

12. TEN-YEAR RENEWAL OF MINERAL EXTRACTION LEASE PRC 709.1, MODIFICATION OF LEASE TERMS, AND SETTLEMENT OF PAST ROYALTY CLAIMS; SAN FRANCISCO BAY (THREE SEPARATE AREAS BETWEEN THE CITY OF SAN FRANCISCO AND ANGEL ISLAND); CITY AND COUNTY OF SAN FRANCISCO AND MARIN COUNTY; CONSTRUCTION AGGREGATES CORP. - W 9485, PRC 709.1.

After consideration of Calendar Item 19 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. SUBJECT TO ISSUANCE OF A U.S. ARMY CORPS OF ENGINEERS PERMIT, AUTHORIZES THE RENEWAL OF MINERAL EXTRACTION LEASE PRC 709.1 FOR A TEN-YEAR TERM WITH AN ANNUAL AREA RENTAL OF \$900 AND THE FOLLOWING MODIFIED TERMS AND CONDITIONS:

a. THE ROYALTY DURING THE RENEWED TERM SHALL BE:

(1) ROYALTY FOR SALES IN PLACE:

ROYALTY = 45% OF THE GROSS SALES PRICE BUT NOT LESS THAN \$0.10 PER CUBIC YARD.

(2) ROYALTY FOR MATERIAL DREDGED BY LESSEE:

ROYALTY = 10% OF GROSS SALES PRICE BUT NOT LESS THAN \$0.10 PER CUBIC YARD.

b. THE MINIMUM ROYALTY SHALL BE \$2,000 PER YEAR PAYABLE IN ADVANCE.

2. AUTHORIZES THE ACCEPTANCE BY THE STATE FROM LESSEE OF THE SUM OF \$6,000 AS PAYMENT IN FULL FOR ALL DISPUTED ROYALTIES ON PRIOR SALES IN PLACE.

Attachment:

Calendar Item 19 (2 pages)

CALENDAR ITEM

1/72
W 9485
RGN

19.

RENEWAL OF MINERAL EXTRACTION LEASE, MODIFICATION OF LEASE TERMS, AND SETTLEMENT OF PAST ROYALTY CLAIMS.

LEASE: Mineral Extraction Lease PRC 709.1.
LESSEE: Construction Aggregates Corp.
LEASE TERMS: February 14, 1952, to February 13, 1972.
LEASE LOCATION: San Francisco Bay (three separate areas - between City of San Francisco and Angel Island).

PREREQUISITE ITEMS:

1. San Francisco Bay Conservation and Development permit issued June 6, 1967.
2. Certificate of Conformance with water quality standards issued by the State Water Resources Control Board December 13, 1971.
3. Notice of consideration on U. S. Army Corps of Engineers Permit published. Permit can be issued February 4, 1972.

EXISTING ROYALTY REQUIREMENTS:

Construction Aggregates Corp. entered into a lease with the State on February 14, 1952. Under the terms of this lease the royalty rate was \$0.03 per cubic yard for the term ending February 13, 1972. The lease provides for ten-year renewals "upon such reasonable terms and conditions as the State... might impose."

RENEWAL LEASE TERMS:

Conditions and prices have changed substantially since 1952, with sand delivered on shore selling for \$1.00 to \$2.20 per cubic yard, depending on the use. A new royalty rate has been negotiated, with one rate for sales in place and another rate when lessee furnishes dredging equipment, as follows:

1. Royalty for sales in place:

Royalty = 45% of the gross sales price but not less than \$0.10 per cubic yard.

2. Royalty for material dredged by lessee:

Royalty = 10% of gross sales price but not less than \$0.10 per cubic yard.

CALENDAR ITEM 19. (CONTD.)

The present lease requires lessee to complete at least 100 shifts of extraction operations per year. Experience has indicated that the application of a minimum extraction rate and minimum royalty is more feasible and beneficial to the State. A minimum royalty for this lease of \$2000 per year has been mutually agreed to, being equivalent to 20,000 cubic yards of sand extracted at \$0.10 per cubic yard.

SETTLEMENT OF ROYALTY CLAIMS:

A royalty dispute arising out of lessee's sales of material-in-place has been resolved to the mutual satisfaction of lessee and staff. The lessee has agreed to pay the State a sum of \$6,000 in full settlement for past royalties due, for material sold in-place at a price in excess of \$0.03 per cubic yard.

IT IS RECOMMENDED THAT THE COMMISSION:

1. SUBJECT TO ISSUANCE OF A U.S. ARMY CORPS OF ENGINEERS PERMIT, AUTHORIZE THE RENEWAL OF MINERAL EXTRACTION LEASE PRC 709.1 FOR A TEN-YEAR TERM WITH AN ANNUAL AREA RENTAL OF \$900 AND THE FOLLOWING MODIFIED TERMS AND CONDITIONS:

- a. THE ROYALTY DURING THE RENEWED TERM SHALL BE:

- (1) ROYALTY FOR SALES IN PLACE:

ROYALTY = 45% OF THE GROSS SALES PRICE BUT NOT LESS THAN \$0.10 PER CUBIC YARD.

- (2) ROYALTY FOR MATERIAL DREDGED BY LESSEE:

ROYALTY = 10% OF GROSS SALES PRICE BUT NOT LESS THAN \$0.10 PER CUBIC YARD.

- b. THE MINIMUM ROYALTY SHALL BE \$2,000 PER YEAR PAYABLE IN ADVANCE.

2. AUTHORIZE THE ACCEPTANCE BY THE STATE FROM LESSEE OF THE SUM OF \$6,000 AS PAYMENT IN FULL FOR ALL DISPUTED ROYALTIES ON PRIOR SALES IN PLACE.