

MINUTE ITEM

This Calendar Item No. 39
 was approved as Minute Item
 No. 39 by the State Lands
 Commission by a vote of 2
 to 0 at its 6/30/88
 meeting.

CALENDAR ITEM

A 57, 58

39

06/30/88
 W 12026
 R. Ludlow

S 29

APPROVAL OF SPECIFICATIONS AND FORMS FOR
 INVITING BIDS ON THE LONG BEACH HARBOR
 TIDELANDS PARCEL AND PARCEL "A" OIL CONTRACT

APPLICANT: City of Long Beach
 333 West Ocean Boulevard
 Long Beach, California 90802

The oil development and production in the Long Beach granted tideland's is easily divisible into two separate areas based on length of production. The newer area is to the east and is part of the Long Beach Unit. It is operated for the City of Long Beach from the oil islands and Pier J by THUMS Long Beach Company, the agent for the Field Contractor, under the Contractors' Agreement for Tract 1. The older tidelands oil development is in the area encompassing the Long Beach Harbor in the western part of the Long Beach tidelands. This area has been divided into two parcels, each operated under separate drilling and operating contracts, but the same company conducts the field operations for both parcels. The two contracts are known as the Drilling and Operating Contract (Long Beach Harbor Department Tidelands Parcel) and the Parcel "A" Oil Contract. Both are due to expire on February 28, 1989.

With the expiration of the two drilling and operating contracts for the older, westerly part of the tidelands, the City must provide for the continued operation of this area. While these properties are old and production is declining, the City and the Staff believe that they still have considerable promise. The City proposes to consolidate the two parcels into a single operation under a single drilling and operating contract to be known as the Long Beach Harbor Tidelands Parcel and Parcel "A" Oil Contract. It has prepared a contract form which it proposes to offer for competitive bidding. It is a net profits

(Added 6-29-88)

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contract with the bid factor being the percentage of net profits payable to the City. The City has also prepared the forms necessary for undertaking the competitive bidding process, which include the notice inviting bids and the bid form. These forms and the contract to be offered are on file in the Commission's offices in Long Beach and Sacramento. Under Section 10(a) of Chapter 29, Statutes of 1956, First Extraordinary Session, all specifications and forms for the purpose of inviting bids in connection with the development and extraction of hydrocarbons from the Long Beach tidelands shall be approved by the State Lands Commission prior to publication of the notice to bidders.

The City, working with the Staff and the Attorney General's Office, has prepared a contract form patterned after the existing contracts. Considerable effort was made to create a contract that will provide incentives to the contractor for further operations on these declining properties and substantial revenues for the State from operations that are technically sound and environmentally safe.

As under the existing contracts, the contractor under the proposed contract will work as an independent contractor for the City with its operations under the direction and control of the City's Department of Oil Properties. The contractor will be reimbursed out of the value of the oil, as determined under the contract, for its reimbursable expenses. Then the contractor will be able to obtain its share of the net profits from such oil value. The remainder of the oil value will be used to pay the City's share of net profits.

Some significant changes from the existing contracts have been made in the proposed contract. Under the old contracts, reimbursements to the contractor would be made only to the extent of the City's net profits share and only if there were sufficient monies from the value of the oil sold to do so. This remains the situation under the proposed contract with one major exception. The costs of well abandonments will be fully reimbursed to the contractor from tidelands oil revenues. This will permit the City to provide for the abandonment of idle wells with no commercial potential without making the contract unprofitable and to spread the costs of abandonment over the remaining economic life of the property. Otherwise, all abandonment costs would have to be incurred at the end of the property's economic life.

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The proposed contract's term will be from March 1, 1989 to April 1, 2000, so that it will end at the same time as the Contractors' Agreement for Tract 1. With all oil contracts of the Long Beach tidelands ending on April 1, 2000, the City and the State will have greater flexibility in planning for the future development of the oil reserves in the tidelands.

The oil valuation provision of the proposed contract has been changed to provide a more market-sensitive pricing formula where the risks in market fluctuations are shared by the parties. The pricing provision requires the oil to be valued at the average of prices posted in the Wilmington field by the major refiners who currently post and any other refiner with a refinery in Los Angeles County or Orange County with a throughput capacity of at least 30,000 barrels per day. If the oil is sold by the contractor at a higher price, the contractor will pay 50 percent of the excess amount over the average of posted prices to the City. Similarly, if the oil is sold by the contractor for less than the average of postings, the contractor will receive a credit for 50 percent of the loss to be paid from net profits revenues.

The new contract will permit the City to take in kind and sell by competitive bidding up to 20 percent of the oil produced under the contract. The City may exercise this right to take oil in kind or to return oil taken in kind on 90 days notice to the contractor.

Under the old contracts and the proposed contract, the contractor applies a six percent administrative overhead charge to certain enumerated expenditures. After the contractor is reimbursed for actual administrative costs related to these expenditures, it pays the balance of the six percent charge to the City. Under the terms of a 1976 accounting agreement with the City, the City retains for municipal purposes the balance attributable to expenditures on the unitized portions of the property and pays to the State as oil revenue the balance attributable to the nonunitized portions. Under the new arrangement, and as consideration for the City's willingness to include certain provisions in the proposed contract, the City would be able to retain for municipal purposes the balance of the administrative overhead attributable to both the unitized and nonunitized portions of the property.

The City/State and the companies comprising the contractor under the Drilling and Operating Contract (Long Beach Harbor

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Department Tidelands Parcel) are in litigation over whether the windfall profit tax is a reimbursable expense. The City and State believe that the old contract's terms provide that the windfall profit tax is a nonreimbursable expense and, therefore, there is no need for any change. The notice to bidders states that the City interprets the contract as excluding the windfall profit tax from reimbursable expenses, which will insure that the windfall profit tax is not reimbursable under the proposed contract regardless of the outcome of the current litigation.

The Long Beach City Council has approved the contract form, the notice inviting bids and the bid form. If the forms and specifications are approved by the Commission, the City will begin immediately soliciting bids. The City plans to mail notices to prospective bidders, advertise for bids in major publications and hold a job walk and a meeting to answer bidders' questions. After the bids are received, they will be opened, and the highest responsible bid will be determined. The highest responsible bid will be presented to the City Council for its approval. After the City Council approves the bid, the City will return to the Commission seeking its approval to enter into the contract.

AB 884: N/A.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES, 14 CAL. ADM. CODE 15301; 2 CAL. ADM. CODE 2905.
2. APPROVE THE SPECIFICATIONS AND FORMS FOR INVITING BIDS ON THE LONG BEACH HARBOR TIDELANDS PARCEL AND PARCEL "A" OIL CONTRACT.