

# Staff Report 49

## APPLICANT:

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CCC PSC Owner, LLC

## SECURED PARTY-LENDER:

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Athene Annuity and Life Company

## PROPOSED ACTION:

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Issuance of a General Lease – Protective Structure Use and 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 (as shown in Figure 1).

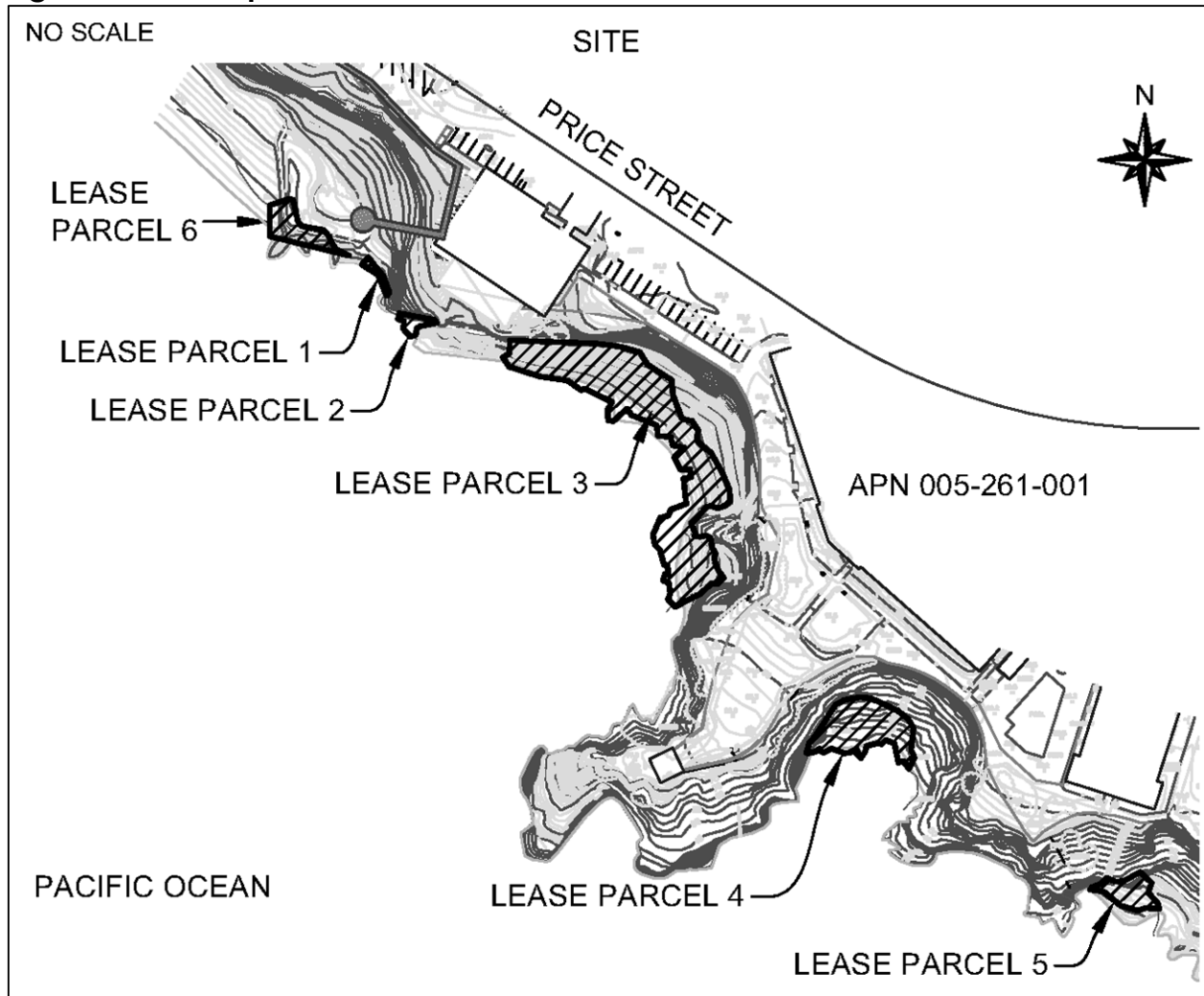
**Figure 1. Location**



**AUTHORIZED USE:**

Use and maintenance of rock riprap shoreline protective structures, portions of a retaining wall, and sand fill (as shown in Figure 2).

**Figure 2. Site Map**



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

**TERM:**

10 years, beginning August 1, 2025.

**CONSIDERATION:**

\$24,337 per year, with an annual Consumer Price Index adjustment.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$5,000,000 per occurrence.
- Bond or other surety in the amount of \$801,000, with the Lessee retaining the right to provide a detailed removal cost estimate prepared by a qualified third-party contractor by October 14, 2026, for consideration of modification of the surety by the Commission.
- Lessee shall not add or allow the placement by any other party of any additional improvements on the lease premises without the prior express written consent of Lessor.
- Lessee acknowledges the existence of an easement on the upland property, accepted by the City of Pismo Beach, recorded as Document No. 27792, Vol. 2982, Page 31, Official Records of San Luis Obispo County (Easement), for purpose of public ingress and egress across, over, and upon the upland leading to and from Lease Parcel 6. Lessee agrees that no attempt shall be made to discourage or prohibit public use of said Easement and/or said Parcel by the posting of signs or by any other means, except when site conditions compromise or threaten public health and safety.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**AUTHORITY:**

Public Resources Code sections 6005, 6106, 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 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](#)). On December 9, 2022, the Commission authorized an assignment of the lease to the Applicant ([Item 47, December 9, 2022](#)). Subsequently, on February 28, 2023, the Commission authorized an Agreement and Consent to Encumbrance of Lease (Agreement) ([Item 69, February 28, 2023](#)). The lease expired on July 31, 2025.

