

**CALENDAR ITEM  
C94**

A 35, 37

12/18/15  
PRC 8168.9  
A. Franzoia

S 17, 19

**RESCISSION OF APPROVAL OF A GENERAL LEASE – RIGHT-OF-WAY USE AND  
ISSUANCE OF A GENERAL LEASE – RIGHT-OF-WAY USE**

**APPLICANT:**

X2 Telecom, LLC

**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.

**LEASE 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.

**SPECIFIC LEASE PROVISIONS:**

**Insurance:** Liability insurance in an amount no less than \$1,000,000 per occurrence.

**Surety:** Surety bond or other security in the amount of \$1,375,000.

**Other:**

Lessee will perform a cable burial verification inspection survey within two months of Lease authorization to locate the horizontal position of the constructed facilities, and will submit a report on the survey results to Commission staff within thirty (30) days of survey completion. A comparison of the survey location data with the lease area will be made and new Exhibits A and B will be prepared by the Lessee, subject to review and approval by Commission staff. Subsequent

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cable burial verification inspection surveys will occur every five (5) years beginning from the written acceptance and approval of the first survey to be conducted and after events that affect the cable.

Lessee shall sign a Joinder Agreement with the Central California Joint Cable/Fisheries Liaison Committee (CCJCFLC) within 30 days of authorization of this lease.

**OTHER PERTINENT INFORMATION:**

1. The north-south portion of the cable runs from Morro Bay to San Diego and is more than 3 miles offshore in Federal waters beyond the Commission's jurisdiction. There are four spurs of the cable that come onshore at Morro Bay, Santa Barbara, Manhattan Beach, and San Diego. Based on the information provided, the Morro Bay and Santa Barbara spurs are within the Commission's leasing jurisdiction. As part of the Lease requirements, the Lessee will be conducting cable burial inspection surveys to determine the specific location of the cable along the entire length of the cable. Once staff has received as-built surveys, the entire and specific extent of improvements on sovereign land will be known and the Lessee will be required to submit an application for amendment.
2. Under Public Utilities Code section 7901, telephone corporations may construct and operate lines and equipment along and upon any public road, highway, or the navigable water of the State, without payment of compensation, provided the lines and facilities do not interfere with the public use.
3. On April 20, 2000, the Commission certified an Environmental Impact Report (EIR), adopted a Mitigation Monitoring Program (MMP), and authorized the issuance of Lease No. PRC 8168.9 to Global Photon Systems, Inc., as a rent-free Right-of-Way Permit pursuant to Public Utilities Code section 7901 to construct and operate a fiber optic cable crossing State lands offshore of San Luis Obispo and Santa Barbara Counties.
4. On June 27, 2000, the Commission approved the assignment of Lease No. PRC 8168.9 from Global Photon Systems, Inc., to Global West Network, Inc., effective July 1, 2000. The existing fiber optic line was built in 2001 and operated for approximately 18 months until Global West Network, Inc., went bankrupt and all use of the fiber optic line ceased.
5. On September 21, 2012, Commission staff provided formal written notification to Global West Network, Inc., that Lease No. PRC 8168.9 was

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terminated pursuant to terms of the permit. Staff determined that there had been no activity or operations of the cable since 2003.

6. On December 2, 2013, the Commission authorized the issuance of Lease No. PRC 8168.9, a General Lease – Right-of-Way Use to opticAccess, LLC, (opticAccess) for a period of 20 years. A lease condition requiring the Lessee to execute a Joinder Agreement with the CCJCFCLC was never met and the lease was never executed.
7. opticAccess was one of two controlling members of X2 Telecom, LLC (X2, LLC). X2, LLC, acquired Global West Network, Inc.'s, assets through a subsidiary pursuant to a series of assignments and a subsequent foreclosure on commercial loans.
8. On August 17, 2015, an Equity Purchase Agreement was signed by Integra Telecom Holdings, Inc., (Integra) through its subsidiary Integra Telecom Holdings LLC, for the purchase of opticAccess and X2, LLC.
9. On August 18, 2015, Integra and opticAccess notified the California Public Utilities Commission (CPUC) that they were seeking approval for the indirect transfer of control of opticAccess to Integra. The close of transfer by the CPUC occurred on October 8, 2015, with an effective date of October 2, 2015.
10. X2 Telecom, Inc. (X2, Inc.), was granted a Certificate of Public Convenience and Necessity (CPCN) by the CPUC on June 8, 2009, to operate as a facilities-based carrier of inter-Local Access and Transport Area (LATA) and, to the extent authorized by Decision 94-09-065, intra-LATA telecommunications services offered by communication common carriers in California. X2, Inc., was assigned corporate identification number U-7149-C.
11. On October 18, 2013, X2, Inc., submitted an advice letter to the CPUC for approval of the transfer of its CPCN to X2, LLC. Consistent with Decision 04-10-038 and General Order 96-B Telecommunications Industry Rule 7.2, X2, Inc., may transfer its CPCN to its affiliate, X2, LLC, through a Tier 2 advice letter. The Tier 2 advice letter became effective by law after 30 days without a protest or suspension.
12. opticAccess and X2, LLC, are wholly-owned subsidiaries of Integra Telecom Holdings, LLC. X2, LLC, is applying for a new General Lease - Right-of-Way Use to restart the operation and maintenance of the existing fiber optic cable.

