

28. AMENDMENT AND RENEWAL OF INDUSTRIAL LEASE PRC 618.1, FILLED TIDE AND SUBMERGED LAND IN CARQUINEZ STRAITS, CONTRA COSTA COUNTY; AMERICAN SMELTING AND REFINING COMPANY - W 8398.

During consideration of Calendar Item 26 attached, the Executive Officer read into the record a letter of November 16, 1970, from Mrs. Pat Barrentine, Executive Secretary of the Committee for Green Foothills, stating that it would seem that the Lands Commission should require that all other State agency requirements are met prior to the signing of a new lease. The Executive Officer reported that such compliance is required in all Commission leases and that Mrs. Barrentine would be so informed.

Upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE ISSUANCE TO AMERICAN SMELTING AND REFINING COMPANY OF AN AMENDMENT TO AND THE SECOND TEN-YEAR RENEWAL OF LEASE NO. PRC 618.1 FROM OCTOBER 24, 1969, IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$20,000, PROVISION OF A \$75,000 SURETY BOND, AND PUBLIC LIABILITY INSURANCE IN AMOUNTS OF \$500,000/\$1,000,000 FOR PERSONAL INJURY AND \$100,000 FOR PROPERTY DAMAGE, FOR THE MAINTENANCE OF PORTIONS OF A SMELTING PLANT, SHIP MOORAGE AREA AND APPURTENANCES THERETO ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment:

Calendar Item 26 (3 pages)

CALENDAR ITEM

11/70  
W-8398  
EWC

26.

AMENDMENT AND RENEWAL OF INDUSTRIAL LEASE PRC 618.1

APPLICANT: American Smelting and Refining Company.

LOCATION: A 34.18-acre parcel of filled tide and submerged land in Carquinez Straits, Contra Costa County.

LAND USE: Portion of a smelting plant and ship berthing area.

TERMS OF BASIC LEASE:

Initial period: 15 years from October 24, 1944.  
Renewal option: 3 additional periods of 10 years each.  
Surety bond: \$75,000.

CONSIDERATION OF BASIC LEASE AND FIRST RENEWAL:

\$1,067.55 per annum.

TERMS OF SECOND TEN-YEAR RENEWAL:

Continuation of \$75,000 bond.  
Provision of liability insurance: \$500,000/\$1,000,000 for personal injury and \$100,000 for property damage.  
Special: Legal description has been amended to include ship berthing area.

CONSIDERATION FOR SECOND TEN-YEAR RENEWAL:

\$20,000 per annum.

BASIS FOR CONSIDERATION:

Negotiated settlement.

PREREQUISITE ITEMS:

U.S. Army Corps of Engineers permit issued.  
Applicant is owner of upland.

STATUTORY AND OTHER REFERENCES:

- a. Public Resources Code: Div. 6, Parts 1 and 2.
- b. Administrative Code: Title 2, Div. 3, Arts. 1 & 2 as amended effective May 10, 1969.

OTHER PERTINENT INFORMATION:

This is the negotiated settlement achieved during the "Interim Extension" authorized at the April 1970 Commission meeting. The rental agreed upon in negotiations is recommended for approval for several reasons: The staff appraisal, less an estimated expense for obtaining Public Utilities Commission consent for a private railroad crossing, produced a rent of \$20,950. As consideration for accepting the Company's offer of \$20,000 annual rent, the State will receive intangibles of importance. Among them are: The right to impose an insurance

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requirement on renewal; recognition of the right to describe and collect rent on a ship moorage area; recognition that the fill inures to the State upon expiration of the initial lease term; saving of litigation and survey costs; and recognition that the right to set "reasonable terms and conditions" is a unilateral right of the State.

EXHIBITS:

A. Land description.

B. Location map.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ISSUANCE TO AMERICAN SMELTING AND REFINING COMPANY OF AN AMENDMENT TO AND THE SECOND TEN-YEAR RENEWAL OF LEASE NO. PRC 618.1 FROM OCTOBER 24, 1969, IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$20,000, PROVISION OF A \$75,000 SURETY BOND, AND PUBLIC LIABILITY INSURANCE IN AMOUNTS OF \$500,000/\$1,000,000 FOR PERSONAL INJURY AND \$100,000 FOR PROPERTY DAMAGE, FOR THE MAINTENANCE OF PORTIONS OF A SMELTING PLANT, SHIP MOORAGE AREA AND APPURTENANCES THERETO ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"PARCEL ONE:

All that certain tide and submerged lands situate in the County of Contra Costa, State of California, as the same is more particularly described in that lease dated August 27, 1951, by and between THE STATE OF CALIFORNIA, Lessor, and AMERICAN SMELTING AND REFINING COMPANY, Lease PRC No. 618.1. Reference is hereby made to said lease description and the same is incorporated herein as though fully set forth.

PARCEL TWO:

All that certain tide and submerged lands situate in the County of Contra Costa, State of California, described as follows:

COMMENCING at the southeast corner of Section 36, T. 3 N., R. 4 W., M.D.B. & M., thence northerly along the common section line between Sections 31 and 36, a distance of 1310.10 feet more or less to a point, being the northeasterly corner of State Tide Land Survey No. 19, being the TRUE POINT OF BEGINNING; thence continuing northerly along said common section line, 85 feet more or less, to a point on the Pierhead Line, as shown on U.S. Engineers map of Harbor Lines for Carquinez Strait, dated March 1, 1940; thence westerly along said Pierhead Line the following two courses: N. 87° 50' 48" W., 135 feet to an angle point in said Pierhead Line; thence S. 69° 54' 22" W., 865 feet to a point; thence S. 20° 05' 38" E., 75 feet more or less to the northern boundary of Parcel One above described; thence easterly along said northerly boundary line to the most easterly corner of Parcel One above; thence N. 67° 00' 00" E., 38.46 feet to the point of beginning, containing approximately 1.78 acres.