

MINUTE ITEM

This Calendar Item No. C29
was approved as Minute Item
No. 29 by the State Lands
Commission by a vote of 3
to 0 at its 4-28-93
meeting.

CALENDAR ITEM

C29

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Frey
Willard

APPROVE THE PROPOSED CITY OF HERMOSA BEACH
OIL AND GAS LEASE FOR GRANTED TIDELANDS AND SUBMERGED LANDS,
LOS ANGELES COUNTY

APPLICANT:

City of Hermosa Beach
Attention: Mr. Frederick R. Ferrin
City Manager
1315 Valley Drive
Hermosa Beach, California 90254-3885

The City of Hermosa Beach (City) is proposing to lease for the exploration and development of oil and gas certain tide and submerged lands granted in trust by the Legislature to the City in 1919.

On June 30, 1992, the Commission (Minute Item No. 41) found that the granted tidelands are being drained of oil and gas by means of wells on adjacent lands. The Commission directed staff to work with the City to resolve the remaining leasing issues which must be approved pursuant to the P.R.C.

BACKGROUND:

In October 1986, the City entered into a lease with Windward Associates and GLG Energy, L.P. (Windward) for oil and gas development on the uplands from a specific site designated by the City. Thus, Windward would be the City's lessee if a tidelands lease was ever authorized. The "uplands" lease was issued pursuant to competitive public bid based on a cash bonus bid. The only bid was from Windward in the amount of \$100,000.

Following issuance of the lease, Windward funded the City's preparation of an EIR for oil exploration and production from an urban drillsite. The EIR was certified by the City on May 8, 1990. The Commission staff objected to the certification of the document on the ground that the analysis was deficient in several areas. The deficiencies included the need for soils testing at the drill site, the lack of an oil spill prevention and control plan, the lack of an oil drilling contingency plan, the absence of a

determination of the project's hazard footprint, the lack of a security plan, and the failure to specify the extent of fire suppression systems for the onshore drilling and production site. These concerns have been resolved through a Memorandum of Understanding (Exhibit "C") wherein the City has agreed to address each of these concerns in its Conditional Use Permit process. In that process, the Commission will have an opportunity to review and comment on the City's response to these issues prior to issuance of the Conditional Use Permit.

STATUTORY AND GRANTED LAND CONSIDERATIONS:

The State granted to the City in Chapter 479 of the Statutes of 1919 all right, title and interest, including minerals in all tide and submerged lands within the boundaries of the City. The statutory grant limited the uses of the granted lands, and hence the revenues from them, to purposes connected with the establishment, improvement and operation of a harbor.

OTHER PERTINENT INFORMATION:

The proposed form of lease for the tidelands provides for a royalty of 18 2/3 percent. The royalty is to be divided between a special tidelands trust fund and the City's general fund as follows:

- a. A royalty share of seven percent (37 1/2% of 18 2/3%) to the City's general fund as consideration for furnishing the upland drill site.
- b. A royalty share of 11 2/3 percent (62 1/2% of 18 2/3%) to the special tidelands trust fund.

The City maintains that a seven percent royalty is reasonable compensation for the use of the upland drill site. This seven percent royalty share, although to be deposited in the general fund, is required by City ordinance to be used exclusively for the acquisition of parks and open space. The 11 2/3 percent royalty will be deposited in the special tidelands trust fund to be used only for those purposes set forth in the statutory tidelands grant, Chapter 479 of the Statutes of 1919. The City does not propose to place any of the \$100,000 cash bonus in the special tidelands trust fund on the ground that the bonus was obtained in connection with the leasing of the upland areas only.

ENVIRONMENTAL REVIEW:

The State Lands Commission staff has reviewed the City's EIR, the mitigation measures incorporated in the project and the tentative conditions of approval for the oil drilling site. The mitigation monitoring and reporting program will be implemented through the issuance of a conditional use permit and pursuant to the Memorandum of Understanding (Exhibit "C"), Commission staff will be provided reasonable time to comment on the proposed conditions to be imposed on the project.