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13. Some of the measures from the MMP, implemented during cable construction, and specific permit conditions refer to impacts of the fiber optic cable on commercial and recreational fishing. These measures and permit conditions are still applicable to the use and maintenance of the facilities and have been incorporated into the Lease to minimize interference with public trust uses.
14. Rescission of the lease authorization is not a project as defined by 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, section 15378, subdivision (b)(5).

15. The 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 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

16. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- |         |                       |
|---------|-----------------------|
| A.1-A.4 | Land Description      |
| B.1-B.4 | Site and Location Map |

**RECOMMENDED ACTION:**

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 2, section 2905, subdivision (a)(2).

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**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

1. Rescind the authorization to issue Lease No. PRC 8168.9, a General Lease – Right-of-Way Use, approved at the December 2, 2013 meeting.
2. Authorize issuance of a General Lease – Right-of-Way Use to X2 Telecom, LLC, beginning December 18, 2015, for a term of 20 years, for an existing fiber optic cable system as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be the public benefit derived from X2 Telecom, LLC's, acceptance of franchise obligations pursuant to California Public Utilities Code section 7901; liability insurance in an amount no less than \$1,000,000 per occurrence; surety bond or other security in the amount of no less than \$1,375,000.

**EXHIBIT A-1**

**PRC 8168.9**

**SANTA BARBARA TO SAN LUIS OBISPO  
LAND DESCRIPTION**

A ten foot wide strip of tide and submerged lands in the bed of the Pacific Ocean lying between the Ordinary High Water Mark and the State of California Offshore Boundary, San Luis Obispo County, State of California, the centerline of said strip more particularly described as follows:

BEGINNING at a centerline point of said 10 foot wide strip at Latitude 35° 24' 38.35" North, Longitude 120° 52' 22.49" West located near the Ordinary High Water Mark, thence along said centerline as defined by the following points:

South 77° 37' 55" West 8202.695 meters; to termination point of said centerline on the State of California Offshore Boundary, said point lying on a non-tangent curve, concave to the north having a 5556 meter radius, a radial line to said point bears South 13° 09' 43" West.

The sidelines of said 10 foot wide strip of tide and submerged lands to be prolonged or shortened at said Ordinary High Water Mark, said State of California Offshore Boundary and at angle-point intersections.

EXCEPTING THEREFROM any portion of said ten-foot wide strip of tide and submerged lands lying landward of said Ordinary High Water Mark

The basis of bearing for this description is UTM North American Datum 1983, Zone 11N. All bearings and distances are grid and meters. Geographic positions are based on North American Datum of 1983.

**END OF DESCRIPTION**

This land description is based on design drawings and may not represent actual centerline location and shall be revised upon the submittal of as-built locations provided by section 2-14 of the lease agreement PRC 8168.

**EXHIBIT A-2**

**PRC 8168.9**

**MORRO BAY TO MONTEREY  
LAND DESCRIPTION**

A ten foot wide strip of tide and submerged lands in the bed of the Pacific Ocean lying between the Ordinary High Water Mark and the State of California Offshore Boundary, San Luis Obispo County, State of California, the centerline of said strip more particularly described as follows:

BEGINNING at a centerline point of said 10 foot wide strip at Latitude 35° 24' 45.00" North, Longitude 120° 52' 24.76" West; thence South 88° 46' 13" West 140.29 meters to a point located near the Ordinary High Water Mark, thence along said centerline as defined by the following points:

South 88° 46' 13" West 1040.54 meters; thence South 85° 40' 19" West 9538.27 meters to termination point of said centerline on the State of California Offshore Boundary, said point lying on a non-tangent curve, concave to the northeast having a 5556 meter radius, a radial line to said point bears South 37° 02' 46" West.

The sidelines of said 10 foot wide strip of tide and submerged lands to be prolonged or shortened at said Ordinary High Water Mark, said State of California Offshore Boundary and at angle-point intersections.

EXCEPTING THEREFROM any portion of said ten-foot wide strip of tide and submerged lands lying landward of said Ordinary High Water Mark.

The Basis of Bearings for this description is UTM North American Datum 1983, Zone 11N. All bearings and distances are grid and meters. Geographic positions are based on North American Datum of 1983.

**END OF DESCRIPTION**

This land description is based on design drawings and may not represent actual centerline location and shall be revised upon the submittal of as-built locations provided by section 2-14 of the lease agreement PRC 8168.

