

# Staff Report 69

## **LESSEE:**

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CCC PCS Owner, LLC

## **SECURED PARTY LENDER:**

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Athene Annuity and Life Company

## **PROPOSED ACTION:**

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Authorize an Agreement and Consent to Encumbrance of Lease

## **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.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 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 Martin Resorts, Inc., for the use and maintenance of rock rip rap shoreline protective structures, portions of a retaining wall, and sand fill ([Item 68, June 29, 2015](#)). On December 9, 2022, the Commission authorized an assignment of the lease to the Lessee ([Item 47, December 9, 2022](#)). The lease will expire on July 31, 2025.

The Lessee is applying for an Agreement and Consent to Encumbrance of Lease in favor of Athene Annuity and Life Company, the Secured Party Lender, in a loan amount not to exceed \$95,500,000. The purpose of the loan is for the purchase of the upland property known as the Shore Cliff Hotel. The Hotel sits adjacent to the leased property and utilizes the shoreline protective structures. The encumbrance of the lease is a condition of the Secured Party Lender.

The encumbrance of the lease would be implemented through a document, "Agreement and Consent to Encumbrance of Lease," that would include protections for the State land associated with the lease. These protections include requirements that 1) no subsequent encumbrance of the lease shall be executed without prior written consent of the Commission; 2) any transfer of the lease to a third party shall be subject to the prior written approval and consent of the Commission; 3) if the Secured Party Lender becomes the lessee, it shall be bound by all terms and conditions of the lease; 4) any transaction requiring Commission approval and consent shall be void in the absence of such approval and consent; and 5) the duration of the encumbrance agreement is limited to the term of the lease.

The encumbrance of the lease would not permanently alienate the State's fee simple interest in the underlying land, and it would not permanently impair public rights. Based on the foregoing, Commission staff believes that the Agreement and Consent to Encumbrance will not substantially interfere with Public Trust needs, at this location, at this time, or for the foreseeable term of the proposed lease. By encumbering the lease, the Lessee can obtain funds used to acquire the upland property and manage the leased State property, and the lender effectively acts as the guarantor of Lessee's performance of its lease obligations.

The existing 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.

**CONCLUSION:**

For all the reasons above, staff believes that authorization of an Agreement and Consent to Encumbrance of Lease will not result in a change in the use of, or impacts to, Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Authorizing the agreement and consent to encumbrance of 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:**

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

**RECOMMENDED ACTION:**

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It is recommended that the Commission:

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed Agreement and Consent to Encumbrance of Lease will not impact the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize the Executive Officer or designee to execute the document titled "Agreement and Consent to Encumbrance of Lease," allowing Lessee's right, title, and interest in Lease Number PRC 4698 to be pledged as partial security for a loan in the principle amount not to exceed \$95,500,000 in favor of Athene Annuity and Life Company in substantially the same form as that on file in the Sacramento office of the Commission, effective February 28, 2023.
2. Authorize the Executive Officer or designee to execute, acknowledge, accept, and record all related documents as may be reasonably necessary to complete the transaction.