EXHIBITS:

- A. Location Map
- B. Resolution No. 90-5363, City of Hermosa Beach
- C. Memorandum of Understanding

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT AN EIR WAS PREPARED AND CERTIFIED FOR THIS PROJECT BY THE CITY OF HERMOSA BEACH AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. ADOPT THE FINDINGS MADE IN CONFORMANCE WITH SECTION 15096(h) OF THE STATE CEQA GUIDELINES, AS CONTAINED IN EXHIBIT "B".
3. APPROVE THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF HERMOSA BEACH AND THE STATE LANDS COMMISSION DATED APRIL 28, 1993, ATTACHED AS EXHIBIT "C".
4. DETERMINE THAT THE REQUIREMENTS OF P.R.C. SECTION 6872 HAVE BEEN MET.
5. DETERMINE, PURSUANT TO P.R.C. SECTION 7061, THAT THE CITY OF HERMOSA BEACH IS EXEMPT FROM THE FORMAL BIDDING REQUIREMENTS OF P.R.C. SECTIONS 7058.5 AND 7059 BECAUSE SUCH PROCEDURE WOULD BE IMPRACTICAL WITH THE RESTRICTED LOCATION AND USE OF DRILLSITES WITHIN THE CITY AND THAT THE GRANTED TIDELANDS ARE BEING DRAINED BY MEANS OF WELLS ON ADJACENT LANDS.
6. APPROVE THE CITY OF HERMOSA BEACH OIL AND GAS LEASE NO. 2 WITH WINDWARD ASSOCIATES AND GLG ENERGY, L.P., DATED JANUARY 14, 1992, AND THE AMENDMENT TO OIL AND GAS LEASE NO. 2 DATED APRIL 28, 1993, ON FILE IN THE OFFICE OF THE COMMISSION.

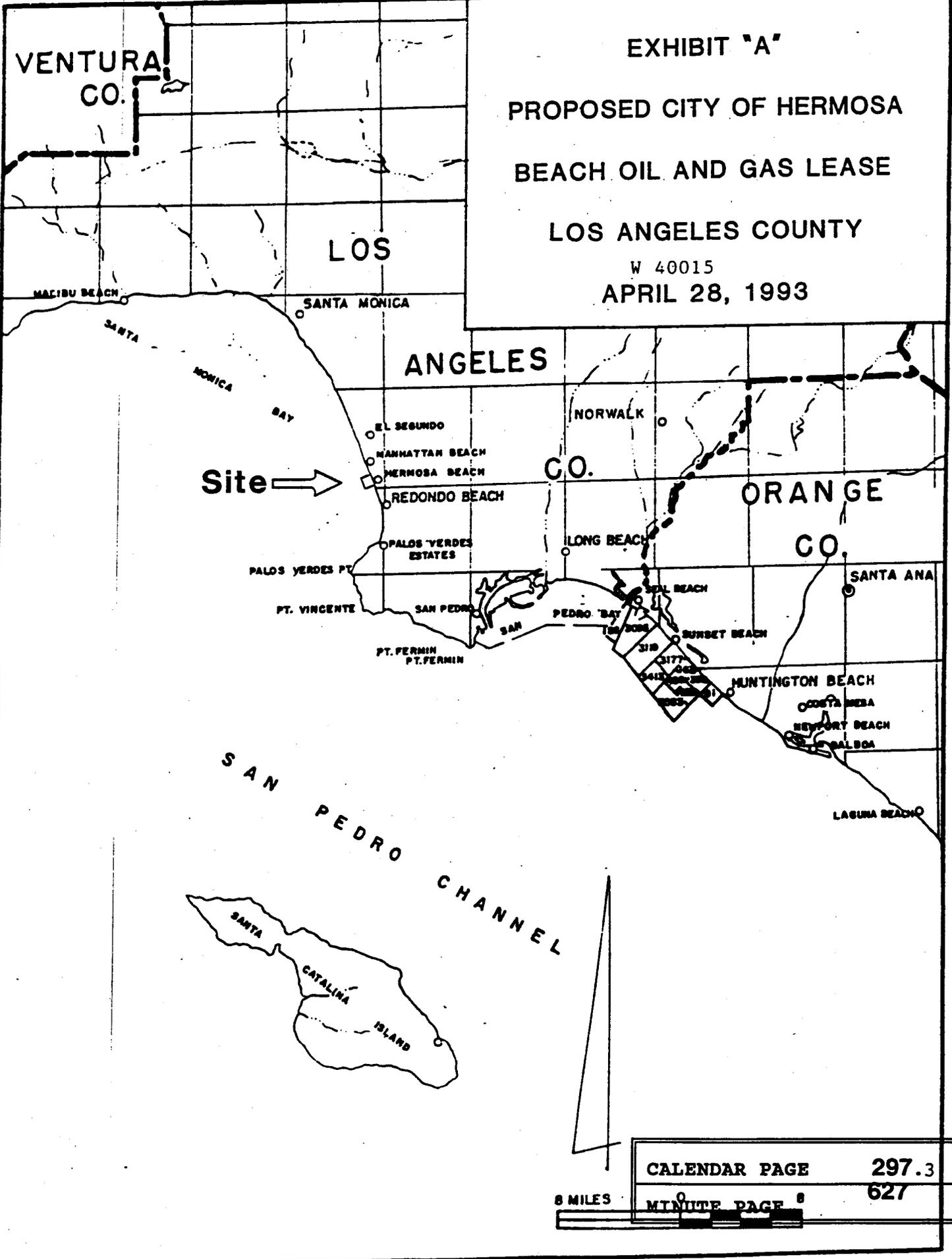
EXHIBIT "A"