**EXHIBIT A-3**

**PRC 8168.9**

**MANHATTAN BEACH TO SANTA BARBARA  
LAND DESCRIPTION**

A ten foot wide strip of tide and submerged lands in the bed of the Pacific Ocean lying between the submerged lands granted to the City of Santa Barbara as shown in Statutes of 1937, Chapter 13, Section 3 and the State of California Offshore Boundary, Santa Barbara County, State of California, the centerline of said strip more particularly described as follows:

BEGINNING at a point on said Grant Boundary at Latitude  $34^{\circ} 23' 43.776''$  North, Longitude  $119^{\circ} 41' 33.798''$  West, said point lying on a line that bears South  $80^{\circ} 31' 14''$  West; thence along the centerline of said 10 foot wide strip South  $17^{\circ} 40' 11''$  East 3841.310 meters; thence South  $10^{\circ} 16' 09''$  East 1,054.208 meters; thence South  $12^{\circ} 53' 02''$  East 128.208 meters to the termination point of said centerline on the State of California Offshore Boundary, said point lying on a non-tangent curve concave to the northwest having a 5556 meter radius that bears North  $26^{\circ} 04' 35''$  West. The sidelines of said 10 foot wide strip of tide and submerged lands to be prolonged or shortened at said Grant boundary, said State of California Offshore Boundary and at angle-point intersection.

EXCEPTING THEREFROM any portion of said 10 foot wide strip of tide and submerged lands lying within the Grant to the City of Santa Barbara.

The basis of bearings for this description is UTM North American Datum of 1983 Zone 11N. All bearings and distances are grid and in meters. Geographic positions are based on North American Datum of 1983.

**END OF DESCRIPTION**

This land description is based on design drawings and may not represent actual centerline location and shall be revised upon the submittal of as-built locations provided by section 2-14 of the lease agreement PRC 8168.

**EXHIBIT A-4**

**PRC 8168.9**

**SANTA BARBARA TO MORRO BAY  
LAND DESCRIPTION**

A ten foot wide strip of tide and submerged lands in the bed of the Pacific Ocean lying between the submerged lands granted to the City of Santa Barbara as shown in Statutes of 1937, Chapter 13, Section 3 and the State of California Offshore Boundary, Santa Barbara County, State of California, the centerline of said strip more particularly described as follows:

**Parcel 1**

BEGINNING at a point on said Grant Boundary at Latitude  $34^{\circ} 23' 21.024''$  North, Longitude  $119^{\circ} 42' 16.145''$  West, said point lying on a line that bears South  $72^{\circ} 14' 56''$  West; thence along the centerline of said 10 foot wide strip South  $32^{\circ} 38' 20''$  West 1,694.396 meters; thence South  $80^{\circ} 38' 08''$  West 7,360.084 meters; to the termination point of said centerline on the State of California Offshore Boundary, said point lying on a non-tangent curve concave to the north having a 5556 meter radius that bears North  $26^{\circ} 56' 34''$  East. The sidelines of said 10-foot wide strip of tide and submerged lands to be prolonged or shortened at said Grant boundary, said State of California Offshore Boundary and angle-point intersection.

**Parcel 2**

BEGINNING at a point on said State of California Offshore Boundary at Latitude  $34^{\circ} 21' 43.927''$  North, Longitude  $119^{\circ} 48' 40.400''$  West, said point lying on a non-tangent curve concave to the north having a 5556 meter radius that bears North  $30^{\circ} 34' 23''$  West; thence along the centerline of said 10 foot wide strip South  $89^{\circ} 53' 58''$  West 8,174.189 meters; thence North  $85^{\circ} 32' 12''$  West 73.091 meters; to the termination point of said centerline on the State of California Offshore Boundary, said point lying on a non-tangent curve having a 5556 meter radius that bears North  $22^{\circ} 52' 38''$  East. The sidelines of said 10 foot wide strip of tide and submerged lands to be prolonged or shortened at said Grant boundary, said State of California Offshore Boundary and angle-point intersection.

EXCEPTING THEREFROM any portion of said 10 foot wide strip of tide and submerged lands lying within the Grant to the City of Santa Barbara.

