

**STAFF REPORT  
C62**

A 72  
S 34

02/27/18  
PRC 3792.1  
R. Collins

**RESCISSION OF APPROVAL OF A GENERAL LEASE – PUBLIC AGENCY USE;  
ISSUANCE OF A GENERAL LEASE – PUBLIC AGENCY USE; AND  
ENDORSEMENT OF SUBLEASES**

**APPLICANT/SUBLESSOR:**

City of Seal Beach

**SUBLESSEES:**

DCOR, LLC

SoCal Holdings, LLC

~~Michael E. Balchin dba River's End Cafe~~ Bay City, LLC

ABM Parking Services

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Pacific Ocean, in the city of Seal Beach, Orange County.

*AUTHORIZED USE:*

Use and maintenance of an existing pier with a lifeguard tower, 750-foot-long concrete sheet pile groin, maintenance building, storage building, restaurant, public restroom, picnic area, raised planter areas with retaining walls, three parking lots, tot lot with a perimeter wall; the construction, use, and maintenance of a seasonal flood control berm to prevent beach run-up during winter months; and the seasonal placement, use, and maintenance of temporary lifeguard stations.

*LEASE TERM:*

30 years, beginning June 22, 2016.

*CONSIDERATION:*

Annual rent in the amount of \$125, with additional consideration being the public use and benefit; with rent reviews conducted on the 10th and 20th anniversary of the lease, or upon any extension or amendment of an

STAFF REPORT NO. **C62** (CONT'D)

existing sublease, or upon execution of a new sublease, as provided in the lease.

*SPECIFIC LEASE PROVISIONS:*

1. Lessee shall maintain liability insurance in an amount no less than \$5,000,000 per occurrence, and each sublessee shall maintain Commercial General Liability insurance in an amount of no less than \$5,000,000 for all subleases or agreements for any activity occurring within the Lease Premises.
2. Lessee shall conduct above water and underwater inspections at periodic intervals during the lease term for the Seal Beach Municipal Pier in compliance with standards set by the American Society of Civil Engineers (ASCE), as specified in the lease. Lessee shall provide copies of the inspection reports, to include any necessary remedial action plan, to Lessor's staff for review.
3. Lessee shall execute a reimbursement agreement with Lessor to pay for all reasonable costs and expenditures paid or incurred by the Commission and its staff for review and approval of any plan or related materials required herein, including but not limited to any review or preparation of reports, documents or other actions as required pursuant to the California Environmental Quality Act (CEQA), plan reviews, and/or amendments.
4. Lessee shall provide Lessor with an annual summary of the temporary berm construction and related information as specified in the lease, by the lease anniversary date of each year, beginning June 22, 2018.
5. Lessor shall conduct rent reviews on the 10th and 20th anniversary of the lease; notwithstanding, Lessor reserves the right to revise the rent upon any extension or amendment of an existing sublease, or upon execution of a new sublease.
6. Five years prior to the expiration of this Lease, Lessee shall submit to Lessor a summary report that details resiliency planning efforts and adaptation strategies related to sea-level rise impacts within the Lease Premises. The report will include a record of flood frequency and extent, and protective measures taken to reduce flood risk to public and visitor-serving facilities within the Lease Premises and upland property. Findings from the utility safety

STAFF REPORT NO. **C62** (CONT'D)

assessment inspection report for the Seal Beach Pier will also be summarized in the report as well as any emergency repairs made to structures located in the Lease Premises. The contents of this report will enable Lessor and Lessee to assess the effectiveness of these planning efforts in maintaining and enhancing the resiliency of Public Trust resources and values within the Lease Premises subject to the risks associated with sea-level rise and climate change.

**SUBLEASE: DCOR, LLC**

*AUTHORIZED USE:*

Use of the parking lot and boat landing from the pier.

*CURRENT SUBLEASE TERM:*

Month-to-month.

**SUBLEASE: SoCal Holdings, LLC**

*AUTHORIZED USE:*

Use of the parking lot and boat landing from the pier.

*CURRENT SUBLEASE TERM:*

Month-to-month.

**SUBLEASE: Bay City LLC**

*AUTHORIZED USE:*

Use and maintenance of the River's End Café and a public restroom.

*CURRENT SUBLEASE TERM:*

20 years, ending February 12, 2038.

**SUBLEASE: ABM Parking Services**

*AUTHORIZED USE:*

Management and operation of three public parking lots.

*CURRENT SUBLEASE TERM:*

Month-to-month.

