 2015; provided, that the period within

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<sup>1</sup> Conservancy approval is subject to **the Conservancy's finding** that:

- a. The Marina has been regularly in compliance with an adopted maintenance standard, which will be evaluated by the Conservancy and provided to the Marina on an annual basis;
- b. The Marina has not violated other essential provisions of the agreement including, but not limited to, timely removal of unrelated personal property and inappropriate signage as defined in the lease, and timely payment of utilities;
- c. The general public continues to be able to make effective use of, and derive reasonable enjoyment from, the improvements within the leasehold area; and
- d. The facilities on the Leasehold Area continue to support the Conservancy's public land management policies and objectives for the surrounding public land.

which TKM may exercise the option will be extended by up to three (3) years if the Conservancy notifies TKM by December 31, 2014 of its intent to use the parcel during the interim as a staging area in support of the Conservancy's Upper Truckee Marsh restoration project. The option could be exercised at any time until the end of the lease term, or such additional period for which the option is extended (see above). In addition, in order to exercise the option, TKM must be in compliance with all essential terms of the lease agreement for Parcel B, and must have executed and carried out all essential terms of the agreement with respect to Parcel A, including satisfactory construction, operation, and maintenance of the shared-use parking, restrooms, and related improvements, according to agreed-upon standards.

TKM would be permitted to use, but not make permanent improvements to, the parcel during the lease period. The annual fair market value lease payment of \$5,000 is not credited towards the purchase price. As consideration for the option, TKM will pay a nominal consideration of \$1 at the inception of the lease/option agreement. This nominal option consideration reflects the Conservancy's right, through 2014, to elect to use the property (at no cost to the Conservancy) as a staging area in support of its Upper Truckee Marsh Restoration Project. This consideration will be applied to the purchase price if exercised by TKM within the applicable term of the option, and otherwise is nonrefundable.

### **Implementation**

Once the Conservancy and TKM have agreed to the precise terms of the proposed agreements, in conformance with this staff recommendation and the accompanying resolution, staff will execute the two agreements. Both agreements are subject to approval by the Director of the Department of General Services.

Following execution and approval of the agreements, TKM will obtain all needed permits to implement the shared-use parking and restroom facilities. TKM plans to commence construction of the facilities during the 2011 building season. The Conservancy will prepare and coordinate, with TRPA, all agreed-upon coverage transfers to TKM lands, consistent with a 1988 Cove East Litigation Settlement Agreement to which the State and TRPA are parties. Staff is currently seeking clarification from TRPA of the coverage transfer rules that apply under the Settlement Agreement; however, staff does not anticipate an impediment to its ability to provide the land coverage as proposed.

## Evaluation

Development of the shared-use facilities and associated amenities contemplated in the proposed agreements will fulfill a long-standing Conservancy goal, going back to the Conservancy's acquisition of the Cove East portion of the Upper Truckee Marsh (UTM) in 1988. The proposed improvements will address both parking and sanitation needs in connection with public access to the regionally significant UTM area. The improvements promote visitor use in support of the Lake Tahoe Environmental Improvement Program's (EIP), Tahoe Keys Marina Master Plan, and the Upper Truckee River and Marsh Restoration. In addition, the project supports the regional Blue Boating Program and aquatic invasive species inspection needs by providing an inspection lane for vehicles and vessels prior to launching.

The proposed agreements will enable a public-private partnership that assures the long-term operation and maintenance of shared-use facilities to support both public access to the Upper Truckee Marsh and existing recreational uses within the marina. TKM's undertakings to construct, operate, and maintain these facilities provides the public with much-needed amenities in an era when State funding to support such purposes is extremely limited. The agreements relieve the Conservancy from the need to expend capital outlay monies to plan, design, and construct a separate, State-owned facility. Given the applicable State procedures and requirements, staff estimates that such a Conservancy capital outlay project would cost more than \$400,000; and that annual cost of operation and maintenance of a dedicated Conservancy parking facility would be \$20,000 or more, at current price levels. Additionally, since TKM will operate and maintain the improvements, the Conservancy will be further relieved of having to annually allocate funds for this purpose. Conservancy staff, in consultation with the Real Estate Services Division of the Department of General Services, has concluded that the cost of construction and annual costs of operation and maintenance of the shared-use facilities, all of which will be borne by TKM, equitably offset the fair market rental value of Parcel A during the 30-year lease term. Staff also estimates that, if the Conservancy were to implement a dedicated, non-shared parking facility on Parcel A, the above costs would be substantially higher.

The proposed agreements will benefit the Conservancy, the public, and TKM. The first agreement, involving the area within and adjacent to Parcel A, would provide the Conservancy with desirable support facilities for public lake access in a convenient location that does not significantly intrude into natural and restored areas, and with no expected capital or ongoing maintenance cost to the Conservancy or the public for the next 30 years. TKM would benefit from improved parking capacity and flexibility, and a more convenient lane for boat inspections and launching. With respect to Parcel B,

the Conservancy will receive a stream of rents totaling up to \$35,000 over up to seven years; and, if the purchase option is exercised by TKM, sale proceeds of \$261,000 from the transfer of Parcel B. Staff strongly believes that the proposed agreements will help to fulfill much needed recreation and access goals to one of the Conservancy's most valued and most widely utilized properties, while minimizing the State's costs during a time when the State is experiencing significant fiscal strain.

### **Consistency with the Conservancy's Enabling Legislation**

Implementation of this project is consistent with the Conservancy's enabling legislation. Specifically, Government Code section 66907.8 authorizes the Conservancy to lease, rent, sell, exchange, or otherwise transfer any interest in real property or interest therein to local public agencies, individuals, corporate entities, or partnerships for management purposes. Under Government Code section 66907.9, the Conservancy is authorized to initiate, negotiate, and participate in agreements for the management of land under its ownership or control with local public agencies, State agencies, federal agencies, nonprofit organizations, individuals, corporate entities or partnerships, and to enter into any other agreements authorized by State or federal law. The Tahoe Keys Marina and Yacht Club LLC (TKM), with which the Conservancy would be entering into leases, property transfers, and land management arrangements, is a California limited liability company which, like a corporation, has all of the powers of an individual or natural person in carrying out its business activities, subject to the provisions of the California Corporations Code and other applicable provisions of law (Corporations Code section 17003). This being the case, staff is advised that the proposed transactions fall within the scope and intent of Government Code sections 66907.8 and 66907.9.