PROPOSED CITY OF HERMOSA
BEACH OIL AND GAS LEASE

LOS ANGELES COUNTY

W 40015

APRIL 28, 1993



Site →

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8 MILES

RESOLUTION NO. 90-5363

A RESOLUTION OF THE CITY OF HERMOSA BEACH, CALIFORNIA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, MAKING CERTAIN FINDINGS REGARDING THE ENVIRONMENTAL IMPACTS OF AMENDMENTS TO THE GENERAL PLAN AND THE ZONING CODE OF THE CITY OF HERMOSA BEACH, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS.

WHEREAS; the City of Hermosa Beach (the "City"); as lead agency, has prepared an Environmental Impact Report (the "EIR") for certain amendments to the General Plan and the Zoning Code of the City (the "Amendments"), which Amendments are to allow and implement the exploration and production of natural resources from an urban drill site within the City and requires the relocation of the City Maintenance Yard from the potential drill site (altogether the "Project"); and

WHEREAS, the draft EIR for the Project has been prepared and circulated pursuant to the California Environmental Quality Act ("CEQA"), the State CEQA guidelines, and the City's rules for implementation of CEQA (the "City Rules"); and

WHEREAS, the Planning Commission of the City held duly noticed public hearings on the draft EIR at which times all interested persons were given an opportunity to be heard and the Planning Commission recommended certification of the EIR by Resolution P.C. 90-18 dated March 6, 1990; and

WHEREAS, the City Council of the City held public hearings on March 15, 1990, April 10, 1990 and May 8, 1990, to consider the EIR, at which times all interested persons were given an opportunity to be heard; and

WHEREAS, the final EIR relating to the Project and responding to the concerns raised during the review period and at the public hearings has been prepared pursuant to CEQA, the State CEQA guidelines, and the City Rules; and

WHEREAS, the City Council of the City has reviewed and considered the information contained in the final EIR for the Project; and