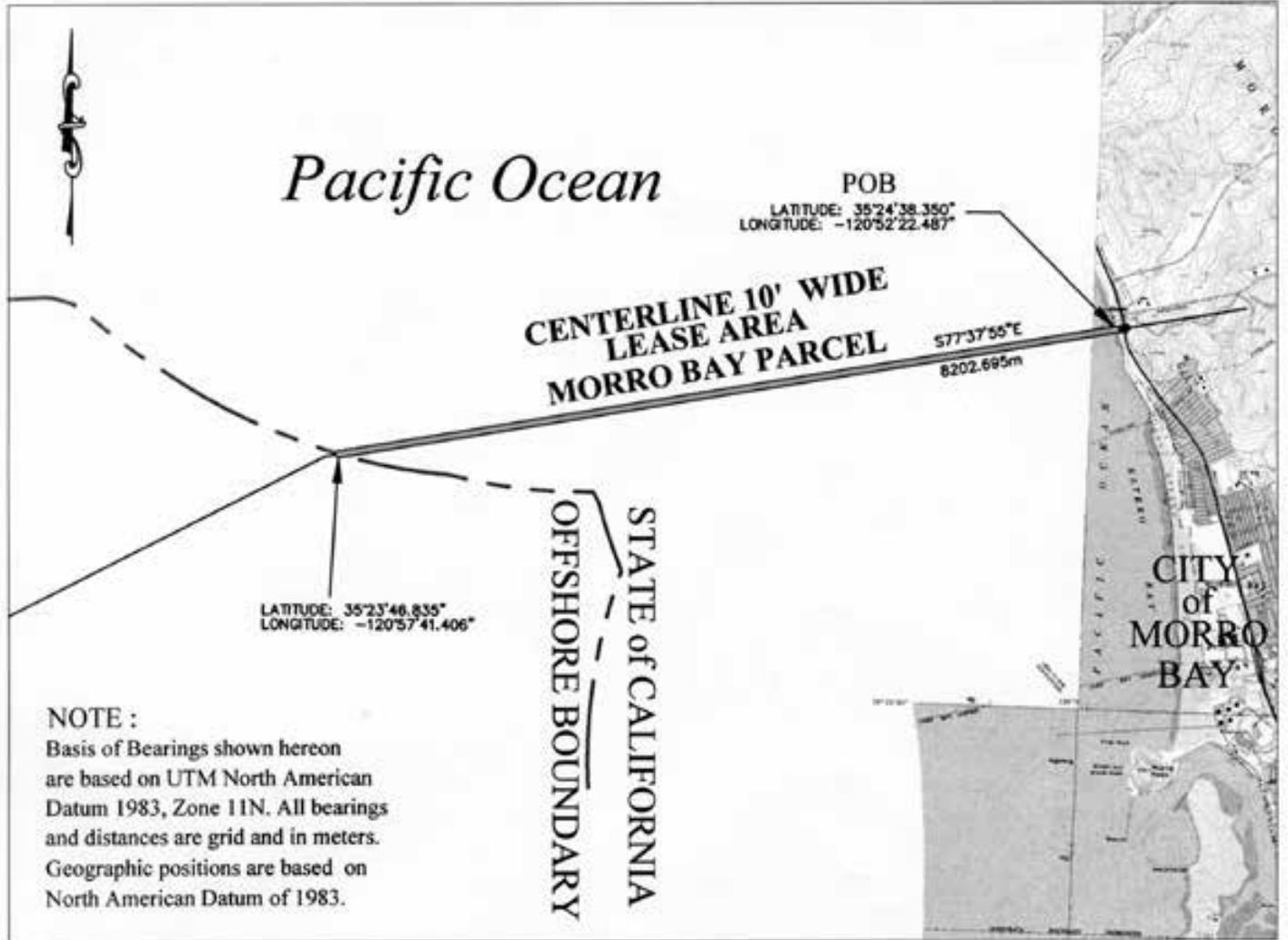
The basis of bearings for this description is UTM North American Datum of 1983 zone 11N. All bearings and distances are grid and in meters. Geographic positions are based on North American Datum of 1983.

**END OF DESCRIPTION**

This land description is based on design drawings and may not represent actual centerline location and shall be revised upon the submittal of as-built locations provided by section 2-14 of the lease agreement PRC 8168.

