

Staff Report 47

LESSEE/ASSIGNOR:

Martin Resorts, Inc.

APPLICANT/ASSIGNEE:

CCC PSC Owner, LLC

PROPOSED ACTION:

Assignment of a General Lease – Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean adjacent to 2555 and 2575 Price Street, Pismo Beach, San Luis Obispo County.

AUTHORIZED USE:

Use and maintenance of rock riprap shoreline protective structures, portions of a retaining wall, and sand fill.

TERM:

10 years, beginning August 1, 2015.

CONSIDERATION:

\$14,353 per year.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$5,000,000 per occurrence.
- Surety bond or other security in the amount of \$20,000.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 29, 2015, the Commission authorized a General Lease – Protective Structure Use to the Lessee for the use and maintenance of rock riprap shoreline protective structures, portions of a retaining wall, and sand fill ([Item 68, June 29, 2015](#)). On June 23, 2020, the Commission authorized a Continuation of Rent. On October 21, 2021, the Commission authorized an amendment of the lease to remove provisions related to a set of stairs outside of the lease area after they were destroyed in a storm event. ([Item 20, October 21, 2021](#)). The lease will expire on July 31, 2025.

In August 2022, staff were contacted by the Lessee regarding the possible sale of the upland property and intent to assign the existing lease to the potential buyers. The Applicant subsequently applied for an assignment of the lease for the use and maintenance of rock riprap shoreline protective structures, portions of a retaining wall, and sand fill. The effective date of the assignment shall be the date the Applicant acquires ownership of the upland property. The ownership change is estimated to conclude by the end of 2022.

Approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the remaining term of the lease. For these reasons, staff recommends finding that approval of this assignment is in the best interest of the State.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, increased wave activity, storm events, and flooding are expected to impact the open coast. The existing structures subject to the proposed lease are located within Pacific Ocean near the City of Pismo Beach, along a navigable, tidally influenced shore, and may be vulnerable to the impacts of sea level rise.

The California Ocean Protection Council updated the *State of California Sea-Level Rise Guidance* in 2018 to provide a synthesis of the best available science on sea level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on

both current emission trajectories and the lease location and structures. The Port San Luis tide gauge was used for the projected sea level rise scenario for the lease area as listed in Table 1.

Table 1. Projected Sea Level Rise for Port San Luis

Year	Projection (feet)
2030	0.7
2040	1.2
2050	1.8
2100	6.7

Source: Table 19, State of California Sea-Level Rise Guidance: 2018 Update

Note: Projections are with respect to a 1991 to 2009 baseline.

As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea level rise). The combination of these conditions will likely result in increased wave run up, storm surge, and flooding in coastal and near coastal areas. In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Beaches, coastal landscapes, and near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater beach or bank erosion than previously experienced.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. Higher sea levels and more frequent and stronger storm events could cause structures to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation along the shore.

The lease is a 10-year General Lease – Protective Structure Use that began on August 1, 2015, and may be subject to the climate change effects of the projected sea level rise scenario provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the lease is up for renewal in 2025 and would be based on projected sea level rise scenarios at that time.

CONCLUSION:

Assignment of this lease will not result in a change in the use of or impacts to Public Trust resources. Commission staff believes approval of this assignment is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The Applicant/Assignee meets the legal qualifications to hold the lease and staff has not discovered any information that would provide a basis for withholding the assignment. Upon expiration or prior termination of the lease, neither the assignor nor the assignee has any right to a new lease or to renewal of any previous lease. If the Commission does not approve the assignment, the assignor would remain the lessee. If the Commission approves the assignment, the assignor, Martin Resorts, Inc., will remain liable for the full performance of all its obligations under Lease No. PRC 4698. If the assignee does not fulfill the lessee's obligations under the lease, the Commission may enforce the lease conditions against the assignee and the assignor.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Assignment of the lease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interest of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number PRC 4698, a General Lease – Protective Structure Use of sovereign land, as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only) attached and by this reference made a part hereof, from Martin Resorts, Inc., to CCC PCS Owner, LLC, effective on the date that CCC PCS Owner, LLC, acquires ownership of the property located at 2555 and 2575 Price Street, Pismo Beach, San Luis Obispo County. This authorization is null and void if the upland property sale and transfer is not completed by December 9, 2023.