WHEREAS, the final EIR incorporates certain mitigation measures which are to mitigate or avoid significant effects on the environment and the City wishes to implement a reporting and monitoring program pursuant to Public Resources Code Section 21081.6; and

WHEREAS, the City has furthermore selected the environmentally superior alternative [as defined by Cal. Code Reg., Section 15126(d)] for the Project which limits the Project to the existing City maintenance yard site.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH AS FOLLOWS:

1. The City certifies that:

- (a) The final EIR has been prepared and completed in compliance with CEQA, the State CEQA guidelines and the City Rules; and
- (b) The information contained in the final EIR has been reviewed and considered by the members of the City Council of the City.

2. The City hereby finds and determines that the adoption of said Amendments and implementation of the Project may have a significant effect on the environment.

3. The City hereby finds that with respect to the adverse environmental impacts detailed in the EIR that:

- (a) Based on information set forth in the EIR and as more specifically set forth in the Comparative Summary of Impacts and Mitigation Measures, Volume III, Appendix A of the EIR, pages 3 through 23, inclusive, the City hereby finds and determines that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the adverse environmental effects identified in the EIR for (i) geology and seismicity; (ii) hydrology; (iii) subsidence; (iv) land use; (v) energy conservation; (vi) public safety; (vii) socio-economics; and (viii) public services and utilities [except such impact to utilities as identified hereinbelow]; and
- (b) Based on information set forth in the EIR and as more specifically set forth in the Comparative Summary of Impacts and Mitigation Measures, Volume III Appendix A of the EIR, pages 3 through 23, inclusive, of the EIR, the short term adverse environmental effects to noise, air quality, visual, light / glare, shade / shadow, and transportation/circulation have been but cannot be entirely mitigated by the implementation of feasible mitigation measures or by the selection of the environmentally superior alternative. In

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particular, the visual impact of the 135-foot drilling rig cannot be further reduced within the current state of development of drilling equipment. As noted in the EIR, the rig will be neutral color to reduce the visual impact as much as possible; and

(c) Based on information set forth in the EIR and as more specifically set forth in the Comparative Summary of Impacts and Mitigation Measures, Volume III, Appendix A of the EIR, pages 3 through 23, inclusive, of the EIR, the long term adverse environmental effects related to air quality, mineral resources, visual, noise and utilities (such impact to utilities being the use of limited existing utility easements) have been but cannot be entirely mitigated by the implementation of feasible mitigation measures or by the selection of the environmentally superior alternative. In particular, the noise impact from well workovers cannot be further mitigated within the state-of-the-art of these procedures and equipment. As noted in the EIR, well workovers will be conducted only during day-time hours during weekdays, except in emergency situations; and

(d) The City has reviewed the record before it and the various Project alternatives and hereby determines that the selection of a "No Project" alternative does not provide for the managed production of natural resources and denies the City the needed revenues which would be generated by such activities; that the Redondo alternative is infeasible on economic, technical and legal grounds; that there are no other drilling sites permitted within the City pursuant to a vote of the electorate of the City; and that the scope of the other drilling alternatives as discussed in the EIR will not adequately reduce the identified significant impacts; and

(e) No additional adverse impacts will have a significant effect or result in a substantial or potentially substantial adverse change in the environment as a result of the Project.

4. The City hereby finds and determines that all significant environmental effects identified in the EIR have been reduced to an acceptable level in that:

(a) All significant environmental effects that can feasibly be avoided have been eliminated or

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substantially lessened as determined through the findings set forth in paragraphs 3(a) through 3(e), inclusive, of this Resolution; and

- (b) Based upon the EIR and other evidence in the record, specific economic, social and other considerations make infeasible other project alternatives identified in the EIR; and
- (c) Based upon the EIR and other evidence in the record, all remaining, unavoidable, short term and long term significant environmental effects of the Project are overridden by the benefits of the Project as described in the Statement of Overriding Considerations, attached to this Resolution as Attachment "A", incorporated herein by reference, which Statement of Overriding Considerations is hereby approved and adopted.

