

Staff Report 62

LESSEE/ASSIGNOR:

X2 Telecom, LLC

APPLICANT/ASSIGNEE:

Zayo Group Holdings, LLC

PROPOSED ACTION:

Assignment of a General Lease – Right-of-Way Use

AREA, LAND TYPE, AND LOCATION:

135,000 linear feet, more or less, of sovereign land located in the Pacific Ocean, from Morro Bay in San Luis Obispo County, to Santa Barbara in Santa Barbara County.

AUTHORIZED USE:

Use and maintenance of an existing fiber optic cable and four steel conduits buried in the ocean floor.

TERM:

20 years, beginning December 18, 2015.

CONSIDERATION:

Public benefit derived from Applicant's acceptance of franchise obligations pursuant to California Public Utilities Code section 7901.

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 December 18, 2015, the Commission authorized a General Lease – Right-of-Way Use to X2 Telecom, LLC ([Item C94, December 18, 2015](#)). That lease will expire December 17, 2035.

In August 2016, the Lessee's parent company, Integra Telecom Parent, Inc. was rebranded as Electric Lightwave. On November 30, 2016, Electric Lightwave was purchased by the Applicant, and the ownership of the existing improvements was transferred to Zayo Group Holdings, LLC. Commission staff was not notified of the ownership transfer until the application was submitted, but the Applicant has continued to meet all lease obligations. The Applicant is now applying for an assignment of the lease for the use and maintenance of the fiber optic cable and four steel conduits buried in the ocean floor. The effective date of the assignment will be November 30, 2016, to coincide with the Applicant's effective ownership of the improvements.

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, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The existing fiber optic cable varies from 0.42 to 1.20 inches in diameter, and it is buried in the Pacific Ocean along with the steel conduits. This cable is part of the larger high-capacity fiber optic transport network that directly links major cities along the California coast. It was installed in federal waters (between 3 to 12 miles offshore) and comes ashore in seven locations in California. The cities of Morro Bay and Santa Barbara are two of these seven major links of this larger telecommunications system. The armored sea cables do not transmit any electrical power and are waterproofed to resist damage in the ocean. The cable was buried about 3 feet deep below the Pacific Ocean seafloor to prevent damage from fishing equipment or anchors. Since this is an existing cable,

cable burial surveys are required every 5 years to confirm that the cable remains buried for the remaining lease term until 2035.

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,” “low risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The Port San Luis and the Santa Barbara tide gauges were used for the projected sea level rise scenarios for the regions as listed in Tables 1 and 2.

Table 1. Projected Sea Level Rise for Port San Luis

Year	Projection (feet)
2030	0.5
2040	0.7
2050	1.0
2100	3.1

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

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

Table 2. Projected Sea Level Rise for Santa Barbara

Year	Projection (feet)
2030	0.4
2040	0.7
2050	1.0
2100	3.1

Source: Table 22, State of California Sea-Level Rise Guidance: 2018 Update

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

The lease is a 20-year General Lease – Right-of-Way Use that began on December 18, 2015, and may be subject to the climate change effects of the projected sea level rise scenario provided above. Regular monitoring and 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 2035 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. 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 is qualified 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 no new lease is granted the assignee may be required to remove the fiber optic cable and four steel conduits and restore the premises to their original condition.
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).

EXHIBIT:

A. Site and Location Maps

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

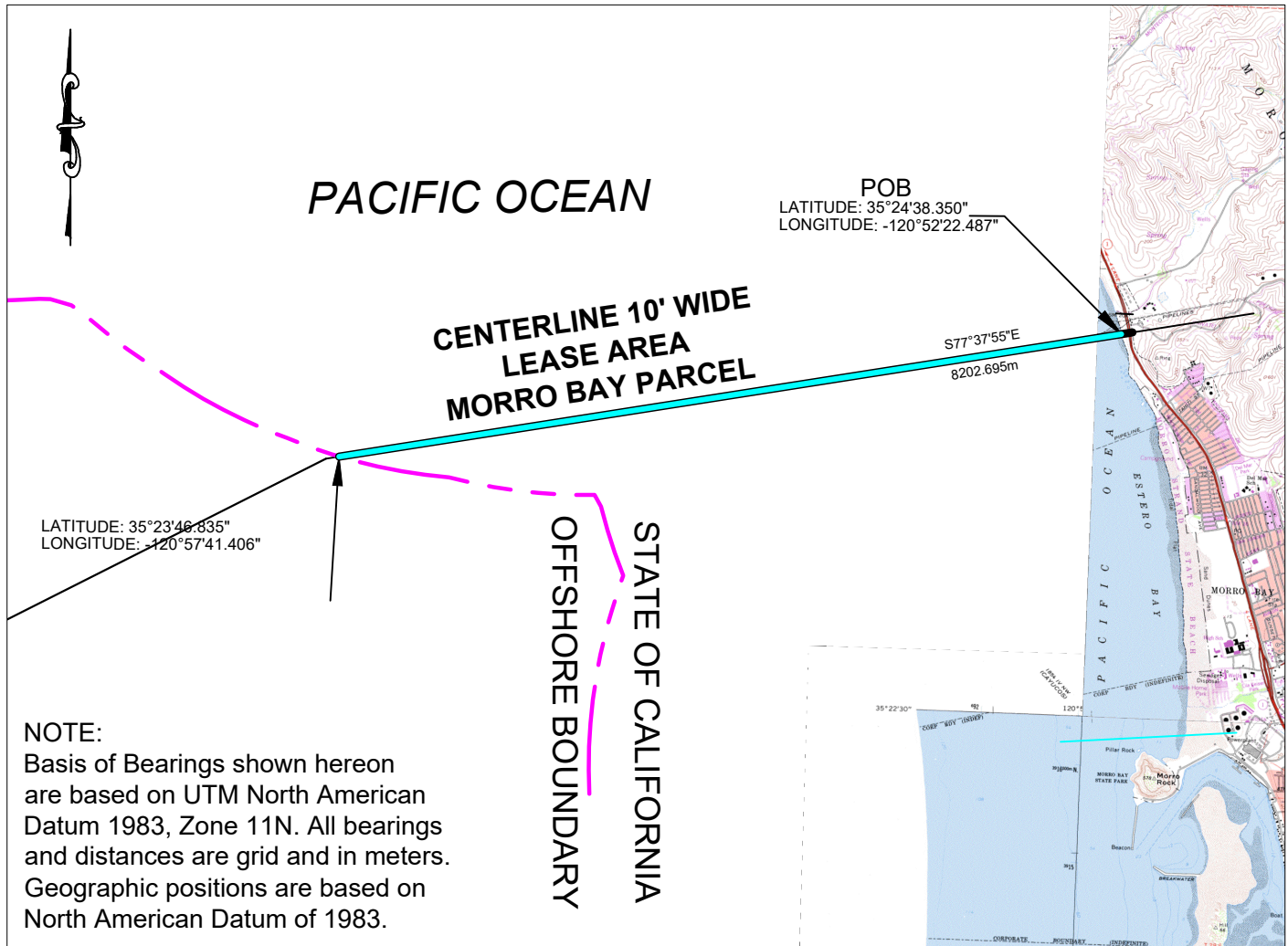
Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number PRC 8168, a 20-year General Lease – Right-of-Way Use, of sovereign land located in the Pacific Ocean, as shown on Exhibit A (for reference purposes only) attached and by this reference made a part hereof, from Lessee to Applicant, effective November 30, 2016.

NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

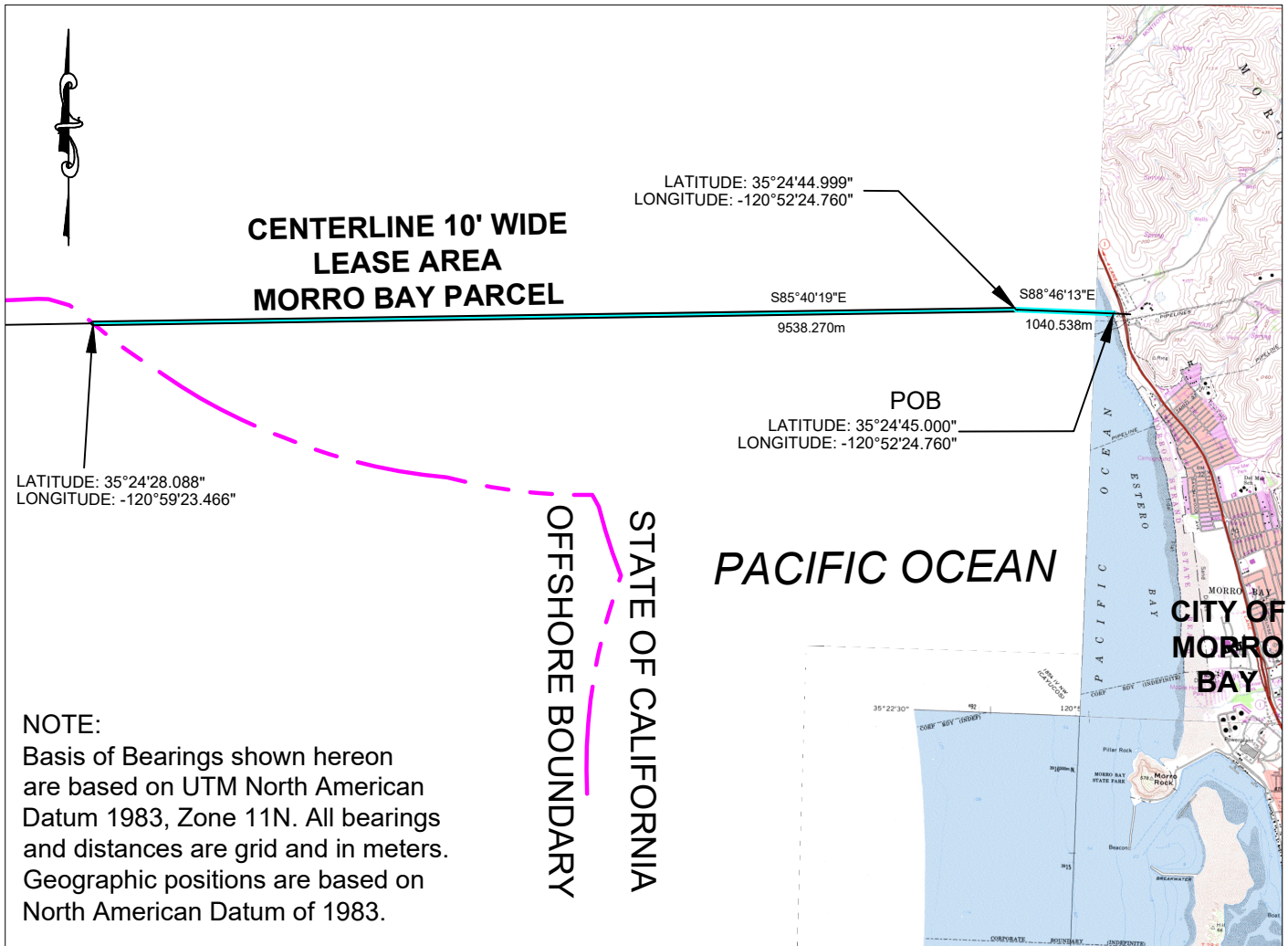
Exhibit A-1

PRC 8168
ZAYO GROUP HOLDINGS, LLC
GENERAL LEASE -
RIGHT-OF-WAY USE
SAN LUIS OBISPO COUNTY



NO SCALE

SITE



MORRO BAY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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Exhibit A-2