EXHIBIT A

LEASE 4698

STATE LAND LEASE PARCELS

Legal Description

Six Parcels of tide and submerged lands of the State of California, situated in the Pacific Ocean, adjoining portions of Lot 8 of the subdivision of a portion of the Rancho El Pismo and San Miguelito, City of Pismo Beach, San Luis Obispo County, as said Lot 8 is designated according to the Book "A", at Page 157 of Maps in the office of the Recorder for said County, and said Six Parcels being more particularly described as follows:

Parcel 1

Commencing from NGS geodetic control Station "Beach", PID: FV1169, with State Plane Coordinate Value: North-2,252,122.04 sFT, East-5,767,087.37 sFT, NAD83 (1992), Epoch 1991.35;

Thence, South 51° 16' 04" East, 1368.73 feet to the **Point of Beginning**;

Thence, along the next 7 courses,

1. Thence, S 38° 26' 20" E, 20.20 feet;
2. Thence, S 20° 18' 25" E, 14.04 feet;
3. Thence, S 41° 52' 24" E, 3.17 feet;
4. Thence, N 29° 54' 12" E, 2.23 feet;
5. Thence, N 22° 17' 38" W, 16.37 feet;
6. Thence, N 57° 47' 41" W, 15.44 feet;
7. Thence, N 40° 00' 22" E, 7.88 feet to said point of beginning;

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

Parcel 1 contains 142 square feet, more or less.

Parcel 2

Commencing from NGS geodetic control Station "Beach", PID: FV1169, with State Plane Coordinate Value: North-2,252,122.04 sFT, East-5,767,087.37 sFT, NAD83 (1992), Epoch 1991.35;

Thence, South 50° 27' 45" East, 1417.48 feet to the **Point of Beginning**;

Thence, along the next 10 courses,

1. Thence, S 79° 11' 57" E, 28.96 feet;
2. Thence, S 43° 21' 53" E, 3.57 feet;

3. Thence, S 79° 32' 40" W, 13.87 feet;
4. Thence, S 57° 51' 17" W, 2.91 feet;
5. Thence, S 10° 14' 59" W, 5.90 feet;
6. Thence, S 72° 54' 31" W, 4.88 feet;
7. Thence, N 42° 11' 10" W, 8.55 feet;
8. Thence, N 05° 52' 25" E, 6.43 feet;
9. Thence, N 67° 58' 41" W, 5.42 feet;
10. Thence, N 13° 00' 13" E, 4.68 to said point of beginning;

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

Parcel 2 contains 276 square feet, more or less.

Parcel 3

Commencing from NGS geodetic control Station "Beach", PID: FV1169, with State Plane Coordinate Value: North-2,252,122.04 sFT, East-5,767,087.37 sFT, NAD83 (1992), Epoch 1991.35;

Thence, South 51° 27' 54" East, 1506.41 feet to the **Point of Beginning**;

Thence, along the next 75 courses,

1. Thence, N 60° 16' 21" E, 5.90 feet;
2. Thence, N 02° 39' 46" E, 10.90 feet;
3. Thence, S 88° 05' 16" E, 70.93 feet;
4. Thence, S 82° 14' 52" E, 20.40 feet;
5. Thence, S 73° 39' 34" E, 16.28 feet;
6. Thence, S 33° 35' 17" E, 12.36 feet;
7. Thence, S 57° 35' 52" E, 23.27 feet;
8. Thence, S 05° 20' 00" E, 12.51 feet;
9. Thence, S 20° 07' 50" E, 20.17 feet;
10. Thence, S 65° 21' 34" E, 2.81 feet;
11. Thence, S 78° 55' 08" E, 6.30 feet;
12. Thence, S 32° 49' 06" E, 9.00 feet;
13. Thence, S 09° 00' 00" W, 7.33 feet;
14. Thence, S 27° 35' 38" E, 3.10 feet;
15. Thence, S 50° 33' 51" E, 13.27 feet;
16. Thence, S 29° 47' 19" E, 18.17 feet;
17. Thence, S 22° 50' 29" E, 15.04 feet;
18. Thence, S 06° 24' 04" E, 9.64 feet;
19. Thence, S 45° 01' 14" W, 5.84 feet;
20. Thence, S 69° 32' 45" W, 6.83 feet;
21. Thence, N 70° 30' 08" W, 5.38 feet;
22. Thence, S 87° 33' 17" W, 3.62 feet;
23. Thence, S 41° 21' 52" W, 7.25 feet;