## 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

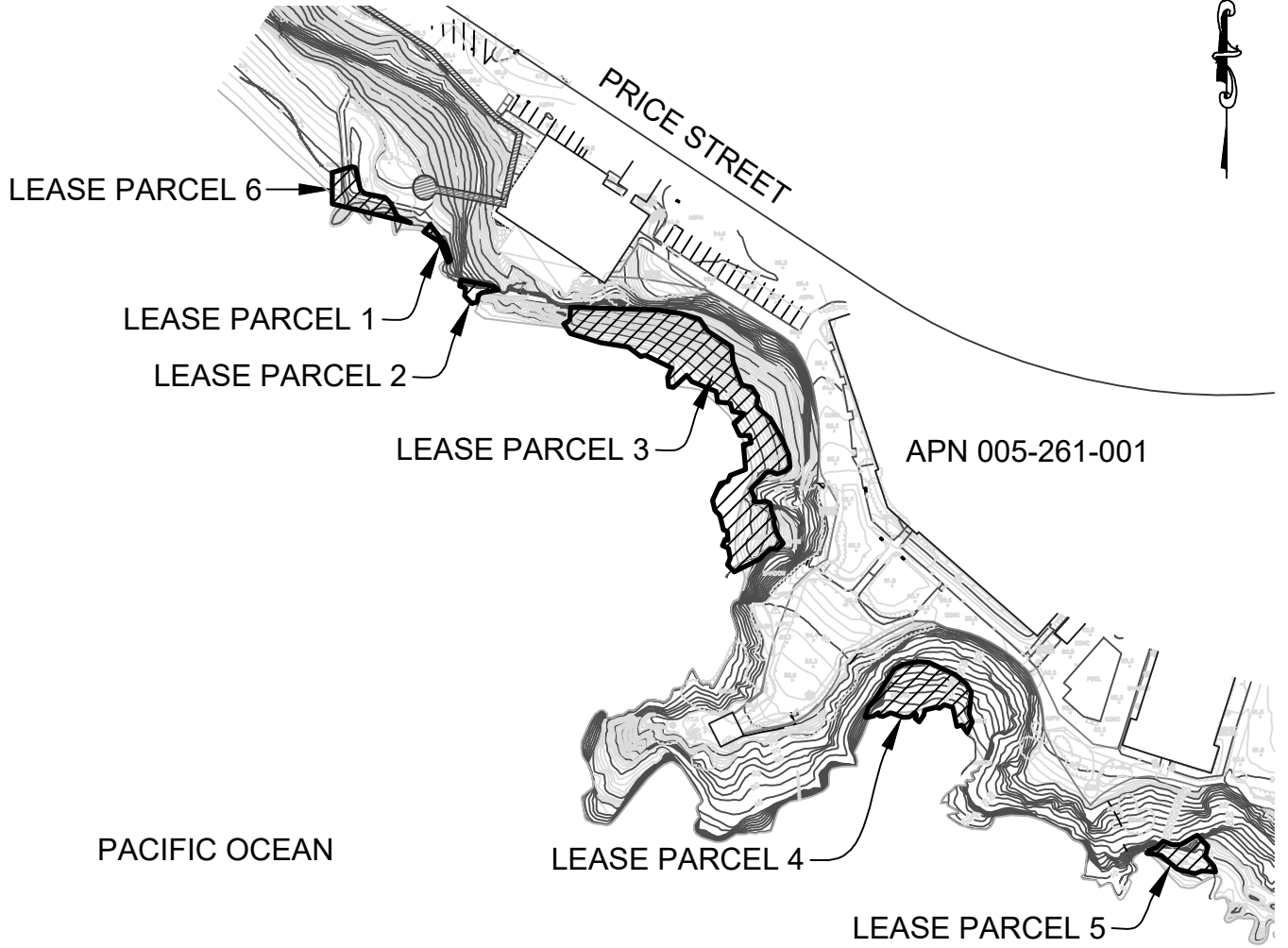
Date:

MARCH 11<sup>TH</sup>, 2015



NO SCALE

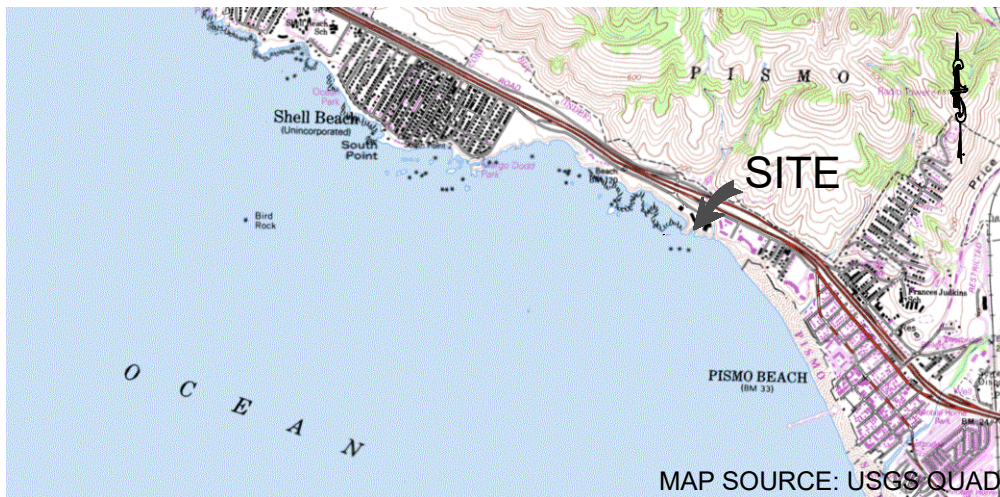
### SITE



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



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.