The existing improvements are located at the base of a steep bluff and protect the Applicant's upland property and businesses, which include the Ventana Grill and Shore Cliff Hotel located in the City of Pismo Beach (City).

An existing access stairway adjacent to Lease Parcel 6 and a bridge connecting the stairway to the bluff-top were initially damaged by a storm event in 2007. Since that time, Lease Parcel 6, which includes a low concrete perimeter wall to retain sand for use as a public recreational site, has not been accessible from the bluff top. The stairway and the bridge were located within a public access easement outside the Commission's jurisdiction. The easement is held by the City for purposes of public ingress and egress across, over, and upon the upland leading to and from Lease Parcel 6. When the Lease was authorized in 2015, the Lessee had planned to rehabilitate the access stairway and replace the bridge; however, the stairway became severely deteriorated and only the central concrete core of the stairway remains.

The previous lease required the Lessee to submit a plan on or before August 1, 2020, for Commission review and approval to either: 1) provide an alternate means of access to Parcel 6; or 2) remove the improvements located within Parcel 6 in their entirety, and restore the parcel as provided in the Lease should the rehabilitation project not be completed by July 31, 2020.

In December 2020, the Lessee sent a letter to the City relinquishing and abandoning the portion of their 2016 Coastal Development Permit relating specifically to the stairway and bridge, but still maintaining approval to reconstruct the perimeter wall in Lease Parcel 6.

The City expressed its support for the Lessee to relinquish the stairway entitlement due to safety concerns, rising sea levels, and beach loss. The City also supports the Lessee's desire to rehabilitate the existing perimeter wall because even though it cannot be reasonably accessed from the upland, it provides a land-based refuge for recreational kayakers, paddle boarders, and for safety personnel during ocean rescue events.

Debris from the bridge and the central concrete core of the stairway have been removed. As part of the previous lease amendment, the Lessee completed restoration of the lower perimeter wall in 2023.

Although the public access provided by the stairway and bridge is no longer available, the Lessee has completed work on a new pedestrian bridge located on the upland, downcoast from Lease Parcel 6. In 2019, a pedestrian bridge between

Inn at the Cove and Pismo Lighthouse Suites opened for public use. The new bridge improves and provides continuous access to the California Coastal Trail. Although not located on sovereign land, the bridge protects the scenic corridor and the natural environment. On July 3, 2019, the trail easement was donated to the City to ensure that it will remain accessible in perpetuity.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The Lease is limited to a 10-year term, does not grant the lessee exclusive rights to the Lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination, the lessee may be required to remove all improvements from State land and restore the Lease premises to their original condition.

To protect the State from the potential financial burden of removing the shoreline protective structures at some future date, the lease includes a surety bond provision to cover the Lessee's obligations under the lease, including but not limited to the removal of all improvements. The Commission will have the option to call on the bond if the Applicant fails to remove the protective structures from State property upon lease termination or expiration. The surety amount is currently set at \$801,000. The proposed lease allows the lessee to provide a detailed removal cost prepared by a qualified third-party contractor by August 1, 2027. If Lessor approves the estimated removal cost, the Lessee must provide Lessor with the revised surety bond based on that amount within 60 days of Lessor's approval.

The Applicant is also seeking the Commission's consent to encumber the lease interest in favor of Athene Annuity and Life Company, the Secured Party Lender, in a loan amount not to exceed \$95,500,000. The Commission previously authorized the Agreement, but it expired with the previous lease. The proposed Agreement is similar to the previously authorized Agreement. The purpose of the loan was for the purchase of the upland property and to maintain the improvements under the proposed lease. 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," which will provide the Secured Party-Lender with certain protections if the Co-Lessees default on the lease or is otherwise unable to perform. Some of the protections for the Secured Party-Lender include committing to (1) give the Secured Party-Lender sixty (60) days' notice and an opportunity to cure any lease default or breach prior to terminating the lease; (2) not amend, modify, replace, terminate the lease without

receiving the written consent of the Secured Party-Lender; and (3) approve a prospective new lessee for the improvements under specific circumstances if the Executive Officer finds specific conditions are met.

The Agreement and Consent to Encumbrance of Lease provides the Commission with another party who may be able to step in if a default of the lease occurs. Additionally, the agreement 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, staff believes that the Agreement and Consent to Encumbrance and the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, nor for the term of the lease. By encumbering the lease, the Lessee has obtained funds used to maintain the improvements, and the lender effectively acts as the guarantor of the Lessee's performance of its lease obligations. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

## **CLIMATE CHANGE:**

### ***INTRODUCTION:***

The climate crisis and rising sea levels are impacting coastal California now. As underscored in the [State of California Sea Level Rise Guidance](#) (Ocean Protection Council, 2024), the combination of extreme weather events and the persistent and accelerating rise in sea levels will lead to increased coastal hazards, such as wave runup, storm surges, flooding, and erosion. Shorelines will move inland due to rising seas, exposing more of the natural and human-built environment to coastal hazards. The resulting damage will occur repeatedly and incrementally over years

and, in extreme cases, over the span of a few large winter storms. These impacts may affect existing riprap shoreline protective structures, portions of a retaining wall, and sand fill subject to the proposed lease, located in the Pacific Ocean, near Pismo Beach, San Luis Obispo County.