24. Thence, S 43° 41' 38" W, 12.03 feet;
25. Thence, S 05° 55' 05" E, 9.79 feet;
26. Thence, S 70° 52' 01" E, 2.72 feet;
27. Thence, S 86° 02' 33" E, 4.27 feet;
28. Thence, N 77° 23' 36" E, 4.28 feet;
29. Thence, S 69° 43' 17" E, 4.07 feet;
30. Thence, S 10° 38' 28" E, 8.71 feet;
31. Thence, S 28° 53' 34" E, 5.02 feet;
32. Thence, S 13° 02' 17" W, 3.92 feet;
33. Thence, S 15° 06' 19" E, 6.90 feet;
34. Thence, S 25° 19' 02" E, 4.34 feet;
35. Thence, S 33° 15' 41" E, 7.54 feet;
36. Thence, S 45° 01' 14" W, 6.79 feet;
37. Thence, N 85° 45' 18" W, 5.53 feet;
38. Thence, S 58° 31' 38" W, 35.56 feet;
39. Thence, N 43° 12' 39" W, 7.74 feet;
40. Thence, N 23° 43' 04" E, 5.44 feet;
41. Thence, N 09° 44' 04" W, 8.63 feet;
42. Thence, N 66° 59' 21" W, 5.29 feet;
43. Thence, N 21° 35' 06" E, 5.62 feet;
44. Thence, S 73° 18' 43" E, 2.54 feet;
45. Thence, N 03° 52' 53" W, 7.19 feet;
46. Thence, N 65° 14' 25" W, 3.48 feet;
47. Thence, N 14° 43' 30" W, 12.44 feet;
48. Thence, N 45° 01' 14" W, 6.02 feet;
49. Thence, N 10° 49' 50" W, 8.42 feet;
50. Thence, N 24° 29' 52" E, 14.96 feet;
51. Thence, N 72° 48' 01" E, 6.87 feet;
52. Thence, N 21° 40' 47" E, 5.04 feet;
53. Thence, N 68° 39' 54" E, 13.58 feet;
54. Thence, N 05° 39' 54" W, 20.81 feet;
55. Thence, N 80° 32' 39" E, 6.44 feet;
56. Thence, N 07° 36' 00" W, 6.40 feet;
57. Thence, N 90° 00' 00" W, 8.26 feet;
58. Thence, N 25° 09' 38" W, 11.45 feet;
59. Thence, N 47° 15' 05" E, 11.53 feet;
60. Thence, N 78° 56' 15" W, 9.92 feet;
61. Thence, N 14° 02' 45" W, 6.98 feet;
62. Thence, N 85° 25' 45" W, 10.62 feet;
63. Thence, N 06° 47' 38" W, 8.95 feet;
64. Thence, N 68° 13' 46" W, 21.92 feet;
65. Thence, N 38° 05' 33" W, 6.56 feet;
66. Thence, S 47° 29' 21" W, 14.96 feet;
67. Thence, N 78° 14' 23" W, 4.23 feet;
68. Thence, N 05° 04' 59" W, 7.78 feet;
69. Thence, N 25° 27' 36" E, 8.21 feet;

70. Thence, N 64° 22' 30" W, 24.50 feet;
71. Thence, S 73° 10' 40" W, 3.57 feet;
72. Thence, N 53° 31' 05" W, 13.16 feet;
73. Thence, N 81° 17' 55" W, 23.77 feet;
74. Thence, N 72° 22' 51" W, 25.73 feet;
75. Thence, N 34° 37' 21" W, 9.51 feet to said point of beginning;

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

Parcel 3 contains 10,296 square feet, more or less.