With respect to the exchange of reciprocal easements between the Conservancy and TKM: Government Code section 66907 states that "The Conservancy may select and acquire real property or interests therein in the name of and on behalf of the state, for the purpose of ... providing public recreational facilities ... or providing access to or management of acquired lands." Government Code section 66907.1 states that "The Conservancy may acquire interests in land by means of land exchanges and is authorized to enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements ...".

## **Compliance with the California Environmental Quality Act (CEQA)**

The City of South Lake Tahoe, acting as the Lead Agency under CEQA, prepared an Initial Study and Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the TKM Master Plan. The City certified the EIR in June 2001 and filed a Notice of Determination (NOD) on July 12, 2001.

The Conservancy, acting as Responsible Agency under CEQA, subsequently prepared an Addendum to the EIR/EIS reflecting minor modifications to the plans contemplated in the TKM Master Plan. The Addendum is included here as Attachment 4.

A copy of the EIR/EIS is being provided to the Board under separate cover and is available for public review at the California Tahoe Conservancy office, 1061 Third Street, South Lake Tahoe, CA 96150 (Attachment 5).

Staff has reviewed the EIR/EIS and Addendum and believes that the improvements and other measures involved in the project have been adequately analyzed in the document. Since completion of the EIR/EIS and the Addendum, there has been no new information received, nor any substantial changes to the proposed project or project implementation, which would result in new significant effects not analyzed in the EIR/EIS and the Addendum.

Staff recommends that the Board review the EIR/EIS and Addendum and make the findings as set forth in the attached resolution. If the Board authorizes the proposed project, staff will file an NOD with the State Clearinghouse pursuant to State CEQA Guidelines (Cal. Code Regs., title 14, §§15000 et seq. and §15096). Attachment 6 contains the proposed NOD.

### **List of Attachments:**

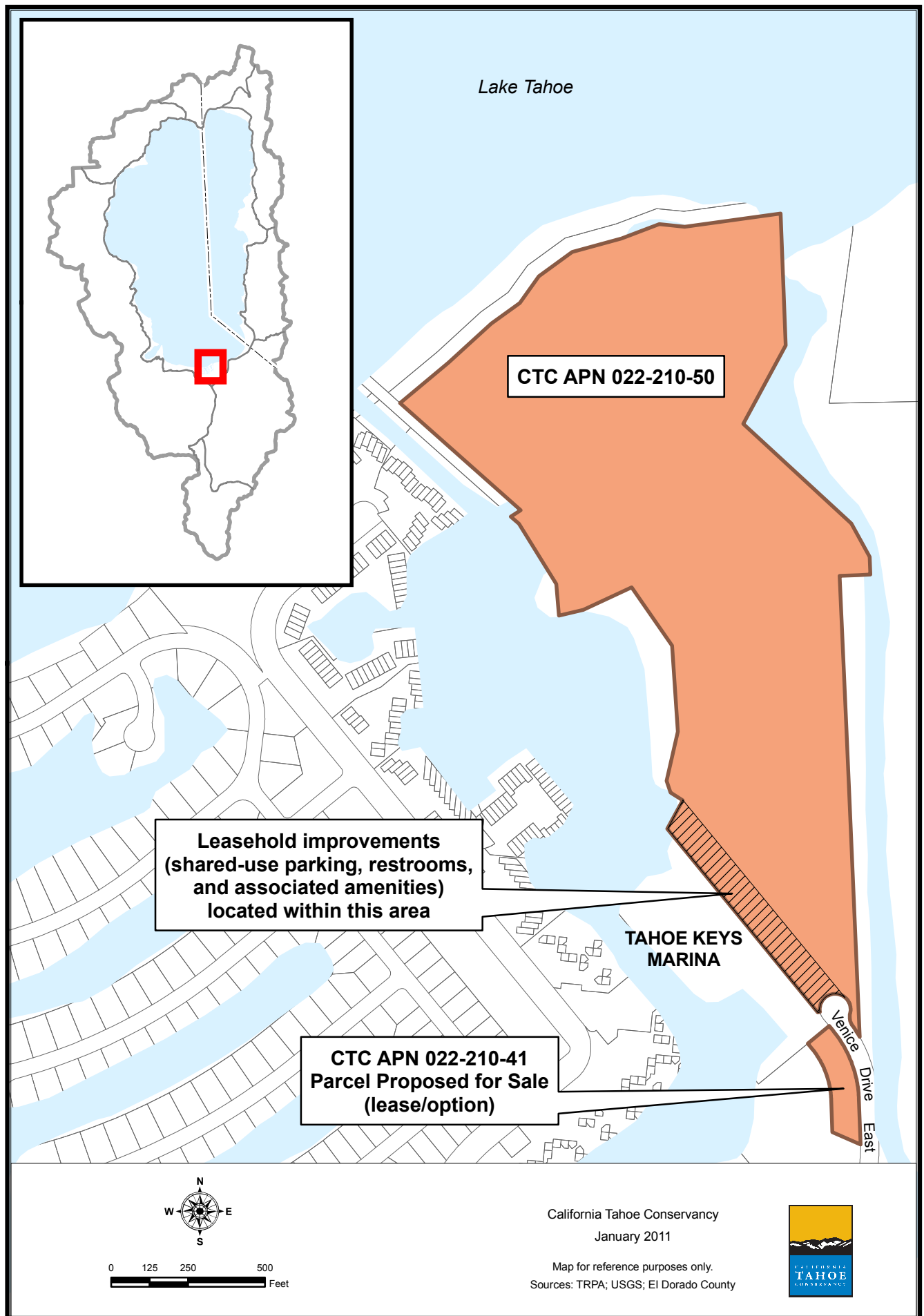
Attachment 1 – Project Location Map  
Attachment 2 – Preliminary Site Plan  
Attachment 3 – Resolution 11-01-08  
Attachment 4 – CEQA Addendum  
Attachment 5 – CEQA EIR/TRPA EIS (on attached CD)  
Attachment 6 – Notice of Determination