NO SCALE

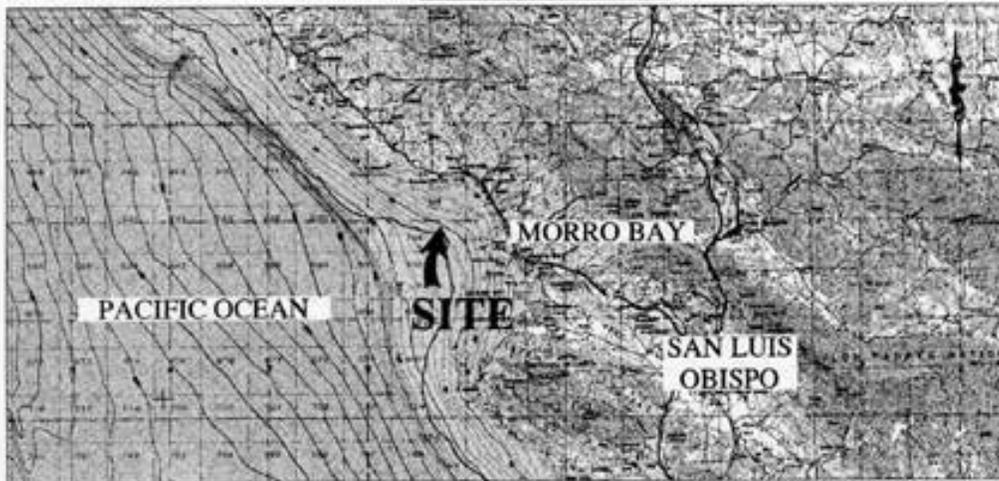
# SITE



## MORRO BAY TO SANTA BARBARA

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 B-1

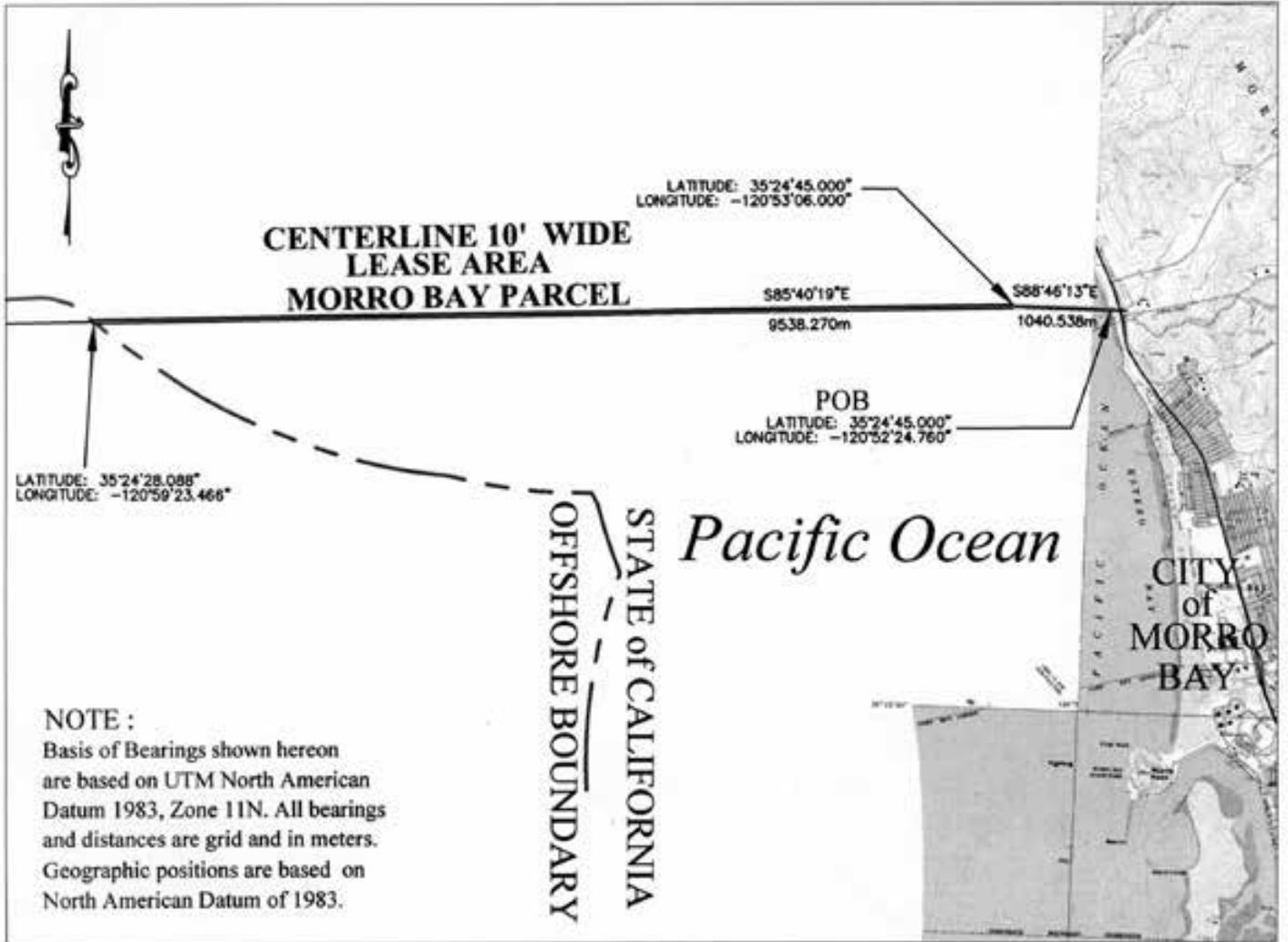
PRC 8168.9  
 X2 TELECOM, LLC  
 GENERAL LEASE -  
 RIGHT-OF-WAY USE  
 SAN LUIS OBISPO COUNTY



MPF 11/24/15

NO SCALE

# SITE



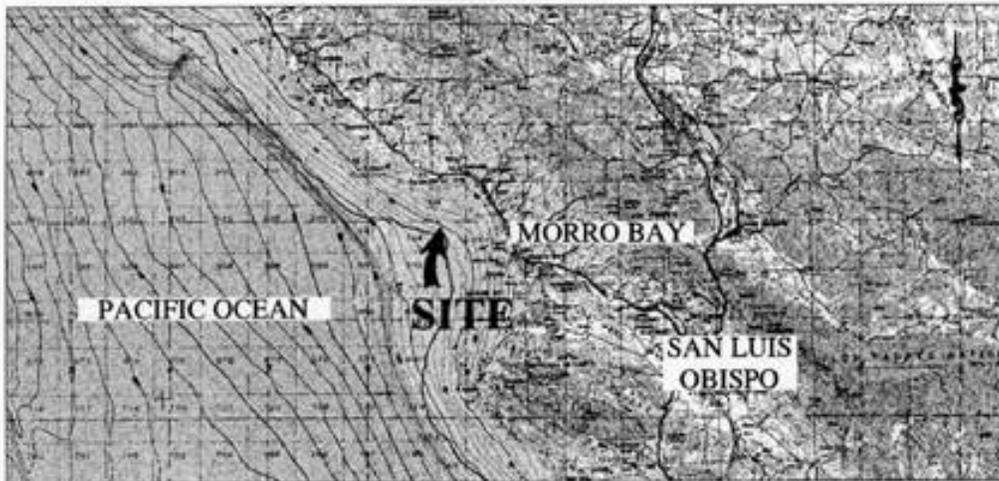
**NOTE :**

Basis of Bearings shown hereon are based on UTM North American Datum 1983, Zone 11N. All bearings and distances are grid and in meters. Geographic positions are based on North American Datum of 1983.