**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.

## STAFF REPORT NO. C62 (CONT'D)

### **Public Trust and State's Best Interests Analysis:**

On June 22, 1967, the Commission authorized a 49-year General Lease – Public Agency Use to the City of Seal Beach ([Item 43, June 22, 1967](#)) for an existing pier, parking lots, and other related facilities. The lease expired on June 21, 2016, and the City is now applying for a new lease.

On August 9, 2016, The Commission authorized a 30-year General Lease – Public Agency Use to the City of Seal Beach ([Item C28, August 9, 2016](#)) for use and maintenance of an existing pier with a lifeguard tower, 750-foot-long concrete sheet pile groin, maintenance building, storage building, restaurant, public restroom, picnic area, raised planter areas with retaining walls, three parking lots, and tot lot with a perimeter wall; the construction, use, and maintenance of a seasonal flood control berm to prevent beach run-up during winter months; beach nourishment; and the seasonal placement, use, and maintenance of temporary lifeguard stations. After the Commission authorized the issuance of the lease, the Seal Beach City Council requested that staff renegotiate the terms of the lease including consideration of the regional and statewide public benefit derived from the improvements. The lease was never executed.

The mile-long public beach is divided into two segments by a 750-foot-long concrete sheet pile groin immediately west of the pier. The west segment of the beach (West Beach) is 2,600 feet long and varies in width from 1,200 feet on the west end near the San Gabriel River to 250 feet adjacent to the groin. The east segment of the beach (East Beach) is 2,400 feet long and varies in width from 500 feet adjacent to the groin to as little as 100 feet in width at Dolphin Street before becoming 500 feet wide at the far east end of the beach adjacent to the Anaheim Bay west jetty. Every summer the City places and provides staffing for temporary lifeguard stations evenly spaced along the entire beach frontage.

Originally built in 1906 with a length of 1,865 feet, the Seal Beach pier is the second longest wooden pier in California. The pier, with a lifeguard tower, is currently used for sightseeing and fishing. It is also a shuttle pick-up/drop-off point used by several oil companies for employees, equipment, and supplies to offshore oil platforms and petroleum producing islands.

On May 20, 2016, a fire broke out on the Seal Beach pier causing extensive structural damage to the pier and destroying a vacant restaurant and bait shop at the end of the pier. The City took emergency action to assess damage and initiate expeditious demolition and repair of the damaged pier. Repair of the structure involved like-for-like replacement of

STAFF REPORT NO. **C62** (CONT'D)

damaged stringers, cross braces, melted and distorted pile wraps, decking, and lighting appurtenances. On August 9, 2017, the California Coastal Commission approved with conditions Coastal Development Permit No. 5-17-0167 for the upgrade of utility lines on the municipal pier (including water, sewer, gas and electrical lines), and to make structural repairs (to cracked concrete encasements, broken piles, handrails, stringers, braces, and some timber decking).

The City has requested a 30-year lease term to allow prospective restaurant operators to secure long-term financing to rebuild the restaurant. After the City secures a restaurant operator, a restaurant replacement plan has been finalized, and CEQA review has been completed, the City will be required to return to the Commission to amend the lease to authorize the construction and use of a second restaurant and sublease on the lease premises.

The City has entered into four subleases on the lease premises. The DCOR, LLC, and SoCal Holdings, LLC, subleases allow for landing rights to transport materials, equipment, and employees to off-shore oil platforms and to provide unassigned parking within the parking lots for employees. The third sublease is to Bay City LLC for the operation and maintenance of a restaurant and restroom near the mouth of the San Gabriel River, and the fourth lease is to ABM Parking Services for the management and operation of the three parking lots. The 1st Street parking lot located at the west end of West Beach near the San Gabriel River is entirely on sovereign land and 34 percent of the 8th and 10th Street parking lots straddling the pier occupy sovereign land.

The City uses a maintenance and a storage building located on sovereign land adjacent to the San Gabriel River immediately north of the 1st Street parking lot. Maintenance activities consist of pier maintenance including decking replacement, parking lot maintenance, beach erosion control, and collection of garbage from waste collection receptacles maintained on the pier, in park areas, parking lots, restrooms, and on the beach.

The River's End Café, picnic area, and a public restroom occupy sovereign land on West Beach adjacent to the San Gabriel River. The picnic area provides concrete tables and a grassy area adjacent to the beach and public restroom.

A portion of a tot lot/beachside playground is located on sovereign land between the pier and the 10th Street parking lot on East Beach. The playground is bordered by a wide sandy beach, has recently been

## STAFF REPORT NO. C62 (CONT'D)

updated with new equipment, and is compliant with the Americans with Disabilities Act. The playground is a visitor-serving and visitor-attracting amenity to the beach, pier and other public spaces.