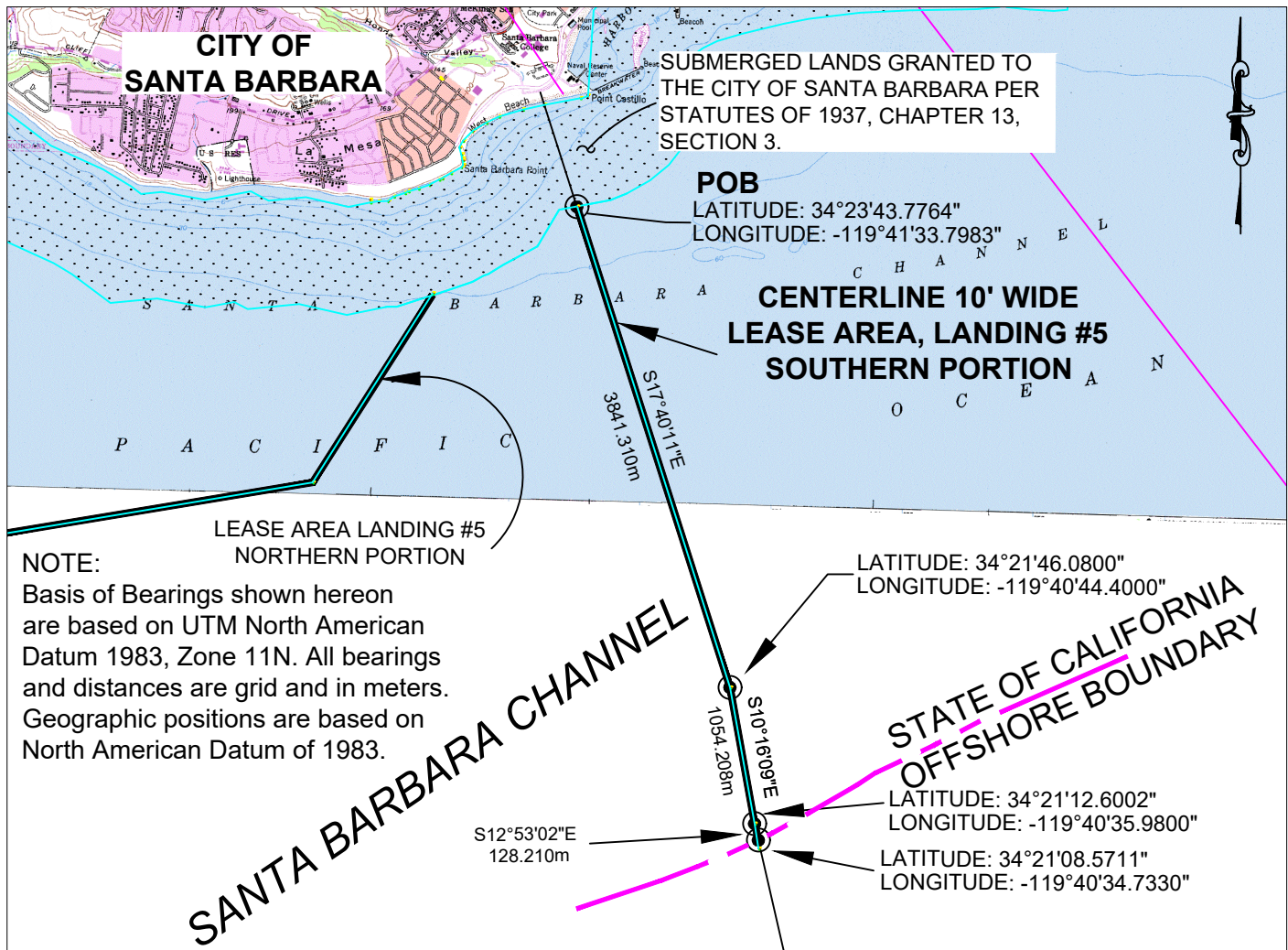
PRC 8168
ZAYO GROUP HOLDINGS, LLC
GENERAL LEASE -
RIGHT-OF-WAY USE
SAN LUIS OBISPO COUNTY