Parcel 4

Commencing from NGS geodetic control Station "Beach", PID: FV1169, with State Plane Coordinate Value: North-2,252,122.04 sFT, East-5,767,087.37 sFT, NAD83 (1992), Epoch 1991.35;

Thence, South 48° 29' 09" East, 1906.59 feet to the **Point Of Beginning**;

Thence, the next 33 courses,

1. Thence, N 18° 33' 31" E, 8.82 feet;
2. Thence, N 40° 16' 29" E, 7.30 feet;
3. Thence, N 33° 08' 29" E, 30.32 feet;
4. Thence, N 61° 08' 38" E, 8.48 feet;
5. Thence, N 79° 01' 05" E, 12.99 feet;
6. Thence, S 83° 38' 28" E, 8.66 feet;
7. Thence, S 65° 38' 03" E, 24.14 feet;
8. Thence, S 50° 07' 10" E, 11.62 feet;
9. Thence, S 29° 54' 42" E, 8.45 feet;
10. Thence, S 05° 46' 59" W, 17.92 feet;
11. Thence, S 21° 28' 31" E, 6.92 feet;
12. Thence, S 25° 42' 26" W, 9.98 feet;
13. Thence, N 34° 08' 26" W, 7.86 feet;
14. Thence, S 74° 56' 30" W, 4.34 feet;
15. Thence, N 12° 05' 08" W, 15.95 feet;
16. Thence, N 71° 03' 57" W, 7.59 feet;
17. Thence, S 48° 39' 11" W, 4.78 feet;
18. Thence, N 77° 34' 57" W, 3.24 feet;
19. Thence, S 76° 17' 13" W, 9.49 feet;
20. Thence, S 09° 50' 26" W, 4.08 feet;
21. Thence, S 33° 10' 00" W, 6.69 feet;
22. Thence, N 49° 48' 25" W, 4.83 feet;
23. Thence, N 26° 16' 28" E, 2.80 feet;
24. Thence, N 37° 04' 32" W, 2.06 feet;
25. Thence, S 58° 22' 01" W, 5.75 feet;

26. Thence, S 81° 15' 36" W, 4.85 feet;
27. Thence, N 69° 44' 16" W, 11.22 feet;
28. Thence, S 66° 22' 14" W, 7.35 feet;
29. Thence, N 73° 43' 33" W, 3.11 feet;
30. Thence, N 10° 57' 42" W, 2.11 feet;
31. Thence, S 57° 34' 43" W, 4.68 feet;
32. Thence, S 75° 42' 08" W, 5.15 feet
33. Thence, N 80° 32' 03" W to said point of beginning;

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

Parcel 4 contains 2,891 square feet, more or less.

Parcel 5

Commencing from NGS geodetic control Station "Beach", PID: FV1169, with State Plane Coordinate Value: North-2,252,122.04 sFT, East-5,767,087.37 sFT, NAD83 (1992), Epoch 1991.35;

Thence, South 50° 21' 25" East, 2157.13 feet to the **Point Of Beginning**;

Thence, along the next 15 courses,

1. Thence, N 29° 30' 49" E, 2.23
2. Thence, N 67° 54' 29" E, 7.31 feet;
3. Thence, N 45° 45' 40" E, 7.46 feet;
4. Thence, S 67° 03' 03" E, 7.78 feet;
5. Thence, N 88° 32' 39" E, 7.05 feet;
6. Thence, N 60° 30' 12" E, 15.62 feet;
7. Thence, S 45° 35' 54" E, 12.82 feet;
8. Thence, S 15° 32' 19" W, 8.77 feet;
9. Thence, S 42° 19' 23" E, 10.95 feet;
10. Thence, S 15° 47' 30" E, 5.11 feet;
11. Thence, N 86° 21' 57" W, 11.56 feet;
12. Thence, S 70° 24' 40" W, 6.29 feet;
13. Thence, N 74° 32' 21" W, 14.79 feet;
14. Thence, N 50° 01' 59" W, 18.02 feet;
15. Thence, N 81° 57' 36" W, 11.19 feet to said point of beginning;

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

Parcel 5 contains 939 square feet, more or less.