The City constructs a seasonal flood control berm on East Beach to an elevation of 20 feet above the mean low-water line to prevent beach run-up during winter months. Coastal flooding occurs in the area between 13<sup>th</sup> Street and Dolphin Street under conditions of high tides and west swells. In early winter the berm is constructed using sand that has accreted on West Beach. It remains in place for approximately 4 months, after which the berm is removed, and the beach is returned to its normal condition.

Seal Beach is a popular destination in Southern California and the public beach and pier play an integral part in attracting visitors for recreation, fishing, and sightseeing purposes. The flat beach and pier structure provide sufficient space for both the pier and other Public Trust uses. The location and structure of the pier allow the public to walk or navigate under or around the pier for continuous access within the Public Trust land. The pier promotes the public's right to use the ocean to engage in commerce, navigation, and fisheries, as well as the aforementioned recreational activities.

The proposed lease requires the City to insure the lease premises and indemnify the State. The authorized uses promote water-related public use of Public Trust land and provide a variety of visitor-serving amenities to help the public access and enjoy these lands.

### **Climate Change Analysis:**

The lease area, consisting of two public beaches (East Beach and West Beach), the public pier, and the seasonal berm on East Beach, may be vulnerable to sea-level rise within the term of the lease. The lease area is bounded on the southern end by a jetty that separates Seal Beach from Anaheim Bay and on the northern end by a series of jetties to channelize outflow of the San Gabriel River. The lease area is bisected by the public pier and a 750-foot-long concrete sheet pile groin underneath the pier. These structures exert an artificial influence on the littoral cell sand transport system, resulting in an annual accretion of sand on the West Beach and a depletion of sand on the East Beach. The region is projected to experience up to 2 feet of sea-level rise by 2050 (National Research Council 2012). Additional climate change impacts such as more frequent and stronger winter storm and flooding events may contribute to increased vulnerability throughout the lease area. These cumulative impacts could result in accelerated rates of erosion and beach loss.

STAFF REPORT NO. **C62** (CONT'D)

Currently, the lessee constructs a 20-foot high sand berm along East Beach each winter, using sand that has accreted on the West Beach. The berm protects upland property, including private residential property, from storm activity.

Over the proposed 30-year lease, sea levels will continue to rise, and storm impacts are likely to increase, potentially increasing the risk to Public Trust resources and values located within and around the lease area, including recreational values associated with the beach, public parking lots, the pier, picnic area, restaurant, and public restrooms. The West Beach is prone to flooding due to its proximity to the San Gabriel River mouth. Increased flooding events in the future could limit the sand supply from the West Beach due to scouring, impacting the East Beach berm by decreasing the amount of available sand for construction. The berm is located on the most erodible section of the beach, and could be subject to increased wave action over time. The combination of sea-level rise, increased wave activity, more frequent storm events, and changing erosion rates could necessitate additional beach nourishment, construction of a higher berm, or other adaptation strategies. Any such adaptation strategies would require a lease amendment.

Pursuant to the proposed lease, the City acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change including sea-level rise. Various lease terms require the submission of reports dealing with the impacts of sea-level rise on the improvements and adaptation to any impacts.

**Conclusion:**

For all the reasons above, staff believes the issuance of this lease and endorsement of subleases are consistent with the common law Public Trust Doctrine; will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; and are in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction; Strategy 1.2 to provide that the current and future management of ungranted sovereign lands and resources and granted lands is consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate

STAFF REPORT NO. **C62** (CONT'D)

change; and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

2. Rescission of the Commission's previous approval of a lease, including the previous endorsement of subleases, 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).

3. The staff recommends that the Commission find that issuance of the lease, including endorsement of subleases, 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.

**APPROVALS OBTAINED:**

California Coastal Commission  
U.S. Army Corps of Engineers

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that issuance of the lease, including endorsement of subleases, 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).



STAFF REPORT NO. **C62** (CONT'D)

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

Find that the proposed lease and subleases will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; are consistent with the common law Public Trust Doctrine; and are in the best interests of the State.