**Conservancy Staff Contact:**

Bruce Eisner

Phone: 530-543-6043

**ATTACHMENT 1**  
**Upper Truckee Marsh Public Access Improvements**



[illegible]

PRELIMINARY  
NOT FOR CONSTRUCTION



SHEET 08

JOB NO.	00-250-11
DATE	4/12/08
REMOVED	RC
REASON	EC
CHANGED	FC



IMPROVEMENT PLANS  
TAHOE KEYS MARINA  
2435 Venice Drive East  
South Lake Tahoe, California

NO.	REVISION	DATE
1	RESPONSE 1: 10-10-00	10-10-00
2	RESPONSE 2: 10-10-00	10-10-00
3	RESPONSE 3: 10-10-00	10-10-00
4	RESPONSE 4: 10-10-00	10-10-00

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### **ATTACHMENT 3**

California Tahoe Conservancy

Resolution

11-01-08

Adopted: January 20, 2011

#### **UPPER TRUCKEE MARSH PUBLIC ACCESS IMPROVEMENTS (LONG-TERM LEASE AND LEASE/OPTION)**

Staff recommends the California Tahoe Conservancy make the following finding based on the accompanying staff report pursuant to Public Resources Code Section 21000 et seq.:

“The California Tahoe Conservancy has considered the environmental impacts of the proposed Upper Truckee Marsh Public Access Improvements as described in the Tahoe Keys Marina Master Plan Environmental Impact Report, originally certified by the City of South Lake Tahoe in June 2001, and the Addendum prepared by Conservancy staff in July 2010. The Conservancy independently reviewed the documents as a responsible agency under the California Environmental Quality Act with respect to the project and finds that the project, as proposed with mitigation, will have no significant effect on the environment. The Conservancy hereby directs staff to file a Notice of Determination with the State Clearinghouse for this project.”

Staff further recommends that the Conservancy adopt the following resolution pursuant to Government Code sections 66907, 66907.1, 66907.8, and 66907.9:

“The Conservancy authorizes staff to enter into the lease of a portion of El Dorado County APN 22-210-50, a lease and option agreements for El Dorado County APN 22-210-41, and an exchange of reciprocal easements on El Dorado County APNs 22-210-50 and 22-210-32, with the Tahoe Keys Marina and Yacht Club, LLC, or its successor in interest, substantially on the terms set forth in the accompanying staff report, and to take all other necessary steps to carry out the above transactions, consistent with the purposes of the project as described in the staff report.”

I hereby certify that the foregoing is a true and correct copy of the resolution duly and regularly adopted by the California Tahoe Conservancy at a meeting thereof held on the 20<sup>th</sup> day of January 2011.

In WITNESS THEREOF, I have hereunto set my hand this 20<sup>th</sup> day of January 2011.

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Patrick Wright  
Executive Director

**ATTACHMENT 4**

**ADDENDUM TO THE  
FINAL ENVIRONMENTAL IMPACT REPORT  
for the  
TAHOE KEYS MARINA MASTER PLAN**

*State Clearinghouse Number 1999022060*

**CALIFORNIA TAHOE CONSERVANCY  
Responsible Agency**

Project files may be reviewed at:

1061 Third Street  
South Lake Tahoe, CA

**July 2010**

*This Addendum updates the Tahoe Keys Marina Master Plan Environmental Impact Report  
and full consideration of the changes described herein shall be given  
as part of the California Tahoe Conservancy's decisions on the project.*

## I. BACKGROUND

The Tahoe Keys Marina (TKM) Master Plan was listed in the 1997 Environmental Improvement Program (EIP) as Project #983, under the Recreation theme. The project supports the Tahoe Region's Recreation Threshold.

The purpose of the TKM Master Plan is to assure that Marina operations make a positive contribution to the environment and community. Master plans provide a long-range planning tool for orderly modifications at marinas and include a mitigation and monitoring plan to assure the accomplishment of environmental goals. In late 1995, TKM submitted a Tahoe Regional Planning Agency (TRPA) Marina Master Plan application for preparation of a Master Plan pursuant to the Marina Master Plan Guidelines (1990) based upon Chapters 5 and 16 of the Tahoe Regional Planning Agency Code of Ordinances (TRPA Code). The TKM master planning process was delayed for several years and resumed with a joint City of South Lake Tahoe (CSLT)/TRPA steering committee in June 1998. In 1999, Brady-LSA was hired as a third-party consultant to conduct the environmental analysis for the Master Plan, pursuant to both TRPA regulations and the California Environmental Quality Act (CEQA).

TRPA Marina Master plan analyzes logical parts of a chain of contemplated events, and Subsection 16.0 of the TRPA Code describes a "project oriented master plan" as providing for "phasing of development, systematic environmental and project review," while clarifying that it is "not a project approval." The TKM Master Plan steering committee and consultant determined a Program Environmental Impact Report (EIR) to be the appropriate document to meet the requirements of CEQA (and an Environmental Impact Statement pursuant to the TRPA Code and Rules of Procedure). A Program EIR is an EIR prepared on a series of actions that can be characterized as one large project, and in this case they are related geographically. The CSLT was project's lead agency pursuant to CEQA. The environmental document did not specifically list the responsible agencies. The CSLT filed a Notice of Preparation with the California State Clearinghouse (State Clearinghouse) on February 22, 1999 and the State Clearinghouse assigned Project #1999022060 to the TKM Master Plan. The review period began on February 22, 1999 and ended on March 24, 1999.

The Draft EIR was circulated for comment beginning April 10, 2000, ending on May 24, 2000, according to the CEQAnet Database. The weekly "Environmental Document Report's" listing of environmental documents received by the State Clearinghouse included the following project description:

*"A proposed marina Master Plan to add 150 boat slips; 100 boat storage spaces; 120 parking spaces; 2,800 square feet of restaurant expansion; 3,000 square feet of indoor boat storage; and a 782 square foot restroom facility."*

The Conservancy submitted late comments on the Draft EIR on June 8, 2000. Comments addressed two issues: parking requirements and water quality treatment as they related to a proposed land

exchange between TKM, the Conservancy, and the Tahoe Keys Property Owners Association. Comments stated that assignment of ten spaces for the benefit of the public using Conservancy lands was insufficient and recommended a strategy regarding how to approach documenting the analysis in the face of uncertainty regarding the exact parking need. The comment letter further expressed the Conservancy staff's concern about the aesthetics of an above-ground water quality treatment basin on the land proposed for parking lot expansion. Specifically, the letter stated that: *"treatment of existing Marina runoff is required on the existing Marina property. We have not discussed, evaluated, or agreed to the treatment of runoff from areas outside the land exchange area on the land exchange area."* It requested TKM Master Plan modifications to reflect this constraint.