**DATA & PROJECTIONS:**

Sea levels along most of the California coast rose four to eight inches during the last century, and this trend will accelerate throughout this century. The current rate of sea level rise is triple the rate during the last century. There is growing confidence that by 2050 sea levels will be approximately ten inches higher than they were in 2000. The severity of sea level rise beyond 2050 is contingent on future levels of greenhouse gas emissions. The California Ocean Protection Council updated the State of California Sea Level Rise Guidance in 2024 to provide a synthesis of the best available science on sea level rise projections and rates for multiple emissions scenarios. To apply a precautionary approach, Commission staff evaluated the “intermediate-high” and “high” scenarios due to the vulnerability and exposure of the lease location and the continued global reliance on fossil fuels. 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	Intermediate-High (feet)	High (feet)
2040	0.5	0.6
2060	1.4	1.8
2080	2.8	3.8
2100	4.5	6.3

Source: Table 9 State of California Sea-Level Rise Guidance: 2024 Update

Note: Projections are with respect to a 2000 baseline.

**ANALYSIS:**

Commission staff used the online sea level rise mapping tool, [Our Coast Our Future](#), to evaluate risks to the lease premises and structures from sea level rise. At present sea levels, the lease premises are already regularly flooded and subjected to wave impacts and erosion, which could potentially damage any structures or improvements on the lease premises. Episodic or short-term events, such as extreme storms, very high or King tides, and El Niño events, alone or in combination, will increase the vulnerability of the lease premises and expose it to higher water levels and stronger wave runup, overtopping, and erosion.

As a result, the riprap, retaining wall, and sand fill may sustain substantial damage and degradation over the lease term, requiring more frequent repairs and maintenance to retain their function. As waves collide with the retaining wall, the reflected wave energy can erode the sediment below and surrounding the revetment, leading to structural instabilities. Reliance on the riprap, retaining wall, and sand fill is typically not a long-term or sustainable protection strategy because the riprap, retaining wall, and sand fill will provide diminishing protection as it becomes destabilized and rising sea levels exceed the conditions for which the riprap, retaining wall, and sand fill were originally designed.

While the riprap, retaining wall, and sand fill may protect the upland property, that protection comes at the expense of the intertidal zone in front of them by covering and eliminating the intertidal area where they are placed and altering the natural coastal processes. As sea levels rise, the riprap and retaining wall will further accelerate the erosion and narrowing of the intertidal area and reduce littoral sediment supplies. The loss of intertidal areas, and littoral sediment, harms critical habitats and ecosystem services, degrades the scenic quality of California's iconic coast, and impairs public coastal access and recreational uses. Consistent with the Commission's 2023 report, [Shoreline Adaptation and the Public Trust](#), the use of hard armoring should be limited to locations where it is necessary to protect critical infrastructure, public access, or Public Trust resources and uses. However, at this location, the armoring provides stabilization for existing public trails, viewing areas, and parking lots located at the top of the cliff, in addition to a resort and restaurant. Access to the shoreline is already restricted by the natural landforms, including steep cliffs, headlands, and rocky shoreline; therefore, the armoring's impacts on public access are minor.

**RECOMMENDATIONS:**

If the bluff erosion worsens or spreads to adjacent areas, the Applicant should evaluate the feasibility of alternative adaptation strategies, including nature-based strategies and the inland relocation of improvements, before pursuing plans for additional hard armoring. These approaches can be more effective long-term because they interfere less with dynamic coastal processes and help to maintain wide buffers from coastal hazards. Coordinating with adjacent properties and local governments to develop a regional approach could further enhance the effectiveness of these strategies.

Section Four of the Commission's report [Shoreline Adaptation and the Public Trust: Protecting California's Public Trust Resources from Sea Level Rise](#) includes more



information about various shoreline adaptation strategies and their advantages and disadvantages for mitigating coastal hazards and protecting Public Trust resources. Any future construction or activities on State land would require a separate authorization from the Commission.

Regular maintenance, as referenced in the terms of the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Lessee acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to the effects of climate change, including sea level rise and rising groundwater levels.

### **CONCLUSION:**

For all the reasons above, staff believes approval of this lease will not substantially interfere with Public Trust needs at this location, at this time, nor for the term of the lease; and is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

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1. The Commission previously authorized the existing "Agreement and Consent to Encumbrance of Lease," allowing the Lessee's right, title, and interest in the Lease 4698 to be pledged as partial security for a loan in the principal 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. Approval or denial of an 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. If the Commission denies the application, the Applicant may be required to remove the rock riprap shoreline protective structures, portions of a retaining wall, and sand fill and restore the lease premises to their original condition. The lessee has no right to a new lease or renewal of any previous lease.
3. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.

4. Encumbrance of the lease is not a project as defined by the California Environmental Quality Act (CEQA) 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, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

5. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

## **EXHIBIT:**

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### A. Agreement and Consent to Encumbrance of Lease

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

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

1. Find that the existing and, for a limited period, continuing use of the rock riprap shoreline protective structures, portions of a retaining wall, and sand fill will not substantially interfere with the Public Trust needs and values at this location.
2. Find that issuing the proposed lease and Agreement and Consent to Encumbrance of Lease are in the best interest of the State.