**AUTHORIZATION:**

1. Rescind authorization to issue Lease No. PRC 3792.1, a General Lease – Public Agency Use to the City of Seal Beach, and endorsement of subleases, approved at the Commission's August 9, 2016 meeting.
2. Authorize issuance of a General Lease – Public Agency Use to the City of Seal Beach beginning June 22, 2016, for a term of 30 years, for use and maintenance of an existing pier with a lifeguard tower, 750-foot-long concrete sheet pile groin, a maintenance and storage building, restaurant, public restroom, picnic area, raised planter areas with retaining walls, three parking lots, tot lot with a perimeter wall; the construction, use, and maintenance of a seasonal flood control berm to prevent beach run-up during winter months; and the seasonal placement, use, and maintenance of temporary lifeguard stations; as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$125, with rent reviews conducted on the 10th and 20th anniversary of the lease, or upon any extension or amendment of an existing sublease, or upon execution of a new sublease, as provided in the lease; liability insurance in an amount no less than \$5,000,000 per occurrence for lessee, and Commercial General Liability insurance in an amount no less than \$5,000,000 for each sublessee.
3. Authorize by endorsement an existing sublease from the City of Seal Beach to DCOR, LLC, of a portion of Lease No. PRC 3792.1, with a month-to-month tenancy.
4. Authorize by endorsement an existing sublease from the City of Seal Beach to SoCal Holdings, LLC, of a portion of Lease No. PRC 3792.1, with a month-to-month tenancy.
5. Authorize by endorsement an existing sublease from the City of Seal Beach to Bay City LLC, for use and maintenance of a

STAFF REPORT NO. **C62** (CONT'D)

restaurant and restroom of a portion of Lease No. PRC 3792.1, with a 20-year term.

6. Authorize by endorsement an existing sublease from the City of Seal Beach to ABM Parking Services, of a portion of Lease No. PRC 3792.1, with a month-to-month tenancy.

**EXHIBIT A**

**PRC 3792.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land, land situate in the bed of San Pedro Bay, lying adjacent to protracted Section 14, T5S, R12W, SBM as shown on the Official Township Plat, approved April 7, 1914, Orange County, State of California, and more particularly described as follows:

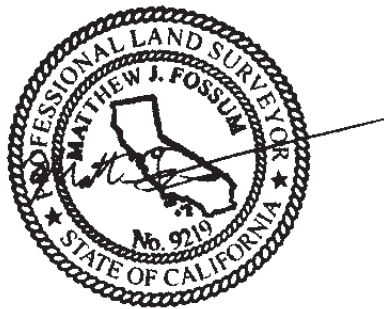
COMMENCING at the southeast corner of Tract No. 1 in the City of Seal Beach, County of Orange, State of California, said corner being the intersection of the northeast line of Electric Avenue with the southern line of Seal Way as shown upon the map of said Tract No. 1, recorded in Book 9 of Miscellaneous Maps at Page 1, Orange County Records; thence continuing southwesterly along the southern line of Seal Way as shown on said map to a point which bears easterly along said line N 77°28'25" E 210.68 feet from the intersection of the southerly prolongation of the centerline of Neptune Avenue and the southern line of Seal Way, said point being the POINT OF BEGINNING; thence continuing westerly along the southern line of Seal Way as shown on said map to the westerly boundary of Tract No. 1; thence northwesterly from said point in a direct line 3,584.36 feet more or less to an intersection with the southwesterly prolongation of the centerline of Third Street in the City of Seal Beach as said street is shown upon the map of Tract No. 2, recorded in Book 9 of Miscellaneous Maps at Page 3, records of said county, at a point located 255.5 feet southwesterly from the southwest line of Ocean Blvd.; thence continuing northwesterly along the prolongation of the foregoing course 590.18 feet more or less to the intersection with the southwesterly prolongation of the southeasterly line of First Street (60 feet wide) as shown upon the map of Bay City, recorded in Book 3 of Miscellaneous Maps at Page 19; thence northeasterly along said line of First Street to a point distant 273.93 feet southwesterly from the southwest line of Ocean Blvd.; thence N 58°54' W, 55.32 feet; thence N 22°51' W, 366.64 feet; thence S 18°23'53" W, 124.63 feet; thence S 28°25'47" W, 409.83 feet; thence S 31°34'48" W, 209.45 feet; thence S 26°05'00" W, 274.99 feet; thence S 19°00'57" W, 195.60 feet; thence S 03°07'08" W, 1177.32 feet; thence S 58°43'00" E, 4428.06 feet more or less to an intersection with southwesterly prolongation of the initial course in the description of Parcel 2, as described in the Second Amended Complaint in Condemnation, No. 3436-RJ Civil, United State of America, Plaintiff, vs. 4,783 acres of land, more or less, in Orange County, State of California, et al, filed in the District Court of the United States in and for the Southern District of California, Central Division; thence

northeasterly along said southwesterly prolongation to the POINT OF BEGINNING.