The CSLT filed the Final TKM EIR with the State Clearinghouse on May 25, 2001. The CSLT City Council certified the EIR on June 19, 2001 (at the same time approving the Special Use Permit for the TKM Master Plan and final project approval for Boat Barn B) selecting Alternative A ("Tahoe Keys Marina Master Plan," or TKM Master Plan) as the project, while at the same time noting that the TKM Master Plan approval does not constitute any kind of project approval of other project elements. The applicant must come forward with a project application for design review, project specific environmental documentation, etc. as such projects are implemented. CSLT's CEQA Notice of Determination for the TKM Master Plan was filed with the State Clearinghouse on July 12, 2001. No Statement of Overriding Considerations was required or adopted. The CSLT determined that the project would not have a significant effect on the environment and mitigation measures were made a condition of project approval.

Separately, the Final EIS was certified and the Final EIS "Alternative A" TKM Master Plan was adopted by the TRPA Governing Board in June 2001, making the TKM Master Plan part of the Regional Plan package and a supplement to the applicable Plan Area Statement (PAS 102), but not authorizing any construction. Pursuant to Subsection 16.4 of the TRPA Code, the TKM Master Plan remains "in effect until amended or revoked by TRPA." A separate project application is required for implementation of each project component.

The League to Save Lake Tahoe sued both the City and TRPA following certification of their respective environmental documents. A comprehensive settlement agreement between all parties to the lawsuit (TRPA, the CSLT, the League and the TKM) was reached a year later. At issue was the slip expansion element of the plan. The settlement agreement modified the TKM Master Plan and EIS documents to eliminate references to numeric slip expansion (May 2002). All other aspects of the TKM Master Plan (project elements, mitigation measures) remained valid under the Settlement Agreement.

Following the settlement agreement, the environmental consultants modified the TKM Master Plan in May 2002 consistent with the terms of the settlement agreement.

Until 2009, the TKM implemented only three elements of the TKM Master Plan:

- (1) Implementation of the permanent dredge spoil basin;
- (2) Contracting with certain tour boats to operate from the TKM; and

(3) 2002 (completed) and 2005 (in progress) boat slip relocation and reconfiguration projects. The 2005 project's staff report (approved by the TRPA Governing Board on January 26, 2005) stated:

*"There is no increase in the overall capacity of slips within the marina and therefore, there should be no additional parking required. However, the marina master plan identified that parking and traffic congestion could be a problem on-site in the northern portion of the parking lot with the relocation of slips from the southern, more accessible lagoon, to the northern end of Dock "J". Until such time as the Tahoe Keys Marina parking is expanded per the approved Master Plan, the draft permit has been conditioned to ensure that the applicant provides a plan prior to acknowledgement, to alleviate the potential traffic congestion and parking problems on-site that may be caused by this project."*

The justification related to this permit condition provided by the applicant's consultant Jay Kniep Land Planning (and accepted by TRPA) for permit acknowledgement on February 18, 2008 stated that:

*"...the marina has confirmed that the launching process for "larger" boats is different than that of "smaller" boats and an increase in the fraction of larger boats in the marina will reduce congestion at the boat ramp which is the primary factor affecting parking lot congestion.*

*"The distinction between "larger" and "smaller" is not directly determined by length but by weight. Boats weighing less than 15,000 lbs. can be towed without a commercial license. This weight limit is typically exceeded at the 27-30 foot boat length depending upon the boat design (heavy vs. light). Further, at approximately the 30 foot length, the width of the boat approaches the vehicle width limit for non-oversized towing. Because of both factors, boats greater than 30 feet are almost exclusively delivered to the marina via commercial carrier.*

*"Commercial carriers are not allowed to use the boat ramp because of their weight. Vessels delivered by commercial carrier are launched by the travel lift for most boats or commercial crane service for the largest vessels. Unloading of commercial carrier, occurs in the paved parking/storage area at the back of the marina and not within the public parking lot. Thus, launching of larger boats will not contribute to congestion in the parking lot because the trucks enter the driveway off Venice Drive and immediately exit the public parking lot to the paved storage, commercial loading and unloading area. Further, such commercial carriers generally coordinate delivery times with the marina to assure that loading/unloading equipment will be available and they will not be forced to waste their time waiting to be loaded or unloaded. The marina will not allow a commercial carrier to block access to the public parking lot during peak times because it would be detrimental to such a larger number of other marina customers.*

*"A transition to larger boats also reduces marina traffic because larger boats typically are not removed from the water seasonally because of the expense involved. Hence, with a fixed number of slips within the marina, more larger boats will result in more boats remaining in the water all year, reducing the number of boats using the boat ramp each Spring and Fall.*

*"In conclusion, the increase in the number of larger boats (with the concurrent reduction in smaller boats) will reduce parking lot congestion because larger boats do not utilize the boat ramp for*

*launching and they are delivered by commercial carriers which do not use the public parking lot and typically coordinate their arrival with the marina to avoid congested times. Due to all these factors, the increasing number of larger boats in marina will not increase, and likely will reduce, congestion in the public parking lot during peak periods which occur when the boat ramp is in heavy use. Each new large boat which cannot use the boat ramp will replace a small boat which likely used the boat ramp at least seasonally and in some cases more often.”*

Consequently, between adoption of the TKM Master Plan and 2009, parking expansion did not occur as a result of any of the approved TKM projects.

In 2009, the TKM was sold to a new partnership and renamed Tahoe Keys Marina & Yacht Club (TKM & YC). The new owners are proceeding with the TKM Master Plan implementation. On December 16, 2009, the TRPA Governing Board approved the “Tahoe Keys Marina Phase 3” project, providing for a new 27,000 square foot boat barn for boat storage, relocation of the travel boat lift structure, landscaping, paving, revegetation and installation of project-wide Best Management Practices, subject to specific conditions. The total number of on-site parking spaces increases to 303 as part of the project approval.