Parcel 6

Commencing from NGS geodetic control Station "Beach", PID: FV1169, with State Plane Coordinate Value: North-2,252,122.04 sFT, East-5,767,087.37 sFT, NAD83 (1992), Epoch 1991.35;

Thence, South 50° 30' 15" East, 1278.93 feet to the **Point Of Beginning**;

Thence, along the next 10 courses,

1. Thence, N 72° 38' 02" E, 16.96 feet;
2. Thence, S 74° 37' 42" E, 3.12 feet;
3. Thence, S 12° 41' 03" E, 18.40 feet;
4. Thence, S 41° 39' 56" E, 4.82 feet;
5. Thence, S 79° 29' 51" E, 17.71 feet;
6. Thence, S 43° 19' 24" E, 6.50 feet;
7. Thence, S 26° 18' 53" E, 12.32 feet;
8. Thence, S 65° 09' 29" E, 12.21 feet;
9. Thence, N 76° 18' 39" W, 66.76 feet;
10. Thence, N 00° 00' 00" E, 25.66 feet to said point of beginning;

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

Parcel 6 contains 1132 square feet, more or less.

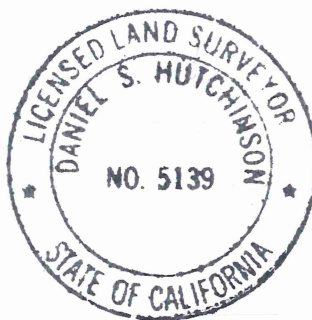
END OF DESCRIPTION

Prepared by:


Daniel S. Hutchinson, LS 5139

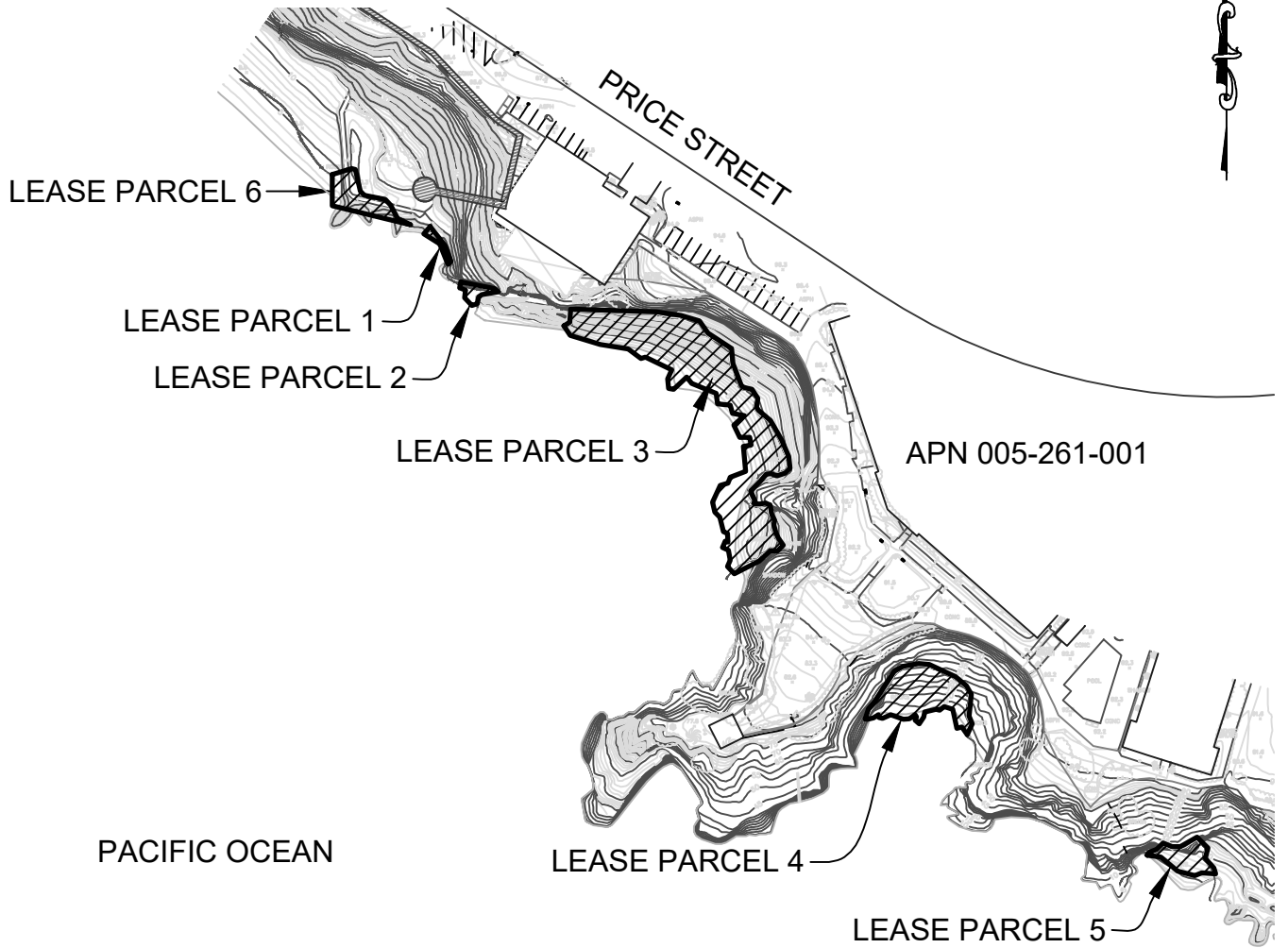
Date:

MARCH 11TH, 2015



NO SCALE

SITE



2555 PRICE STREET, PISMO BEACH

NO SCALE

LOCATION

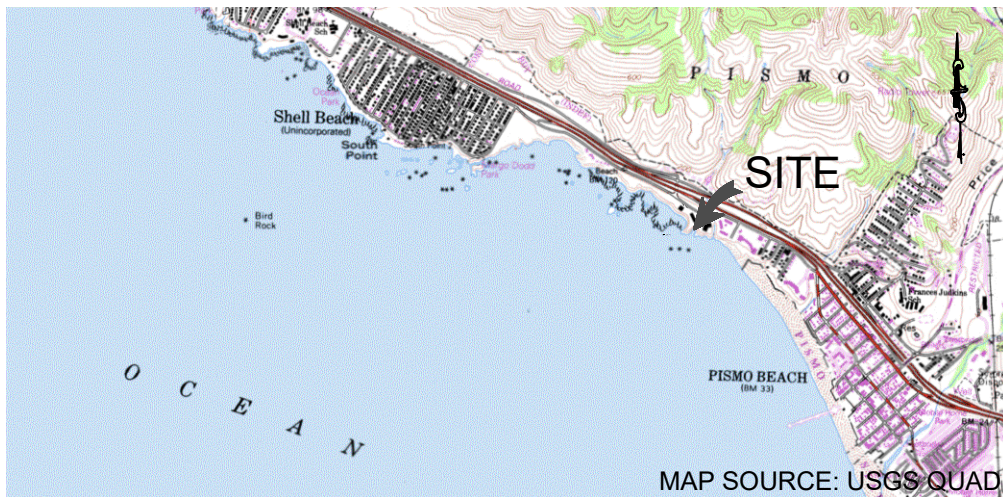


EXHIBIT B

LEASE 3788
 CCC PSC OWNER, LLC
 APN 005-261-001
 GENERAL LEASE -
 PROTECTIVE STRUCTURE USE
 SAN LUIS OBISPO COUNTY



SITE

DJF 10/26/22

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.