**AUTHORIZATION:**

1. Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning August 1, 2025, for a term of 10 years, for the use of rock riprap shoreline protective structures, portions of a retaining wall, and sand fill; annual rent in the amount of \$24,337, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$5,000,000 per occurrence; and security in the amount of \$801,000.
2. Authorize the Executive Officer or designee to execute the document entitled "Agreement and Consent to Encumbrance of Lease," substantially in the form of Exhibit A.
3. 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 – Agreement and Consent to Encumbrance of Lease

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED MAIL TO:  
STATE OF CALIFORNIA  
State Lands Commission  
Attn: Kelly Connor, LMD  
100 Howe Avenue, Suite 100- South  
Sacramento, CA 95825-8202

**STATE OF CALIFORNIA**  
**OFFICIAL BUSINESS**

Document entitled to free recordation  
Pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

LEASE 4698

### AGREEMENT AND CONSENT TO ENCUMBRANCE OF LEASE

The Parties to this Agreement and Consent to Encumbrance of Lease (the "Agreement") are:

1. The State of California, acting by and through the State Lands Commission, hereinafter referred to as LESSOR;
2. CCC PSC OWNER, LLC, a Delaware limited liability company, hereinafter referred to as LESSEE; and
3. ATHENE ANNUITY AND LIFE COMPANY, an Iowa corporation, together with its successors and/or assigns hereinafter referred to as SECURED PARTY-LENDER unless otherwise indicated.

#### **RECITALS:**

The State of California acting by and through the State Lands Commission as LESSOR did on October 14, 2025, authorize issuance of Lease 4698 to CCC PSC Owner, LLC, with a beginning date of August 1, 2025, those certain six (6) parcels in the Pacific Ocean adjacent to 2555 and 2575 Price Street, in the city of Pismo Beach, San Luis Obispo County, as described in Exhibit

B attached hereto and incorporated into this Agreement, for a Term of ten (10) years (as such term is defined in the Lease). A copy of the Lease is attached as Exhibit A hereto and is incorporated into this Agreement.

LESSEE requires and has obtained indebtedness in the maximum amount of up to \$95,500,000 pursuant to the terms and conditions of a Loan Agreement, dated February 1, 2023, between LESSEE and SECURED PARTY-LENDER for the permanent financing or refinancing of existing debt and improvements to be constructed, maintained, repaired, or reconstructed by the LESSEE on the Lease Premises.

The indebtedness and financing are necessary to achieve the purposes and objectives of the Lease and are in the best interest of all parties.

SECURED PARTY-LENDER requires the execution of a security instrument in the form of a Deed of Trust, mortgage, or other security device encumbering the Lease to secure the financing required by LESSEE.

SECURED PARTY-LENDER has been designated as the lender and a party to this Agreement by LESSEE and is acceptable to LESSOR.

### **AGREEMENT**

A) NOW, THEREFORE, the State of California, acting by and through the State Lands Commission, as LESSOR, DOES HEREBY APPROVE AND CONSENT TO:

1. The SECURED PARTY-LENDER being designated as the lender and as a party to this Agreement; and
2. The mortgaging or encumbering of the Lease by a Deed of Trust and/or other security instrument being executed by LESSEE (TRUSTOR) for the benefit of SECURED PARTY-LENDER (BENEFICIARY) to secure indebtedness incurred for the purposes stated above, pursuant to the terms and conditions of the Loan Agreement, the Promissory Note, or other loan documents or debt instrument. The terms "security interest" or "security interests" shall be hereinafter used interchangeably with the

terms "mortgage," "encumbrance," "Deed of Trust," or other security instrument used to encumber the Lease. The security interest may, at the option of SECURED PARTY-LENDER, be recorded in the Office of the County Recorder of San Luis Obispo County, California. No additional or subsequent security interest concerning the Lease shall be executed by the LESSEE, SECURED PARTY-LENDER or other party without the prior written approval and consent of LESSOR; and

3. Any increases in, or modifications, extensions, or renewals of the financing or indebtedness by the SECURED PARTY-LENDER, provided, however, that any such increases, modifications, or renewals shall not be deemed in any way to increase, modify, extend, renew, or otherwise amend the Lease, and provided that LESSEE shall give LESSOR written notice of any of them having been made within ten (10) days of their execution; and

4. SECURED PARTY-LENDER or a corporation or limited liability company wholly owned and controlled by SECURED PARTY-LENDER acquiring the Lease by any of the means set forth in this Agreement; and

5. The assignment to SECURED PARTY-LENDER of rents paid to LESSEE by sublessees of the Lease Premises, provided, however, that all subleasing shall have been approved by LESSOR as provided in the Lease.

B) LESSEE and LESSOR do further agree as follows:

1. **Estoppel Certificate.**

As of the date of LESSOR's execution of this Agreement, the Lease is in full force and effect and Lessor is aware of no default, breach, or other ground for termination.

2. **Lease Improvements.**

The proceeds of any loan procured in whole or in part for the purpose of permanent financing or refinancing of existing debt, constructing, maintaining, repairing, or reconstructing improvements on the Lease

Premises (for which a security interest in the Lease is required) shall be used for such purposes according to the objectives of the Lease provided, however, that SECURED PARTY-LENDER shall have no obligation to take any action, other than disbursing loan proceeds pursuant to invoicing provided by LESSEE, to see or ensure that the loan proceeds or any part thereof are or were used to construct or improve the Lease Premises.