A simultaneous application for the project was submitted to the City of South Lake Tahoe. The City of South Lake Tahoe approved the project in June 2010 finding that the project was consistent with their previous adoption of the TKM EIR.

Consultants working for the TKM & YC have drafted plans that revise the parking lot location to utilize the 1.3 acres currently owned by the Conservancy for 91 spaces and an accessory restroom facility. These improvements substantially conform with facilities shown in the TKM Master Plan.

The TKM & YC and the Conservancy are currently working towards implementing their elements of the TKM Master Plan. The Conservancy is bringing a recommendation to its Board in July 2010 seeking authorization to enter into an agreement with TKM & YC finalizing the terms of the landownership adjustments and parking/restroom facility development contemplated in the TKM Master Plan. TKM & YC seeks to obtain title to El Dorado County Assessor’s Parcel Number (APN) 022-210-41, totaling approximately one acre, in order to implement further TKM Master Plan improvements. In addition, a long-term (30-year) lease from the Conservancy in favor of TKM & YC of APN 022-210-50 (portion) would enable the parking and restroom site improvements described in the Master Plan. Both parcels are owned by the Conservancy. They were analyzed as part of a proposal for transfer in the TKM EIR, which also included construction of certain improvements (parking and restrooms) that would be made available for use by both customers of the Marina and visitors to the Conservancy’s Cove East property. Specifically, the TKM Master Plan and the TKM EIR analyzed the environmental consequences of executing “*a land exchange with the California Tahoe Conservancy (CTC) and Tahoe Keys Property Owners Association (TKPOA) to allow the construction of proposed TKM parking facilities and to provide the opportunity to relocate the TKPOA Corporate Yard consistent with the Upper Truckee River and Wetland Restoration Project.*” The long-term lease agreement (Agreement) and lease/option in support of the one-acre land transfer between the Conservancy and TKM & YC will be executed if the Conservancy Board grants approval.

## **II. PROPOSED MINOR MODIFICATIONS TO THE TKM EIR**

Since certification of the TKM EIR, a number of changes affecting the nature of the agreements between TKM & YC and the Conservancy have arisen. These changes include:

- (1) The TKPOA is no longer involved in either transaction. The only parties to any agreements are the Conservancy and the TKM & YC.
- (2) The boat/equipment portion of the TKPOA Corporation Yard is no longer being considered for relocation to Parcel 3.
- (3) The transfer of APN 022-210-41 (also known as the State-owned portion of Parcel 3) from the Conservancy to TKM originally did not include land coverage, while the current lease/option agreement includes the sale of 3,000 square feet of potential land coverage from the Conservancy's land bank as part of the transfer transaction. The long-term lease of a portion of APN 022-210-50 (located within "Parcel 4" of the 1988 Litigation Settlement Agreement area) by the Conservancy to TKM will allow for implementation of the parking and restroom improvements proposed in the Master Plan and evaluated in its associated TKM EIR. The TKM EIR included 8,000 square feet of land coverage for the project as part of the land sale. Instead, up to 45,000 square feet of potential coverage from the Conservancy's land bank will be used for the contemplated development on the parcel. The cost of site improvements will be borne by TKM & YC, which will implement the project on the leasehold area.
- (4) The leasehold portion of APN 022-210-50 is clarified to be approximately 100' x 700', instead of the 80' x 830' size articulated in the TKM EIR and TKM Master Plan.
- (5) The conceptual design of the shared marina/public parking lot that was analyzed in the TKM EIR, including the number of parking spaces for the marina and for public access on Conservancy lands, has been finalized. It reorganizes the 303 parking spaces already approved for the TKM and places 91 of those spaces on the leasehold area.
- (6) The lighthouse design of the shared marina/public restroom that was described in the TKM EIR will be modified upon submittal of plans and permit applications to CSLT and TRPA. The restroom will provide for public use for both marina guests and Cove East visitors.

**Attachment 1** references all pages of the TKM EIR that require modification as a result of the above-described changed circumstances.

## **III. ENVIRONMENTAL ANALYSIS**

Conservancy staff has determined that this Addendum is required in order to address the changes described above which have arisen since circulation of the TKM EIR. CEQA provides for preparation of an addendum if some changes or additions to an EIR are necessary, but preparation of a supplemental or new EIR is not required under CEQA.

Here, circulation of a new EIR is not required. The Conservancy has determined, based on substantial evidence in the light of the whole record, that the proposed changes listed above are not substantial. As explained in detail below, the changes do not involve any new significant environmental effects. The changes do not require substantial changes with respect to the

circumstances under which the project is undertaken requiring major revisions of the TKM EIR. The changes do not involve new information of substantial importance, which show that the project will have one or more significant effects not discussed in the previous TKM EIR. *See* CEQA Guidelines, Art. 11, § 15162(a)(1)-(3).

The purpose of this section is to determine whether additional project-level impact analyses are required for changed project elements under the Conservancy's discretionary decision making authority. This analysis would be triggered if a potential environmental impact was not considered, or not considered in sufficient detail, in the earlier environmental document or if substantial project changes, changed circumstances, or new information of substantial importance since certification of the original document triggers the requirements of CEQA Guidelines § 15162. All answers take into account the whole of the action involved (on-site and off-site, cumulative and project level, direct and indirect, and construction and operational effects).

The three-way land exchange as originally proposed in the TKM EIR included six components (TKM EIR pages II-21, 22):

- Conservancy would convey to TKM the one-acre, State-owned portion of Parcel 3 (APN 022-210-41), without any land coverage;
- Conservancy would convey to TKM 1.5 acres within Parcel 4 (APN 022-210-50), located adjacent to the existing TKM north parking lot, with 8,000 square feet of land coverage;
- TKM would transfer approximately 40,000 square feet of land coverage from the TKM portion of Parcel 3 (APN 022-210-40) to the 1.5-acre strip;
- TKM would convey four acres of Parcel 3 (APN 022-210-40) to TKPOA without any land coverage;
- TKPOA would convey to the Conservancy the leasehold interest for the corporation yard located on the off-site parcel, Parcel 5 (APN 022-210-37) and the option to acquire ownership of the off-site parcel; and
- TKPOA would transfer approximately 62,000 square feet of land coverage from the existing corporation yard to the new boat/equipment storage yard located on Parcel 3.