5. The City hereby authorizes and directs that a reporting and monitoring program for mitigation measures identified in the final EIR shall be implemented by and through the issuance, if any, of a conditional use permit issued pursuant to Ordinance No. 85-803 (the "Hermosa Beach Oil Code").

6. Approval and certification of the final EIR shall not be deemed approval of a conditional use permit required pursuant to the Hermosa Beach Oil Code for operation of an oil drilling site.

7. At the time for consideration of said conditional use permit, the City may impose such additional conditions as may be deemed reasonably necessary based upon precise project plans for an urban drill site.

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8. The City hereby authorizes and directs that, upon approval and adoption of the amendments to the General Plan and the Zoning Code by the City Council of the City of Hermosa Beach, a Notice of Determination with respect to the EIR pertaining to the approval of the Project and all other actions in furtherance thereof be filed.

PASSED, APPROVED AND ADOPTED this 8th day of May, 1990.

By

Rose Cristlow
President of the City Council
and Mayor of the City of Hermosa
Beach, California

ATTEST:

Linda Biddle, Deputy
City Clerk

APPROVED AS TO FORM:

John W. Lee
City Attorney

ATTACHMENT A

STATEMENT OF OVERRIDING CONSIDERATIONS

The California Environmental Quality Act requires a public agency to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. The City Council of the City of Hermosa Beach has determined that the unavoidable, short term impacts to noise, air quality, visual, light/glare, shade/shadow, and transportation/circulation; and the long term impacts to air quality, mineral resources, visual and utilities previously described and associated with the Project are acceptable when balanced against the benefits of the Project. In making this determination, the City has given greater weight to its consideration of the unavoidable environmental risks and has considered the following factors and public benefits:

1. The Project will serve a critical need, that being the generation of funds necessary for the purchase of additional open space land and maintenance of the beach area.
2. The Project is consistent with the adopted plans and programs of the City of Hermosa Beach.
3. The Project will result in the managed production of natural resources of the City.

MEMORANDUM OF UNDERSTANDING
by and between
CITY OF HERMOSA BEACH
and
CALIFORNIA STATE LANDS COMMISSION

This Memorandum of Understanding ("Memorandum") is entered into this ___ day of _____, 1993, by and between the CITY OF HERMOSA BEACH, a California municipal corporation (hereinafter the "City") and the CALIFORNIA STATE LANDS COMMISSION, a commission of the State of California (hereinafter the "Commission").

This Memorandum is executed by the parties in reliance upon the following facts:

A. Since September 21, 1985, the City has had on file before the Commission an application for approval of an oil and gas lease for the exploration and production of hydrocarbon products from the tidelands area owned by the City and held in trust (the "tidelands").

B. In response to comments and direction from the Commission in December 1985, the City has subsequently reviewed and certified an environmental impact report for and approved and executed that certain Oil and Gas Lease No. 2 (hereinafter the "Lease") with Windward Associates and GLG Energy, L.P. (hereinafter together the "Operator") to, undertake the exploration and production of hydrocarbon products in both the tidelands and the uplands area within the jurisdiction of the City.

C. In response to further comments from the Commission regarding the Lease, City and Commission desire to enter into this Memorandum to set forth the understanding of each respective party for the City's implementation of and performance under the Lease.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Commission has determined that there is drainage from the City tidelands and that the City has substantially complied with the bidding provisions as required under the California Public

Resources Code. Therefore, in accordance with Section 7061 of the Public Resources Code, the Commission hereby determines that it would be impractical to require the City to conduct further bidding procedures and hereby exempts the City and the Lease from further compliance with Sections 7058.5 and 7059 of said Code.

2. City shall make available, in a timely manner, to the Commission all plans, specifications, reports, studies and other related documents, as required by City for subsequent permits to be issued by City for oil and gas exploration and production, prior to issuance of any such permit by City in order to provide Commission a fair opportunity for comment and advice. Such information shall include, but is not limited to, a hazard footprint and proposed conditions under a conditional use permit.