MORRO BAY

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

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## Exhibit B-2

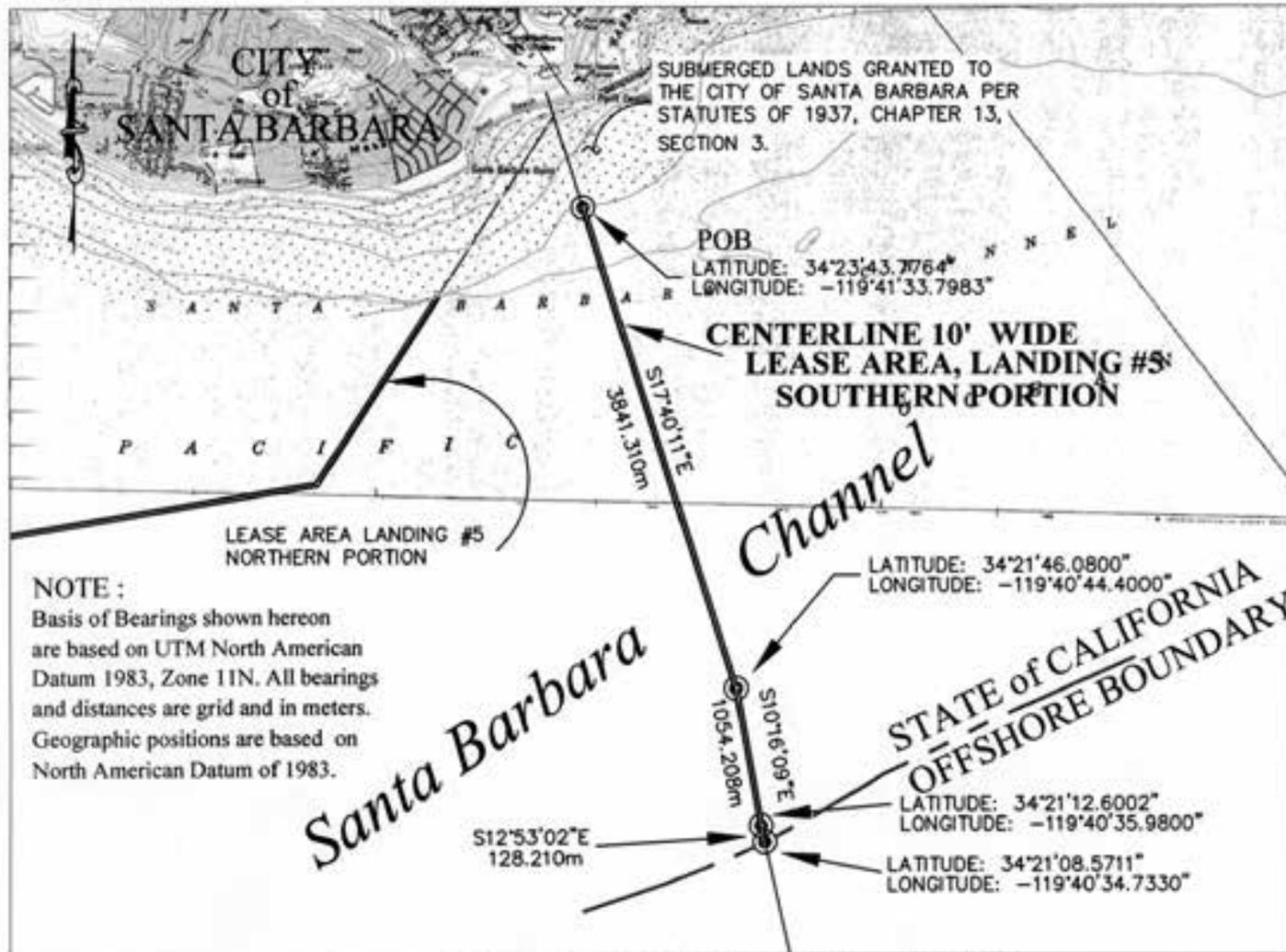
PRC 8168.9  
X2 TELECOM, LLC  
GENERAL LEASE -  
RIGHT-OF-WAY USE  
SANTA BARBARA COUNTY