**END OF DESCRIPTION**

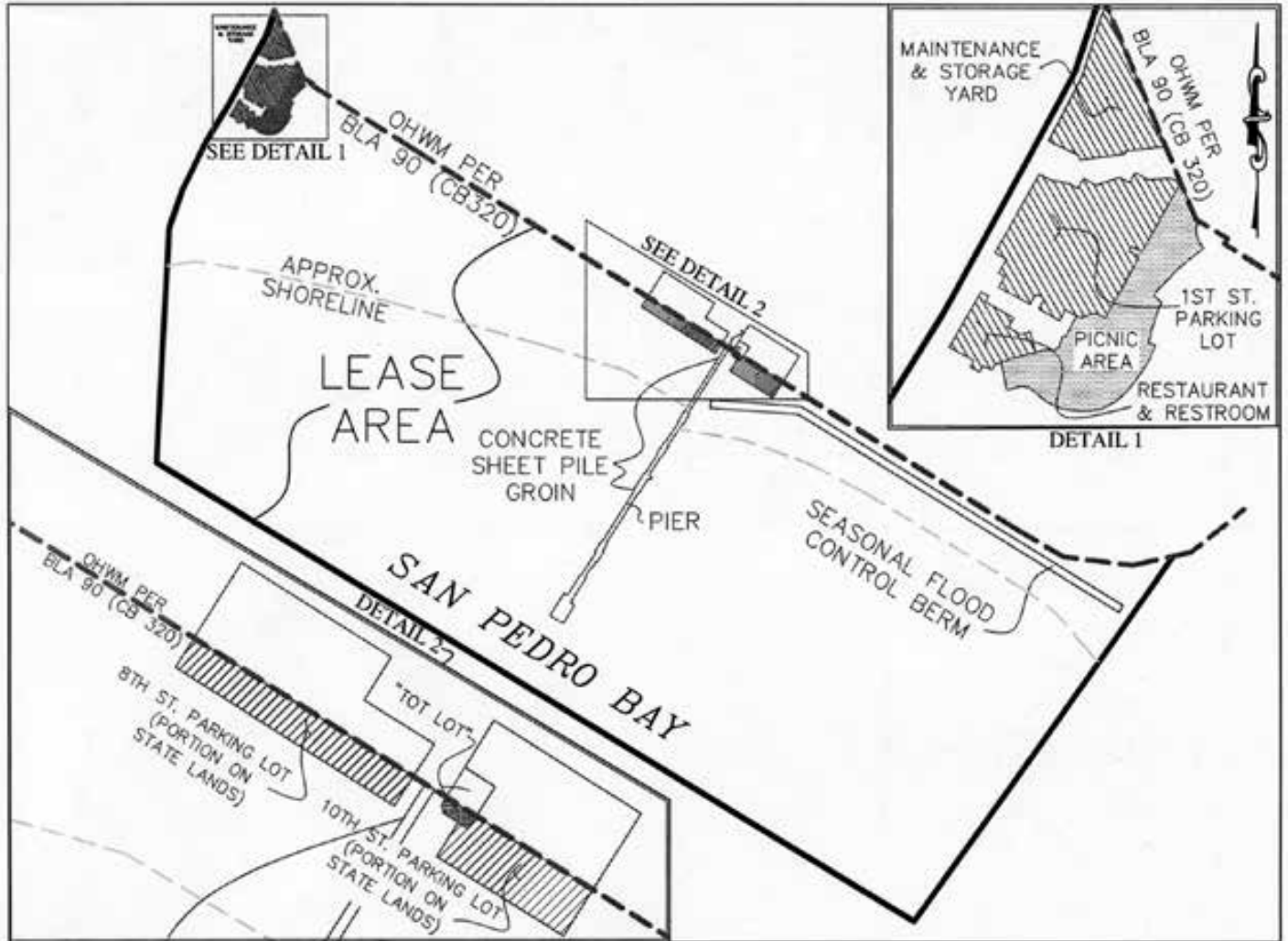
Revised 7/05/16 by the California State Lands Commission Boundary Unit

Revised description based on the {Parcel 1} description found in lease file PRC 2777.1 (W.O. 6568) executed June 22, 1976.



NO SCALE

# SITE



SEAL BEACH

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 3792.1  
 CITY OF SEAL BEACH  
 GENERAL LEASE -  
 PUBLIC AGENCY USE  
 ORANGE COUNTY



MJP 7/05/16

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.