3. The Commission acknowledges and approves that royalty revenue from the tidelands due and payable under the Lease to the City, shall be allocated seven percent (7%) to the City General Fund for use of the drill site and eleven and two thirds percent (11 2/3%) to the Special Tidelands Trust Account.

4. City shall establish a Special Tidelands Trust Fund for deposit of all royalty revenues resulting from the production of oil and gas from the tidelands. City shall establish a Special Tidelands Trust Fund for deposit of all royalty revenues resulting from the production of oil and gas from the tidelands for allowable use in accordance with Chapter 479, Statutes 1919, or as it may be amended.

5. The parties acknowledge and agree that the Minimum Royalty, as provided in Section 2.b.(1) of the Lease, is to secure Operator's timely performance of exploration and production of oil and gas in both the tidelands and the uplands. The Lease, in Section 2.b.(2), further limits Operator's source of funds for payment of the Minimum Royalty from restricted royalty to a maximum of \$281,250 in each year. To the extent that the City receives payment of Minimum Royalty which is a direct result of production from the tidelands, City shall deposit all such revenue into its Special Tidelands Trust Fund.

6. The Commission shall have access to the records related to Operator's performance under the Lease through the City. In accordance with the terms of Section 14 of the Lease, the City has

the right to release information on the Operator to "any governmental agency needing the data or information to regulate the leased lands or adjacent lands." The City has a vested interest in insuring the accuracy of these reports and will assiduously review and monitor the reports and records. The City shall fully cooperate in making relevant information available to Commission to allow the Commission to carry out its mandated oversight duties.

7. The City's intent under Section 13.d.(4) is to prorate the repayment of the Advance from all sources of royalty revenue as received. City hereby agrees that the repayment of the Advance, as provided in Section 13.d.(4), shall be prorated on the basis of a 70/30 allocation from City's receipts of royalty revenue from the tidelands and uplands, respectively, to the extent that such royalty revenues from each source are available. This provision shall not be construed to alter or change the repayment obligation of the City to Operator to apply 50% of all royalty revenue due to City to the Advance as provided therein.

8. The City shall request that Operator name the Commission as an additional insured on insurance coverage provided by Operator under the Lease provided such additional coverage does not increase Operator's insurance premiums thereby.

9. The City shall fund its contribution to the Emergency Trust Fund under Section 18.d.(3) based upon a 70/30 allocation of royalty revenues received from the tidelands and uplands, respectively. To the extent that funds are released from the Emergency Trust Fund in accordance with the terms of the Lease, City shall deposit into the Special Tidelands Trust Fund such released funds as are attributable to royalty revenue from the tidelands plus a prorata portion of interest accrued thereto.

10. The Commission and the City agree that the mean high tide line, as surveyed and described on that certain "Plat of the State Tidelands Boundary Along the Shore of the Pacific Ocean Within the City of Hermosa Beach, Los Angeles County, California, dated December 13, 1957 and signed by F. J. Hortig and prepared under W.O. 2771, shall serve as the base line for the allocation of production between the tidelands trust and all other lands. The City further acknowledges that the mean high tide line is not a fixed boundary and that the City shall survey the mean high tide line from time to time in order to accurately allocate production between the tidelands and all other lands.

11. The parties acknowledge that certain amendments to the Lease will be or are agreed to between the City and Operator to address comments and concerns of the Commission.

IN WITNESS, WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the date and year first above written.

"City"

CITY OF HERMOSA BEACH, a California
municipal corporation

By: _____
City Manager

Approved as to Form:
City Attorney
Oliver, Barr & Vose

By: _____

"Commission"

CALIFORNIA STATE LANDS COMMISSION

By: _____
Executive Officer

Approved as to Form:
Staff Counsel

By: _____