The TKM Master Plan recognized that the remediation of the corporation yard on the offsite parcel (Parcel 5, APN 022-210-37) would be a separate project action initiated by the Conservancy.

The three-way land exchange as set forth in the TKM EIR had several purposes:

- To expand parking for the Marina as required by the expanded Marina (TKM EIR page I-2, II-22);
- To relocate the TKPOA corporation yard so that the parcel can be restored to wetlands (TKM EIR page II-22);
- To provide TKPOA boat storage in a more appropriate location (TKM EIR page II-22); and
- To improve public access to Lake Tahoe by providing increased parking and access to the Cove East project area (TKM EIR page I-2, II-22).

The environmental impacts associated with the land transfer which required mitigation in the TKM EIR are found on pages IV.A-16, 17 and 18 (LU-CUMU-1, 2, and 3). These mitigation measures

mitigate environmental impacts based solely on relocation of the TKPOA corporation yard onto Parcel 3. TKPOA is no longer a party to either the lease or lease/option agreements, and TKPOA corporation yard is no longer proposed for relocation onto Parcel 3. Accordingly, any potential significant effects resulting from the relocation of the TKPOA corporation yard have been eliminated. The remainder of the land transfer in the current lease/option agreement remains the same as that analyzed in the TKM EIR. The long-term lease no longer requires the land transfer of the 1.3-acres, as the lease allows development of the proposed parking and restroom improvements. The TKM EIR did not assess a potential of causing significant environmental effects from either the land transfer or development of the improvements. Thus, there is no potential for any new significant environmental effects to result from elimination of the TKPOA as a party to the Agreement.

In addition, the impact analysis of the TKM EIR Alternative C, entitled “Project without the CTC Land Exchange,” assessed the direct, indirect, and cumulative environmental effects of eliminating the three-way land exchange from the project description. The analysis concluded that elimination of the three-way land exchange would have no significant environmental effects requiring mitigation (TKM EIR IV.A-18).

Accordingly, this change does not contribute to any new significant effects on the environment.

***(2) The boat/equipment portion of the TKPOA Corporation Yard is no longer being considered for relocation to Parcel 3.***

The three-way land exchange as originally proposed included conveyance of four acres of Parcel 3 to TKPOA without any land coverage and TKPOA’s transfer of approximately 62,000 square feet of land coverage from the existing corporation yard to create a new boat/equipment storage yard on the four-acre parcel.

Impact LU-CUMU-1, LU-CUMU-2, and LU-CUMU-3 (TKM EIR pages IV.A-16, 17 and 18) all related to the impacts of this relocation of the TKPOA Corporation Yard to the southern portion of Parcel 3. Mitigation required to reduce the potential land use environmental effects to a less than significant impact included the redesign of the relocated corporation yard to include a boat storage barn and boat racks and to enable relocation of only the boat/equipment storage portion of TKPOA’s uses to Parcel 3. The details of the relocated use (design, required land coverage) were recognized as a separate project that would need to be initiated by TKPOA.

The TKM EIR selected Alternative A as the preferred alternative for the project. The TKM EIR included impact analyses for alternatives which were not selected including Alternative C entitled “Project without the CTC Land Exchange.” This analysis assessed the environmental effects of eliminating the three-way land exchange from the project. The analysis considered the environmental effects of a scenario in which the TKPOA corporation yard remained on the leased off-site parcel and was not relocated. The environmental analysis concluded that Alternative C led to no potential for significant environmental effects requiring mitigation (TKM EIR IV.A-18). Accordingly, this change does not contribute to any new significant effects on the environment.

***(3) The transfer of APN 022-210-41 (also known as the State-owned portion of Parcel 3) from the Conservancy to TKM originally did not include land coverage, while the current lease/option agreement includes the sale of 3,000 square feet of potential land coverage from the Conservancy's land bank as part of the transfer transaction. The long-term lease of a portion of APN 022-210-50 (located within "Parcel 4" of the 1988 Litigation Settlement Agreement area) by the Conservancy to TKM will allow for implementation of the parking and restroom improvements proposed in the Master Plan and evaluated in its associated TKM EIR. The TKM EIR included 8,000 square feet of land coverage for the project as part of the land sale. Instead, up to 45,000 square feet of potential coverage from the Conservancy's land bank will be used for the contemplated development on the parcel. While the allowable coverage of the Settlement Area itself does not change with implementation of the project, the way in which such coverage is allocated will be modified with implementation of the project. The cost of site improvements will be borne by TKM & YC, which will implement the project on the leasehold area.***

The subject of land coverage was extensively addressed in the TKM EIR for the TKM Master Plan (TKM EIR pages IV.A-5, 6, 7, 8, 9, 10, 16, 17, and 18). The TKM Master Plan, itself, also highlighted this discussion on pages B-7 and 8.

A 1988 Litigation Settlement Agreement (Dillingham Settlement, No. CIV-S-85-0873-EJG), cited to throughout the TKM EIR, governs how coverage is moved around within the settlement area, which includes Parcels 1, 3, 4, and 5, as depicted on Attachment 2. As a party to the settlement, TRPA agreed to regard all parcels as a single unit with 586,857 square feet of land coverage (30% coverage for the total acreage). The agreement allocated land coverage to the multiple ownerships in the Settlement Area as follows:

- Parcel 5 – 61,855 square feet
- Parcel 4 – 380,108 square feet
- State Portion of Parcel 3 – No coverage allocated
- Beach and Harbor Portion of Parcel 3 – 18,000 square feet
- Parcel 3 Remainder (non-State portion and non-Beach and Harbor lands) – 108,185 square feet

In addition, the Settlement Agreement specifies that: “(t)ransfers of coverage may be effectuated between any parcels inside the Settlement Area...and such transfers shall not be subject to further discretionary approval.”

The TKM EIR analyzed the environmental effects of the TKM Master Plan resulting in the maximum amount of land coverage allowable in the project area. Mitigation measures LU-4 and LU-6 of the TKM EIR mitigate the potential for significant environmental effects caused by assigning more than the allowable amount of land coverage to the project by requiring that the project either reduce the land coverage associated with project elements or secure the transfer of additional land coverage consistent with the parcels' coverage limitations as part of project permitting.