MJF 11/24/2021

NO SCALE

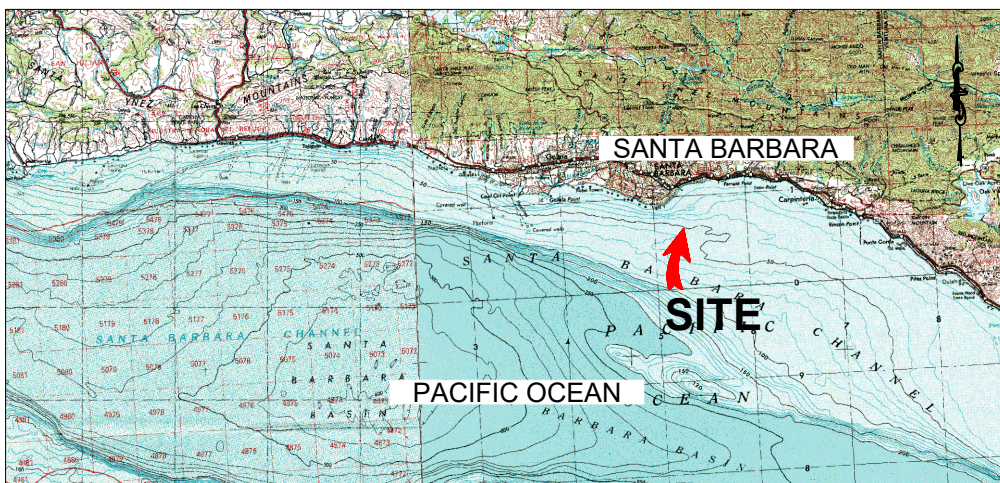
SITE



SANTA BARBARA TO MANHATTAN BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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Exhibit A-3

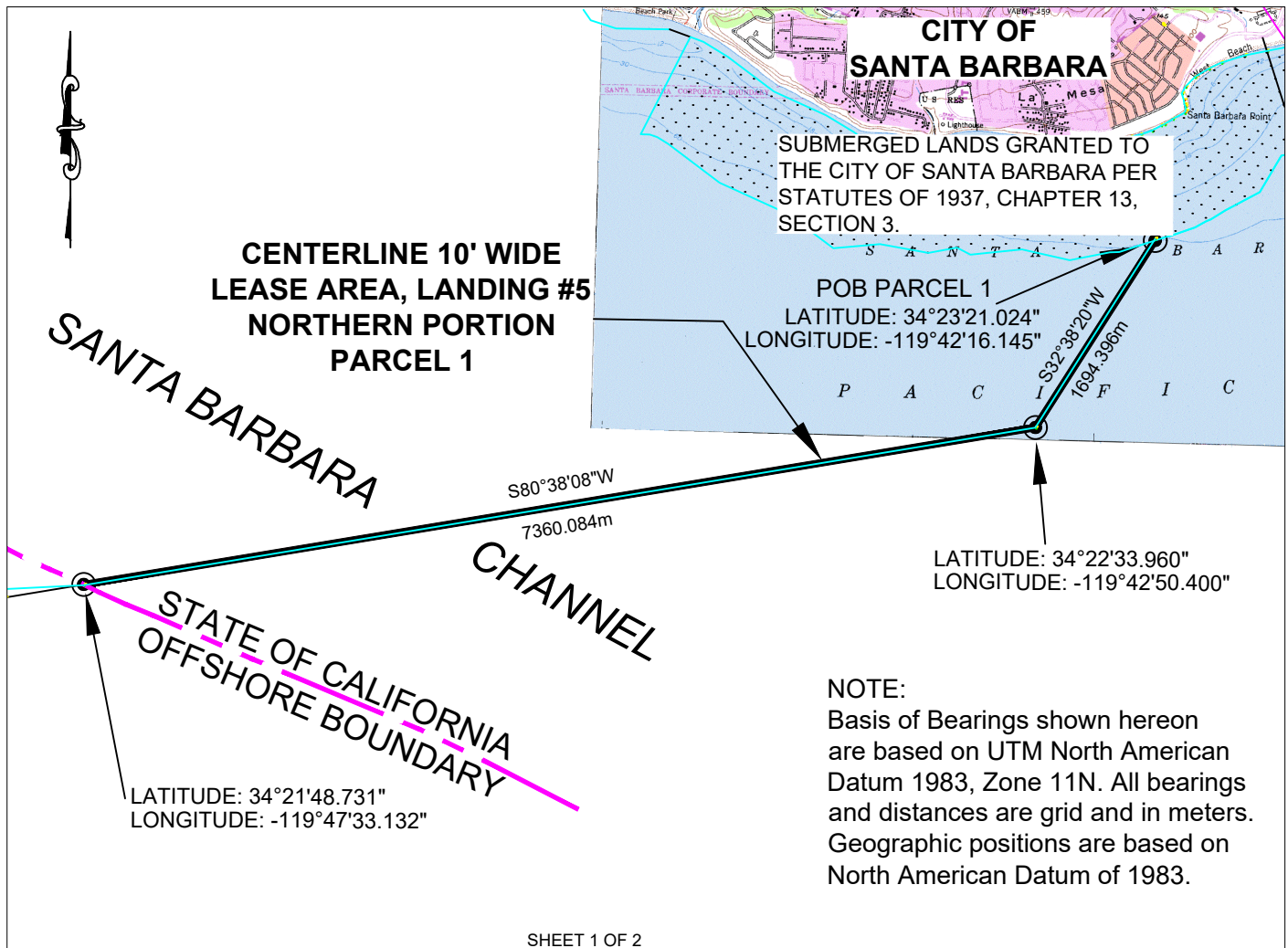
PRC 8168
ZAYO GROUP HOLDINGS, LLC
GENERAL LEASE -
RIGHT-OF-WAY USE
SANTA BARBARA COUNTY