3. **Lease Termination.**

a. Except as stated below in Section B.4, LESSOR shall not terminate the Lease because of a default or breach of any of its terms, covenants, or conditions by LESSEE if, within sixty (60) days after service of written notice (the "Termination Notice") on the SECURED PARTY-LENDER of LESSOR'S intention to terminate the Lease for such default or breach, SECURED PARTY-LENDER shall:

(1) Cure any default or breach dealing with rental, a surety bond, liability insurance, and any other default or breach that can be cured by the payment or expenditure of money; **and**

(2) Keep the Lease free from any defaults or breaches of the kind described in the immediately preceding clause (1) occurring from and after the date that SECURED PARTY-LENDER receives the Termination Notice until the date all of the defaults and breaches described in the Termination Notice are cured; **and**

(3) Give notice to LESSOR and immediately commence and diligently pursue actions necessary for and leading expeditiously to:

(a) A transfer of the Lease to SECURED PARTY-LENDER or another party acceptable to LESSOR by any of the means mentioned in this Agreement; **and**

(b) The cure of any default or breach for which possession of the Lease Premises is necessary.

b. SECURED PARTY-LENDER shall not be required to continue to pursue actions necessary to effect a transfer of the Lease if all defaults or breaches of the Lease have been cured by LESSEE or SECURED PARTY-LENDER and LESSEE has demonstrated to the satisfaction of LESSOR that it is willing and able to resume satisfactory performance of all of its duties and obligations under the Lease. If SECURED PARTY-LENDER cannot effect a transfer of the Lease other than through foreclosure and is prohibited from commencing or continuing foreclosure as a result of a court order or provision of law, LESSOR shall not terminate the Lease, provided that SECURED PARTY-LENDER notifies LESSOR of its intent to foreclose when permitted to do so and shall keep and perform all other conditions of the Lease and this Agreement until such time that the Lease shall be sold upon foreclosure pursuant to the Deed of Trust, or shall be transferred upon judicial or nonjudicial foreclosure, by assignment in lieu of foreclosure or otherwise.

c. Except as stated below in Section B.4.c, LESSEE and LESSOR shall not seek to amend, modify, replace, terminate, or surrender the Lease through mutual assent or otherwise without first having obtained the written consent of SECURED PARTY-LENDER, unless, with respect to a termination by LESSOR, the foregoing provisions of Section B.3 of this Agreement would otherwise allow for such termination.

d. The leasehold under the Lease shall not merge with the fee interest in all or any portion of the Lease Premises notwithstanding the ownership of the leasehold and of the fee by the same person(s) or entity(ies).



e. Except as stated below in Section B.4.c, LESSOR shall, upon serving LESSEE with any demand, consent, or other notice under the Lease, concurrently serve a copy of such demand, consent, or other notice upon SECURED PARTY-LENDER. LESSOR shall not be obligated to serve such notice on a SECURED PARTY-LENDER other than to the original SECURED PARTY-LENDER unless LESSOR has received notice that the security interest has transferred to a new SECURED PARTY-LENDER.

4. **Lease or Security Interest Transfer.**

a. **Lease Transfer.**

(1) Any transfer of the Lease, with the exception of a transfer to SECURED PARTY-LENDER, or a corporation or limited liability company wholly owned and controlled by SECURED PARTY-LENDER (be it pursuant to judicial foreclosure, by way of a private sale under a Deed of Trust, an assignment from LESSEE in lieu of foreclosure to a party selected by the SECURED PARTY-LENDER, or an assignment by LESSEE pursuant to Paragraph 12 of Section 3 of the General Provisions of the Lease or otherwise), shall be subject to the prior written approval and consent of LESSOR. If SECURED PARTY-LENDER shall proceed with a foreclosure sale, it shall provide LESSOR with a minimum of thirty (30) calendar days' notice of the date and time of such sale. SECURED PARTY-LENDER shall inform prospective Lease purchasers in its notice of sale of the requirement that any prospective lessee of State lands under the jurisdiction of LESSOR must be approved by LESSOR prior to assumption of the Lease. If prospective purchasers wish to obtain notice of approval or disapproval before the foreclosure sale, their identity and intent to bid must be given

to SECURED PARTY-LENDER at least twenty-five (25) State business days prior to the date of sale. SECURED PARTY-LENDER shall in turn give to LESSOR immediate notice of the identity of such prospective lease purchaser(s). LESSOR shall have fifteen (15) State business days after receipt of written notice from SECURED PARTY-LENDER in which to approve or disapprove any prospective purchasers. LESSOR's approval or disapproval of a prospective purchaser may be given by the Executive Officer of the State Lands Commission. If the Executive Officer disapproves of the prospective purchaser, SECURED PARTY-LENDER may appeal that disapproval to the State Lands Commission at the Commission's next available noticed public meeting. LESSOR shall advise SECURED PARTY-LENDER of its approval or disapproval of prospective purchasers prior to the scheduled time of sale and the Lease shall be awarded to the highest bidder who has been approved by LESSOR, provided, however, that, if the highest bidder has not yet been vetted and approved or disapproved by LESSOR, LESSOR shall retain its right to disapprove the highest bidder and terminate the Lease. SECURED PARTY-LENDER shall indemnify, hold harmless and, at the option of LESSOR, defend LESSOR, its officers, agents, and employees against and for any and all liability arising out of, or alleged to arise out of, a failure to inform prospective Lease purchasers that they must be approved by LESSOR.