MFJ 11/24/15

NO SCALE

### SITE



### SANTA BARBARA TO MANHATTAN BEACH

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

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### Exhibit B-3

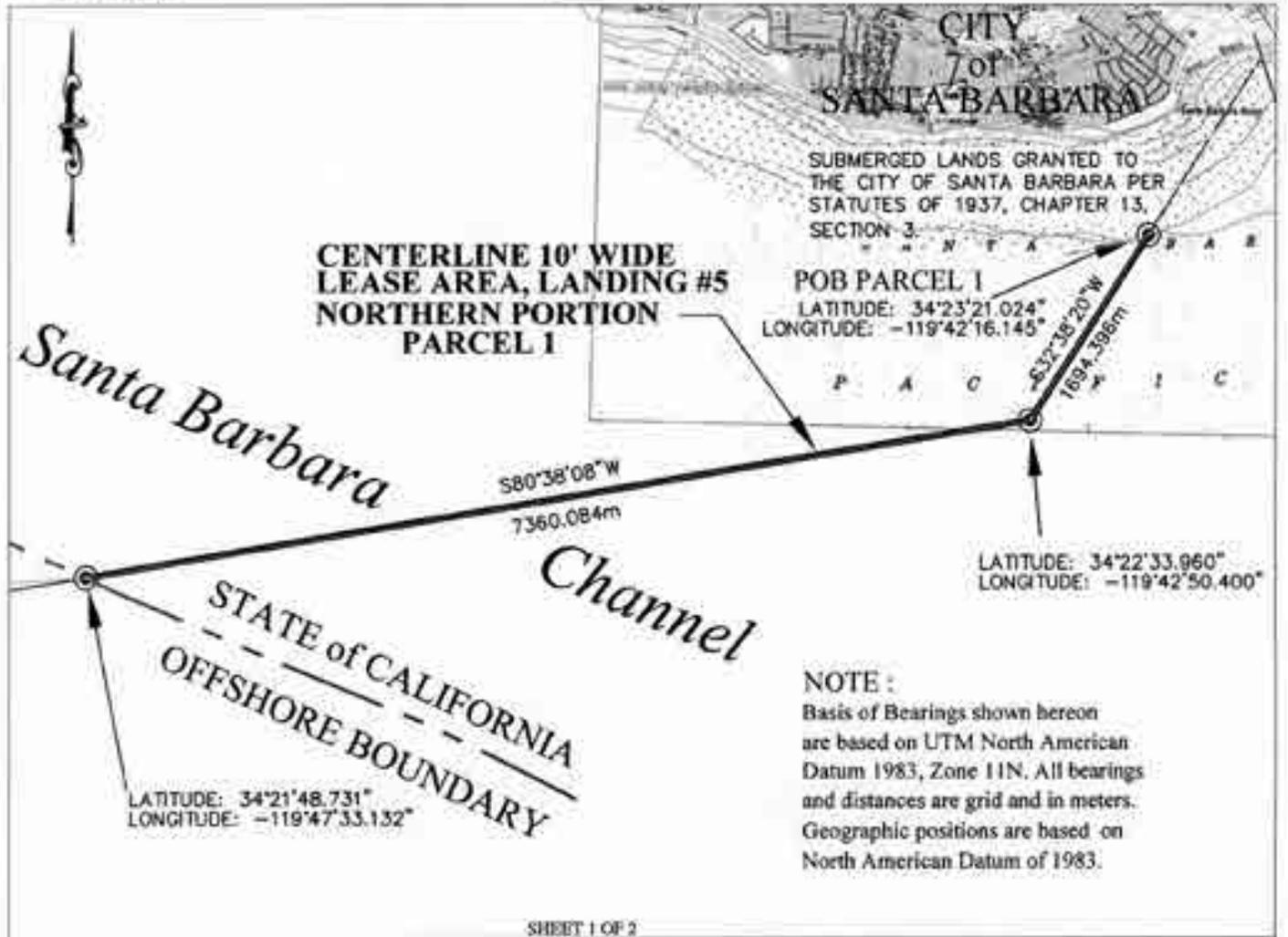
PRC 8168.9  
 X2 TELECOM, LLC  
 GENERAL LEASE -  
 RIGHT-OF-WAY USE  
 SANTA BARBARA COUNTY