Accordingly, although allowable coverage of the Settlement Area itself has not changed, how it is being allocated within the project area is being modified. Because the TKM EIR already assessed the direct, indirect, and cumulative environmental effects of maximum allowable coverage in the project area, the change in the allocation of coverage does not create any new circumstances which have the potential of causing significant effects on the environment which have not already been analyzed.

Accordingly, this change does not contribute to any new significant effects on the environment.

***(4) The transfer from the Conservancy to the TKM & YC of a portion of APN 022-210-50 is now clarified to be approximately 100' x 700', instead of the 80' x 830' size articulated in the TKM EIR and TKM Master Plan.***

The TKM EIR page II-9 describes the area proposed to be transferred from the Conservancy to TKM & YC for parking lot expansion on APN 022-210-50 as “about 80 feet wide” and extending from “the end of East Venice Drive on the south to the end of the existing parking area to the east of ‘J’ dock, about 830 feet in length.” In fact the length of the area contemplated for transfer was approximately 700 feet long in the portion of APN 022-210-50 that will support the leasehold improvements. The width currently being contemplated is 100 feet in width, which in area is 3,600 square feet larger in area than that which was represented in the TKM EIR. This minor increase in area is located in the fill placed on the site in the 1950’s.

Accordingly, this change does not contribute to any new significant effects on the environment.

***(5) The conceptual design of the shared marina/public parking lot that was analyzed in the TKM EIR, including the number of parking spaces for the marina and for public access on Conservancy lands, has been finalized. It reorganizes the 303 parking spaces already approved for the TKM and places 91 of those spaces on the leasehold area.***

From its inception, as documented in the Notice of Preparation dated February 10, 1999, a parking expansion has been proposed as a key component of the TKM Master Plan. This parking expansion is included in the TKM Master Plan’s Purpose and Need (TKM EIR page I-2) and is considered important to providing improved public access to Lake Tahoe. The TKM EIR clarifies that the shared parking is a condition of the Conservancy’s land transfer, noting that “the parking would be shared on an as-needed basis by users of the Cove East project” (TKM EIR page II-9). This is consistent with the CSLT and TRPA’s Plan Area Statement (zoning) *Planning Considerations* and *Special Policies* for the property. These policies are included in the Final EIS on pages IV.A-5 and 7, which also reference the 1988 Litigation Settlement Agreement: “Consistent with the TRPA/Dillingham Settlement Agreement and limitations on public access due to TKPOA ownership of certain lands, parking facilities for public use of the Upper Truckee River and adjacent land areas, and temporary boat trailer parking, should be encouraged in the vicinity of the marina.” A “conceptual site plan” that shows a configuration for the parking lot is included as Figure II-2 (TKM EIR page II-6).

In November of 2008, EDAW Inc. prepared for the Conservancy a parking demand estimate for users of the Conservancy property west of the Upper Truckee River and east of the marina. This estimate

was prepared based upon existing information (assessments, Conservancy Land Steward observations) regarding visitation of the property and sizes of other recreation (beach and trail) parking facilities around the lake. An estimate of up to 27 spaces was deemed adequate for a summer, non-holiday weekend. EDAW's report noted that this estimate may *underestimate* demand; consequently, the Conservancy has included the provision of 30 public access parking spaces as part of the Agreement between the Conservancy and TKM. These spaces will not be specifically designated or signed.

While the expanded parking lot described in the TKM Master Plan was conceptually located on the east side of the existing TKM parking lot on a strip land currently owned by the Conservancy, the December 2009 TKM project approval from TRPA, and the decision being considered by the City, spread the expanded parking throughout the TKM properties. On-site parking approved under the TRPA permit now totals 303 spaces; however, no more land or parking spaces within the Conservancy parcel is proposed that was originally contemplated in the TKM Master Plan and its associated EIR is proposed under the current plan. Ninety-one parking spaces would be relocated to the property; the remaining approved parking spots are spread throughout the TKM properties.

The proposed parking lot is within the scope of the TKM Master Plan, its associated EIR, and previous permit decisions. That is, the parking area contemplated in the Agreement is substantially similar to the 120-space parking area contemplated in the TKM EIR (which was reduced to 91 spaces as part of the Litigation settlement Agreement). While additional approved parking spaces are spread throughout TKM's parcels, the parking associated with the relocated spaces under consideration by the lease agreement remains the same as the parking analyzed for significant environmental impacts in the TKM EIR. Changes related to the design and uses of the parking lot approved for development elsewhere within the TKM are not substantial, as previously determined by the City and TRPA as part of their respective project approvals. There is no new information of substantial importance relating to these changes.

Accordingly, this change does not contribute to any new significant effects on the environment.

***(6) The design of the shared marina/public restroom that was analyzed in the TKM EIR was modified for submittal of plans for CSLT and TRPA project review (Attachment 3). The restroom will provide for public use for both marina guests and Cove East visitors.***

The Draft and final TKM EIRs for the project included a 782 square foot restroom facility as part of the project (Alternative A), as well as in Alternative B, the "*Reduced Development Alternative*." Page II-11 of the Final EIS describes that the restroom building, to be located in the northwest are of the property, would "accommodate four standard toilets and four handicapped toilets (three with separate entrances), two shower/changing rooms, and a janitor's room." It would also "include a second story architectural feature designed to emulate a lighthouse, with a proposed height of 21 feet 6 inches" and be "constructed of concrete block walls, with cedar shingle siding at window height" and "wood shutters and a composition roof." TKM EIR Figure II-7 included floor plan and elevation drawings. The TKM EIR did not identify any environmental impacts associated with the construction and operation of the restroom.

While the discussion regarding the restroom layout and design found in the TKM EIR is specific to the original proposed lighthouse design, the new, alternative design is in substantial conformance with the building features described in the TKM EIR. It includes a small interior space to support the Blue Boating Program to assist the program in its mission to prevent the infestation and spread of aquatic invasive species. The new restroom design is slightly smaller in size than the originally proposed restroom and has no second story elements. The restroom is within height standards for the area. The design elements appear to be in conformance with all other City Design Review Guidelines. The City will conduct the official design review for the restroom and determination of conformity with local standards for design and building code. Because the new design is substantially similar to the original design, the original determination that the design led to no significant adverse environmental effects is still applicable. The programmatic environmental document did not result in a project-level approval of the restroom at the time of the decision. Consequently, the project will be subject to design review by permitting agencies prior to construction.