(2) Except SECURED PARTY-LENDER or a corporation or limited liability company wholly owned and controlled by SECURED PARTY-LENDER, all transferees, who succeed to the Lease whether by way of judicial foreclosure, private sale

under a Deed of Trust, or an assignment from LESSEE in lieu of foreclosure, or otherwise, must submit the following information in order to be considered for approval by LESSOR:

- (a) The name and identification of the business organization and operational structure of the proposed transferee including certificate of good standing from the office of the California Secretary of State; identification of all affiliated entities, including subsidiaries and parent corporations; identification of the nature of the use of and interest in the Lease Premises by the proposed transferee; and a copy of the entity's formation documents (i.e. articles of incorporation, articles of organization, partnership agreement, joint venture agreement, etc.); and
- (b) A copy of the terms and conditions of the proposed transfer. (This requirement is inapplicable in the case where a transfer will be effected by judicial foreclosure, or private trustee sale.); and
- (c) Audited or unaudited profit and loss statements for the two most recently completed fiscal years of the proposed transferee demonstrating its solvency and sufficient capital to operate the Lease and meet its terms and conditions; and
- (d) If available, pro forma financial statements showing the projected income, expense, and financial condition resulting from use of the Lease Premises. (This requirement is inapplicable in the case where a transfer will be effected by judicial foreclosure, or private trustee sale.); and

- (e) Evidence of ability to meet the insurance and bonding requirements required by the Lease; and
- (f) Current credit report; and
- (g) Demonstration of experience within the past ten (10) years in the type of business being conducted on the Lease Premises. (This requirement is inapplicable in the case where a transfer will be effected by judicial foreclosure, or private trustee sale.)

(3) Any grantee, assignee, purchaser, or other transferee of the Lease or any interest therein, be it SECURED PARTY-LENDER or another party acceptable to LESSOR, shall succeed to all of the rights, title, and interest of LESSEE and shall be bound by all terms, covenants, and conditions of the Lease and by all of the provisions of this Agreement. Any such transferee shall, by the way of a written agreement with LESSOR, expressly assume and agree to perform all terms, covenants, and conditions of the Lease and of this Agreement. SECURED PARTY-LENDER shall give written notice of the requirement of such assumption and agreement to any such transferee.

(4) If SECURED PARTY-LENDER or a corporation or limited liability company wholly owned and controlled by SECURED PARTY-LENDER becomes the lessee under the Lease and subsequently desires to sell, assign, or otherwise transfer the Lease, it shall first seek the prior written consent of LESSOR.

- b. **New Lease Following Termination of Lease in Bankruptcy.**  
Except as stated below in Section B.4.c, in the event of the termination of the Lease as a result of LESSEE's rejection of the Lease in bankruptcy, LESSOR shall provide written notice to

SECURED PARTY-LENDER of such termination ("Notice of Rejection of Lease in Bankruptcy") together with a statement of all sums which would be due at that time under the Lease but for such termination, and of all other defaults, if any, then known, to LESSOR. Subject to LESSOR'S prior written consent, which consent shall not be unreasonably withheld, LESSOR agrees to enter into a new lease ("New Lease") of the Lease Premises with SECURED PARTY-LENDER for the remainder of the term of the Lease, effective as of the date of termination, at the rent, and upon the terms and conditions (including all options to renew but excluding requirements which are not applicable or have already been fulfilled) of the Lease provided that the following conditions are met:

- (1) SECURED PARTY-LENDER makes written request upon LESSOR for such new lease within sixty (60) days after the date SECURED PARTY-LENDER receives the Notice of Rejection of Lease in Bankruptcy;
- (2) SECURED PARTY-LENDER pays or causes to be paid to LESSOR at the time of the execution and delivery of the New Lease, any and all sums which would be due at the time of execution and delivery thereof pursuant to the Lease but for such termination and which have not otherwise been received by LESSOR from LESSEE or other party in interest.
- (3) SECURED PARTY-LENDER agrees to remedy, within forty-five (45) days of issuance of the New Lease, any of LESSEE'S defaults of which SECURED PARTY-LENDER was notified by the Notice of Rejection of Lease in Bankruptcy and which are reasonably susceptible of being cured by SECURED PARTY-LENDER.

(4) Any New Lease made pursuant hereto shall have the same priority with respect to any other lien, charge, or encumbrance on the fee of the Lease Premises, and the lessee under the New Lease shall have the same right, title, and interest in and to the Lease Premises as LESSEE had under the Lease.

(5) The lessee under the New Lease shall have the same right to assign or transfer the Lease as provided in this Agreement had it become the lessee under the initial Lease.

(6) The liability of any lessee under the New Lease, including the limitations on liability of SECURED PARTY-LENDER as stated in Section B.5.b if it becomes the lessee under the New Lease, shall be the same as provided in this Agreement had it become the lessee under the initial Lease.

If Secured Party-Lender shall succeed to the rights of Lessee under the Lease through possession or foreclosure action, delivery of a deed (or assignment of the Lease) in lieu of foreclosure or similar action, then Lessor shall recognize Secured Party-Lender (Secured Party-Lender being a "Successor-Lessee"), as Lessor's lessee under the Lease and shall promptly execute and deliver any instrument that Successor-Lessee may reasonably request to evidence such recognition as lessee under the Lease. Furthermore, the Lease shall continue in full force and effect as, or as if it were, a direct lease between Successor-Lessee and Lessor upon all terms, conditions, and covenants as are set forth in the Lease, and Successor-Lessee shall be liable for all obligations and liabilities of Lessee under the Lease, except that Successor-Lessee shall not: (i) be liable to cure any non-monetary

default not reasonably susceptible of being cured by Successor-Lessee unless such defaults are of continuing nature and Successor Lessee has received written notice thereof and a reasonable opportunity to cure; or (ii) be bound by any modification of the Lease unless such modification shall have been expressly approved in writing by Secured Party-Lender.