MJF 11/29/2021

NO SCALE

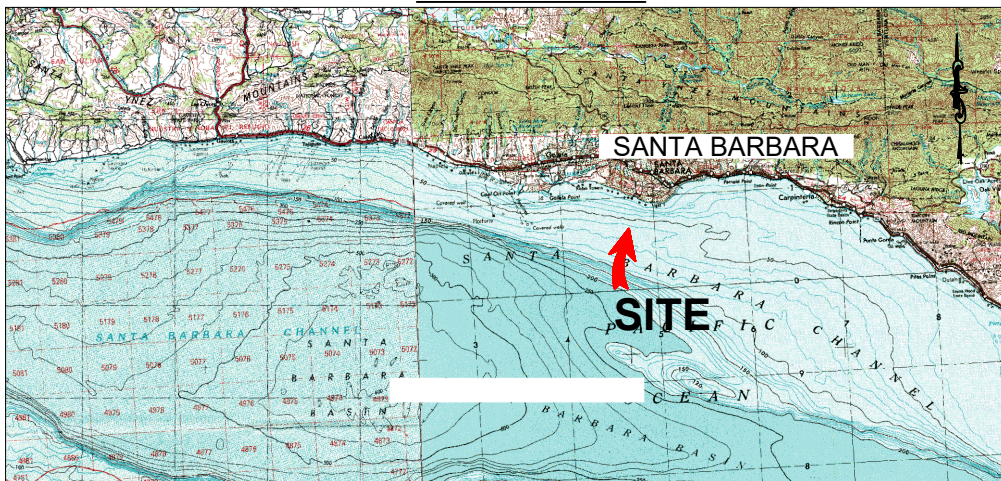
SITE



MORRO BAY TO SANTA BARBARA (PARCEL 1)