MJP 11/24/15

NO SCALE

### SITE



### MORRO BAY TO SANTA BARBARA (PARCEL 1)

NO SCALE

### LOCATION



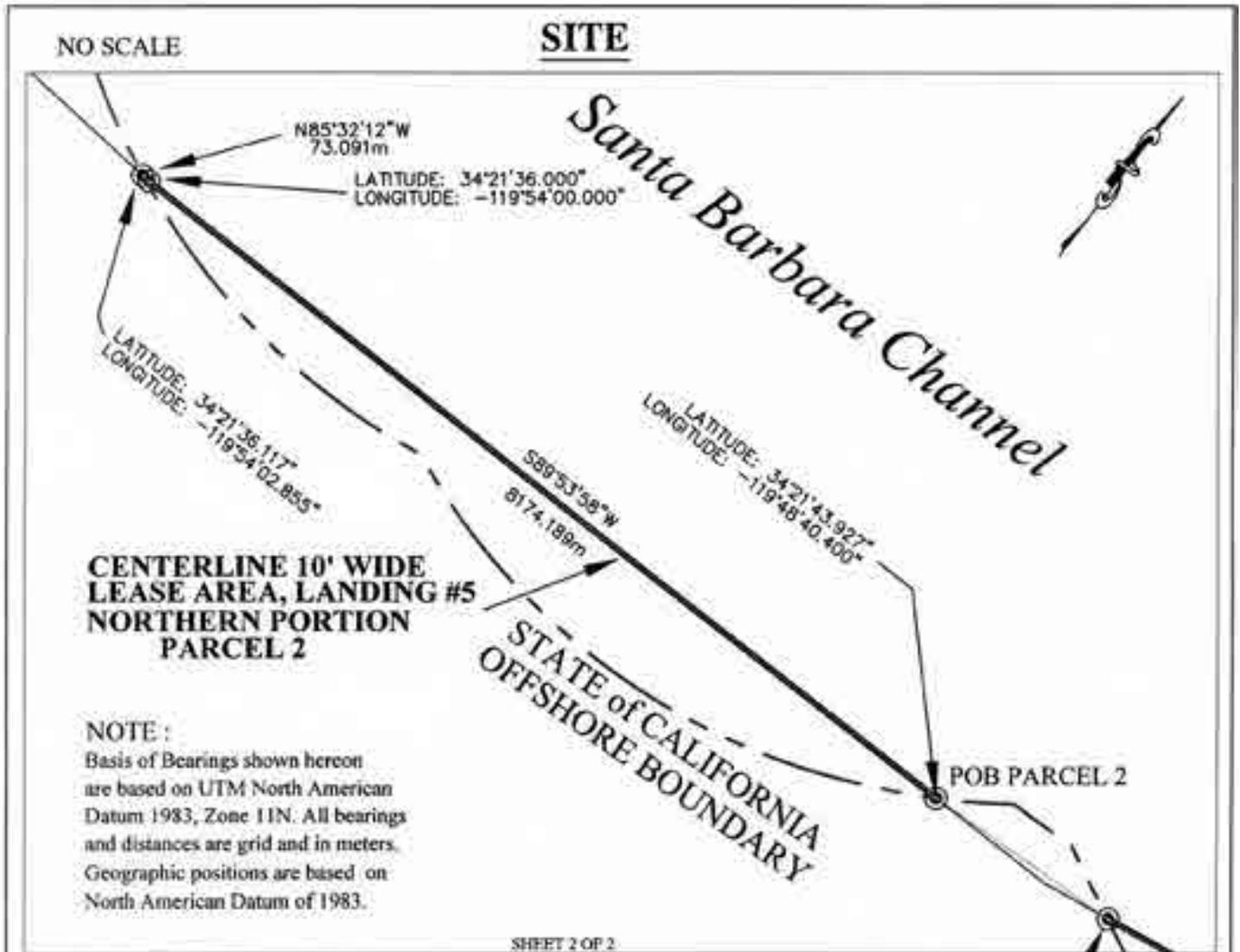
MAP SOURCE: USGS QUAD

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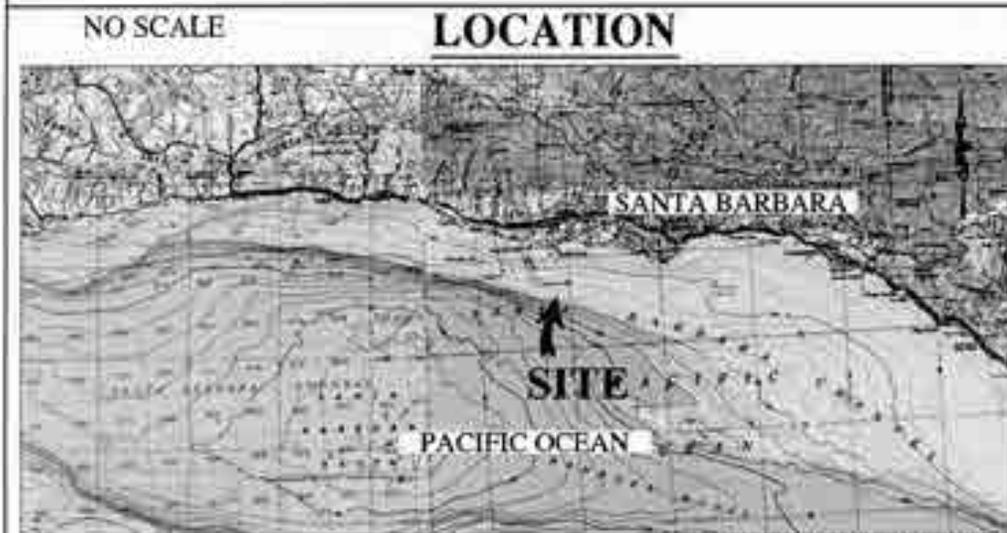
### Exhibit B-4

PRC 8168.9  
X2 TELECOM, LLC  
GENERAL LEASE -  
RIGHT-OF-WAY USE  
SANTA BARBARA COUNTY





**MORRO BAY TO SANTA BARBARA (PARCEL 2)**



MAP SOURCE: USGS QUAD

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**Exhibit B-4**  
 PRC 8168.9  
 X2 TELECOM, LLC  
 GENERAL LEASE -  
 RIGHT-OF-WAY USE  
 SANTA BARBARA COUNTY



MIP 11/24/15