Lessor agrees that any delivery of a deed or assignment of the Lease pursuant to foreclosure proceedings, or by deed or assignment in lieu of foreclosure or similar action to Secured Party-Lender shall not be subject to the prior written consent of Lessor.

c. **Security Interest Transfer.**

Except as provided herein, any subsequent assignment or other transfer by the SECURED PARTY-LENDER of the security interest approved in paragraph A.2. shall be subject to the prior written approval and consent of LESSOR. Such approval and consent shall not be unreasonably withheld. Failure of SECURED PARTY-LENDER to obtain such approval and consent shall be a breach of this Agreement and failure to cure such breach shall relieve LESSOR of any and all obligations to give notice to and/or obtain SECURED PARTY-LENDER's approval and consent to termination, amendment, modification, replacement, surrender, or assignment or other transfer of the Lease.

d. **Security Interest Termination.**

Upon full payment of the indebtedness giving rise to the security interest herein, LESSEE shall provide LESSOR, within thirty (30) days of its receipt, a copy of any reconveyance or

other instrument from SECURED PARTY-LENDER showing that the indebtedness has been fully satisfied. LESSEE shall further actively work to obtain from SECURED PARTY-LENDER such reconveyance or other instrument, beginning no later than thirty (30) days after LESSEE's final payment.

5. **Lessee and Secured Party-Lender Liability.**

a. Subject to the terms of Section B.5.b below, any encumbering, assignment, grant, purchase, or other transfer of the Lease shall not release or relieve the current LESSEE, or a subsequent lessee from any obligations to LESSOR under the Lease and LESSOR may hold the current LESSEE or a subsequent lessee liable for the faithful performance of any and all terms, covenants, and conditions of the Lease.

b. SECURED PARTY-LENDER shall have no obligations or liability under the Lease unless it shall become the lessee (and such obligations and liability shall only be for those obligations and liability arising during the period of time that SECURED PARTY-LENDER remains the actual lessee under the Lease), and provided further that, if SECURED PARTY-LENDER should become the lessee by any of the means mentioned in this Agreement, it shall have no further obligations or liabilities under the Lease after it has assigned or otherwise transferred the Lease to a party approved by Lessor. Unless SECURED PARTY-LENDER becomes the lessee under the Lease, termination of this Agreement shall be LESSOR'S sole remedy against SECURED PARTY-LENDER for its failure or refusal to comply with any or all of the provisions of this Agreement.

c. Notwithstanding any other provision of this Agreement, if SECURED PARTY-LENDER becomes a lessee by any of the means set forth in this Agreement, then, during the time of its occupancy of



the Lease Premises, it shall be bound by all of the terms and conditions of the Lease.

6. **Lessor Approval.**

a. Except as otherwise expressly provided for in section B.4.a.(1), whenever the approval and consent of LESSOR as required under this Agreement is requested by SECURED PARTY-LENDER or LESSEE, LESSOR shall have ten (10) State business days after receipt of written notice of such request to approve or disapprove it, unless an alternative specific time period is expressly set forth herein. LESSOR's approval, consent, or disapproval may be given by the Executive Officer of the State Lands Commission. If the Executive Officer does not provide the requested approval or consent, SECURED PARTY-LENDER may appeal that disapproval or failure to consent to the State Lands Commission at the Commission's next available noticed public meeting.

b. The approval and consent of LESSOR whenever it is required by this Agreement shall not be unreasonably withheld and in the event of disapproval LESSOR shall inform LESSEE and SECURED PARTY-LENDER of the basis for such disapproval.

c. Any transaction for which the approval and consent of LESSOR is required by the terms of this Agreement shall be void in the absence of such approval and consent.

7. **Notices, Consents and Demands.**

a. Any notices, consents, or demands (hereafter collectively referred to as "notices") required under the Lease or this Agreement shall be in writing and shall be delivered personally and sent by email with the original notice sent by first class U.S. mail, registered or certified, return receipt requested, postage prepaid, and properly addressed as set forth in this Section provided that any

party hereto may at any time change its address for such notices by giving to the other parties hereto a notice of such change. All notices to any and all of the parties shall be deemed effective when delivered at the party's address. The addresses of the parties at the time of this Agreement's execution for the purposes of such notice are:

**LESSOR:** STATE LANDS COMMISSION  
Attn: Chief, Land Management Division  
100 Howe Ave., Suite 100 South  
Sacramento, CA 95825

**LESSEE:** CCC PSC OWNER, LLC  
c/o KSL Capital Partners Management VI, LLC  
100 St. Paul St., Suite 800  
Denver, Colorado 80206  
Attention: Kevin Rohnstock  
Email: [kevin.rohnstock@kslcapital.com](mailto:kevin.rohnstock@kslcapital.com)

with a  
copy to: Perkins Coie LLP  
110 North Wacker Drive, 34th Floor  
Chicago, Illinois 60606  
Attention: Bruce Bonjour and Adam Docks  
Email: [Bbonjour@perkinscoie.com](mailto:Bbonjour@perkinscoie.com);  
[Adocks@perkinscoie.com](mailto:Adocks@perkinscoie.com)