NO SCALE

LOCATION



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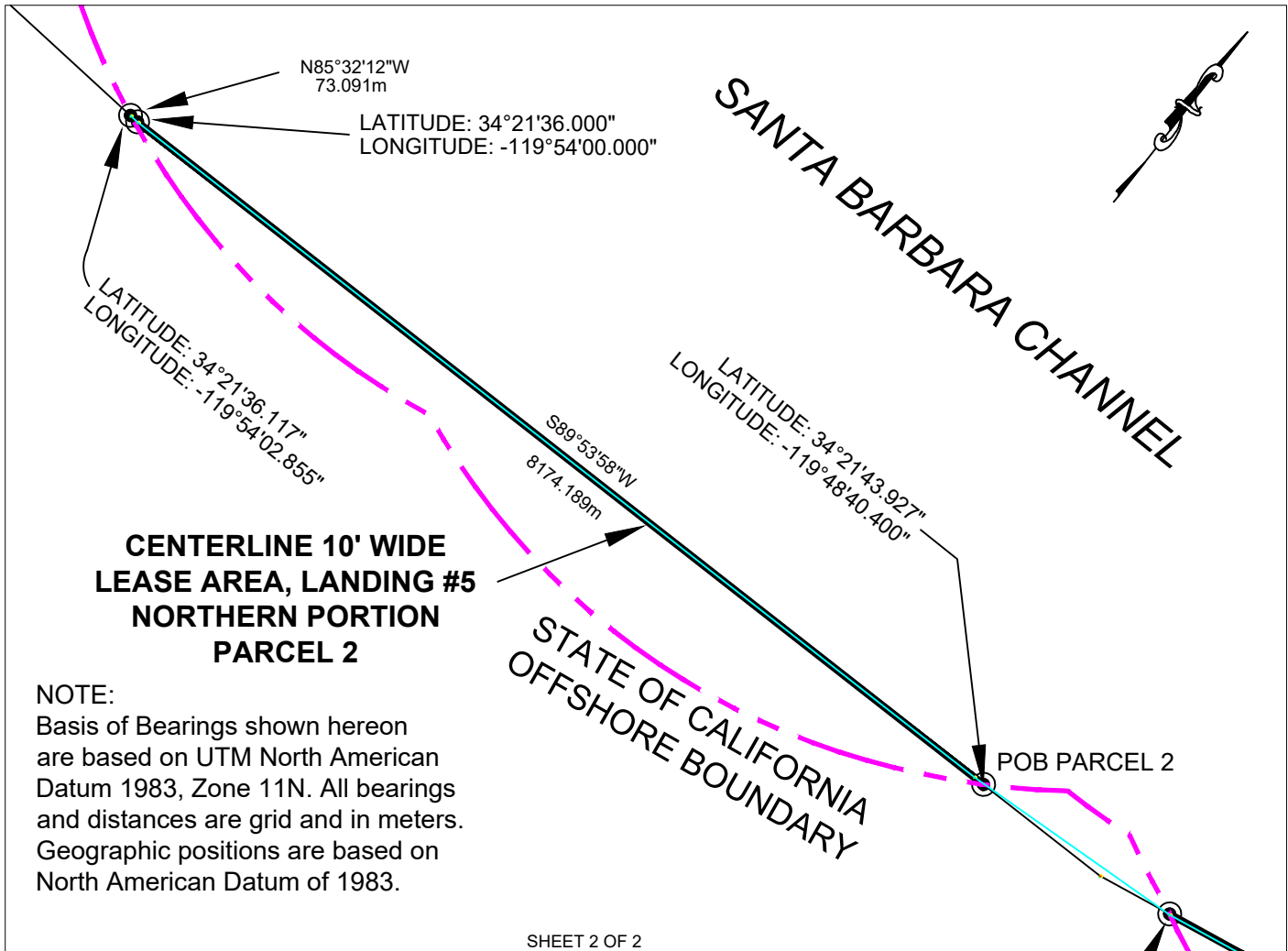
Exhibit A-4

PRC 8168
ZAYO GROUP HOLDINGS, LLO
GENERAL LEASE -
RIGHT-OF-WAY USE
SANTA BARBARA COUNTY



NO SCALE

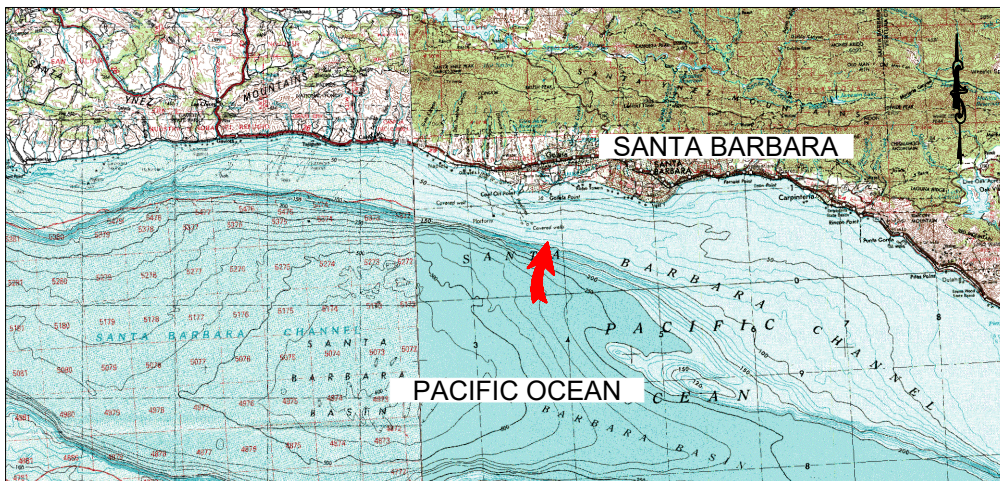
SITE



MORRO BAY TO SANTA BARBARA (PARCEL 2)

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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Exhibit A-4

PRC 8168
ZAYO GROUP HOLDINGS, LLC
GENERAL LEASE -
RIGHT-OF-WAY USE
SANTA BARBARA COUNTY



MJF 11/29/2021