The TKM Master Plan document (Page 3-4) clarifies that:

*“The proposed TKM facilities would be subject to design standards established by TRPA and the City of South Lake Tahoe. Prior to submittal of individual project plans for permit approval, TKM shall ensure compatibility and consistency of the proposed design features with TRPA and City of South Lake Tahoe design standards...Developing and incorporating these design standards into the individual project plans at the time of permitting submittal will be required to ensure compliance with the local design guidelines and standards.”*

The TKM EIR does not specify that the restroom will provide for public use by not only marina visitors, but also by visitors to Cove East. While past dialogue between the marina and the Conservancy had been clear in this regard, documentation of such discussions is not present in the TKM EIR or TKM Master Plan. The implication was clear, as the TKM EIR places the restroom’s location on the Conservancy parcel at a site convenient to both marina users and visitors to the adjacent public land. However, it is important to articulate the restroom’s public/private purpose in this Addendum to clarify for the record that the long-term provision of public restrooms is a key Conservancy requirement of the land sale and that this important public benefit is an element of consideration in the Agency’s decision making.

These changes related to the design and uses of the restroom are not substantial, and no new information of substantial importance relating to these changes was identified. The project as modified is within the scope of the environmental analysis and effects found in the TKM EIR.

#### **IV. CONCLUSION**

Based on the above findings, the Conservancy has concluded that preparation of a subsequent IS/ND for the Project is unnecessary and that preparation of an Addendum is appropriate in accordance with CEQA Guidelines Section 16164.

None of the conditions described under §15162 or §15163 of the CEQA Guidelines requiring preparation of a subsequent or supplemental EIR have occurred. No new significant environmental

effects or a substantial increase in the severity of previously identified significant effects are expected to result. In addition, no substantial changes have occurred with respect to the circumstances under which the project will be undertaken. The changes and additions to the project described in this Addendum are consistent with §15164 of the CEQA Guidelines.

The Conservancy accordingly approves this Addendum and the associated project modifications. The Conservancy has independently considered the TKM EIR and this Addendum and concludes:

1. The consideration of the EIR and approval of the Addendum for the proposed project reflect the independent judgment of the Conservancy;
2. The TKM EIR and the Addendum does not substantially change the project or its circumstances and does not require major revisions to the EIR. The new information added to the EIR does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure considerably different from others previously analyzed that would lessen the significant environmental impacts of the project.
3. Together, these documents are adequate to satisfy the requirements of CEQA. Preparation of a subsequent EIR for the project is unnecessary; preparation of an Addendum is appropriate in accordance with CEQA Guidelines §16164;

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Date

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Patrick Wright, Executive Director  
California Tahoe Conservancy

Attachments:

- Attachment 1*, all pages of the TKM EIR requiring modification
- Attachment 2*, Map of Litigation Settlement Area

## **ATTACHMENT 5**

Upper Truckee Marsh Public Access  
Improvements and Land Sale  
Environmental Impact Report/Environmental Impact Statement  
(on attached CD)

## ATTACHMENT 6

### NOTICE OF DETERMINATION

TO: Office of Planning and Research  
1400 10<sup>th</sup> Street, Room 121  
Sacramento, CA 95814

FROM: California Tahoe Conservancy  
1061 Third Street  
South Lake Tahoe, CA 96150

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***Subject:***

Filing of a Notice of Determination in compliance with Section 21108 of the Public Resources Code and Section 15096 of the CEQA Guidelines.

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***Project Title:***

Tahoe Keys Marina Master Plan.

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***State Clearinghouse Number:***

1999022060

***Contact Person:***

Lisa O'Daly

***Telephone Number:***

(530) 543-6037

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***Project Location:***

Venice Drive East in the City of South Lake Tahoe, El Dorado County APN 22-210-41, and a portion of El Dorado County APN 22-210-50.

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***Project Description:***

Long-term lease for a 1.3-acre portion of APN 22-210-50, lease and possible sale of land of APN 22-210-41, and allocation and assignment of up to 48,000 square feet of land coverage by the California Tahoe Conservancy to the Tahoe Keys Marina (TKM). TKM shall construct, operate, and maintain shared-use parking, restrooms, and associated amenities on APN 22-210-50. This transaction and the proposed improvements are consistent with the Tahoe Keys Marina Master Plan.

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This is to advise that the California Tahoe Conservancy (Conservancy), acting as a responsible agency, has approved the above described project on January 20, 2011 and has reviewed the EIR and Addendum to the EIR and made the following determinations regarding the above described project:

1. The project will not have a significant effect on the environment.
2. An Environmental Impact Report (EIR) was prepared by the City of South Lake Tahoe as lead agency and certified and approved on June 19, 2001. Its associated Notice of Determination was filed on July 12, 2001. The Notice of Determination, EIR, and record of project approval may be examined at City of South Lake Tahoe offices, 1901 Airport Road, South Lake Tahoe, CA 96150. The Conservancy considered the EIR with respect to its discretionary approval authority over portions of the project.
3. Mitigation measures were made a condition of the approval of the project by the City of South Lake Tahoe and the California Tahoe Conservancy.
4. A Statement of Overriding Considerations was not adopted for this project.
5. The California Tahoe Conservancy prepared an Addendum to the EIR to consider the potential environmental effects of minor modifications to the project.

6. The Conservancy finds that since adoption of the EIR and preparation of the Addendum, there is no new information, substantial changes to the proposed project or changes to project implementation which would involve any new significant effects which were not analyzed in the EIR and Addendum. Further, since the City's certification of the EIR and the Conservancy's preparation of the Addendum, there are no changes regarding the project that would require new or different mitigation measures. The potential significant adverse effects will be mitigated by the mitigation measures and the Conservancy adopts these mitigation measures as a condition of the project.

The Addendum to the EIR, supporting documentation, and record of project approval may be examined at California Tahoe Conservancy, 1061 Third Street, South Lake Tahoe, CA 96150.

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***Date Received for Filing:***

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Patrick Wright  
Executive Director