**SECURED PARTY**

**-LENDER:** Athene Annuity and Life Company  
c/o Apollo Insurance Solutions Group LP  
2121 Rosecrans Ave, Suite 5300  
El Segundo, California 90245  
Attention: Daniel Brown

with a  
copy to: Apollo Insurance Solutions Group LP  
2121 Rosecrans Ave, Suite 5300  
El Segundo, California 90245  
Attention: Angelo Lombardo, Esq

with a  
copy to: Apollo Global Management  
9 West 57th Street  
New York, New York 10019  
Attention: CRE Debt Notifications – KSL Central  
CA Portfolio  
Email: [CREDebtKSLCentralCA@apollo.com](mailto:CREDebtKSLCentralCA@apollo.com)

with a  
copy to: Paul Hastings LLP  
2050 M Street N.W.  
Washington, D.C. 20036  
Attention: Michael K. Berman, Esq.  
Email: [michaelberman@paulhastings.com](mailto:michaelberman@paulhastings.com)

b. LESSEE and SECURED PARTY-LENDER agree to inform LESSOR of any change in address for purposes of receiving any notices, as defined above, required by the Lease or this Agreement. Failure to do so shall relieve: LESSOR of any and all obligations to give any notices other than to the last address of record prior to proceeding with amendment, modification, default, termination, surrender, replacement or assignment or other transfer of the Lease or other action under the Lease or this Agreement; and/or obtain SECURED PARTY-LENDER's approval and consent to any of them.

8. **Failure to Comply with Agreement and Consent to Encumbrance of Lease.**

LESSOR, LESSEE, and SECURED PARTY-LENDER agree that LESSOR may treat a violation of the terms of this Agreement and Consent to Encumbrance of Lease as a breach of the Lease or of this Agreement and that, after notice to LESSEE and SECURED PARTY-LENDER, LESSOR may exercise all remedies available to it under the Lease and at law and equity. All defaults of this Agreement must be cured within forty-five (45) days of service of written notice of default on SECURED PARTY-LENDER unless LESSOR elects to treat a

default of this Agreement as a default of the Lease. This Agreement shall immediately terminate without further action by any of the Parties if the Lessor terminates the Lease after complying with Section B, Paragraph 3.

9. **Conflicts in Provisions.**

In the event of any conflict between the provisions of this Agreement and those of the Lease, the provisions of this Agreement shall take precedence and be controlling. Except as provided by this Agreement, the Lease shall remain in full force and effect as written.

10. **Non-Waiver of Lessee Default.**

Nothing contained herein nor any failure by the undersigned LESSOR to insist upon the strict performance of any provisions contained herein shall be construed as a waiver of any default of LESSEE under the Lease, or the waiver, modification, or limitation of any remedy available to the undersigned LESSOR under the Lease or at law or equity.

11. **Counterparts.**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original. Such counterparts, when taken together, shall constitute but one and the same agreement. A photocopy or facsimile copy of a signature shall be deemed as an original with the parties waiving any objection requiring such original signature under California Evidence Code § 1520, et seq.

12. **Successors and Assigns.**

This Agreement shall be binding upon and inure to the benefit of LESSOR, LESSEE, and SECURED PARTY-LENDER and their respective successors and assigns.

13. **Modification of Agreement and Consent to Encumbrance of Lease.**

No modification of this Agreement shall be effective without the prior written consent of all parties to this Agreement.

14. **Acknowledgement, Release and Indemnity by Lessee.**

LESSEE hereby acknowledges that LESSOR is executing this Agreement and Consent to Encumbrance of Lease in reliance on the terms of this Agreement, and LESSEE hereby releases, and agrees to indemnify, defend, and hold LESSOR harmless from any and all claims, losses, costs, liabilities, damages, and expenses, including without limitation, attorney's fees and costs, incurred in connection with or arising from the exercise of SECURED PARTY-LENDER'S rights and obligations under this Agreement. LESSEE hereby agrees to pay all of LESSOR's attorney's fees incurred in connection with the preparation and negotiation of this Agreement and other agreements required in connection with it, or incurred with respect to any dispute arising out of this Agreement. This Section shall survive the expiration or earlier termination of the Lease.

15. **Severability.**

In the event of any conflict between any provision (or portion thereof) of this Agreement and any law, the latter shall prevail, but the provision (or portion thereof) of this Agreement which is affected shall be limited and curtailed only and to the least extent necessary to bring it within the requirements of the law, and no other provision (or portion thereof) of this Agreement shall otherwise be affected.

16. **Integration.**

This Agreement and the exhibits hereto contain and constitute the final and entire agreement of the parties relating to the subject matter of this Agreement and supersede all prior understandings,

proposals, negotiations, or representations concerning the subject matter of this Agreement.

17. **Governing Law and Jurisdiction.**

This Agreement shall be governed by, and construed in accordance with, California law, without regard of the choice-of-law principles thereof. Any action seeking legal or equitable relief arising out or related to this Agreement or a breach thereof shall be brought in the courts of the State of California, County of San Luis Obispo.

18. **Effective Date.**

This Agreement will become effective and binding on all parties when executed by all parties and it shall remain effective until the expiration or termination of the Lease, or until the expiration of the original or extended term of the indebtedness, or upon reconveyance from SECURED PARTY-LENDER, whichever comes first.

The parties hereto hereby execute this Agreement and Consent to Encumbrance of Lease as of the date hereafter affixed.

LESSEE:

**CCC PSC OWNER, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

SECURED PARTY-LENDER:

**ATHENE ANNUITY AND LIFE**

**COMPANY**, an Iowa corporation

By:\_\_\_\_\_

Name: \_\_\_\_\_

Title:\_\_\_\_\_

By:\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_



LESSOR:

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

By\_\_\_\_\_

Title\_\_\_\_\_

Dated\_\_\_\_\_

**ALL SIGNATURES MUST BE NOTARIZED**