

1 **REIMBURSEMENT AGREEMENT**

2 **34501**

3 This Reimbursement Agreement (the "Agreement") is made and entered into
4 as of January 1, 2016, by and between BEACH OIL MINERALS PARTNERS,
5 LLC (BOMP), a limited liability company ("Applicant"), and the CITY OF LONG BEACH, a
6 municipal corporation ("City") (collectively, the "Parties"), pursuant to a minute order
7 adopted by the City Council of the City of Long Beach on April 19, 2016.

8 **Recitals**

9 A. Applicant is currently requesting entitlements to relocate oil
10 infrastructure from the Synergy oil field at 6433 E. Second Street to a site owned by the
11 Los Cerritos Wetlands Authority and the seven (7) acre site known as the Pumpkin Patch
12 located at 6701 E. Pacific Coast Highway where Synergy Oil executive offices will also be
13 constructed. The northern portion of the Synergy oil field will be restored through the
14 creation of a Wetlands Mitigation Bank (the "Project").

15 B. In order for the Applicant to proceed with the Project, City has
16 determined that the complexity of the project, the number of discretionary approvals
17 required, and the number of City and external agencies and stakeholders involved in
18 various phases of project review and approval, warrant a high level of coordination and
19 oversight to ensure compliance with all local, regional, state and federal procedural
20 requirements and statutory provisions (collectively, the "Discretionary Actions").

21 C. Applicant desires City to complete processing of the Discretionary
22 Actions in as expeditious a manner as possible. In order for City to assist Applicant in
23 achieving this objective, additional staff resources will be needed, and Applicant is willing
24 to reimburse certain of City's costs related to facilitating an expeditious project review
25 process by entering into this Reimbursement Agreement. This agreement will allow the
26 City to select and utilize its own on-call consultant to act as Project Manager to supplement
27 staff in the review and processing of this project. The City's consultant will work at City
28 staff's direction to coordinate the various parties involved in the process, including the

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CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 Applicant, the EIR consultant, the California Coastal Commission, and any other relevant
2 stakeholders.

3 NOW, THEREFORE, in consideration of the foregoing recitals and the mutual
4 promises and covenants contained in this Agreement, the Parties hereby agree as follows:

5 1. In accordance with the terms and conditions set forth below, the
6 Applicant shall reimburse City for the costs incurred by City since the application submittal,
7 including preparation for the project kick-off meeting and coordination of the project
8 schedule and EIR processing, as these activities have already commenced., and in
9 connection with the professional services set forth in Exhibit "A" attached hereto and
10 incorporated herein by this reference ("Reimbursement Services").

11 2. For the purposes of this Agreement, staff has estimated total costs of
12 \$120,000 to be reimbursed by Applicant, and payable in periodic deposits of \$20,000 upon
13 prior notice by staff, as needed. The City expects to be reimbursed only for those expenses
14 actually incurred by City staff and/or the EIR consultant. If actual costs do not exceed the
15 estimated total costs of \$120,000, Applicant is not liable for payment to City beyond actual
16 expenses incurred.

17 3. It should be noted that these costs are estimates only. Applicant
18 acknowledges that the amounts referenced in this Agreement are City's best estimate of
19 the costs for the Reimbursement Services described herein, and that the actual cost of
20 said services may be higher. In the event that the actual cost of the Reimbursement
21 Services exceeds the estimated costs, Applicant agrees to pay the actual cost.

22 4. Notwithstanding the above, Applicant and City agree to amend this
23 Agreement to reflect greater expenses paid or incurred or anticipated to be paid or incurred
24 in the event (1) there is a substantial change to the proposed Project, which would result
25 in City staff initiating a new review of the Project, and/or (2) City costs exceed the estimated
26 costs by more than ten percent (10%) due to the need for Reimbursement Services not
27 anticipated by City at the time of the signing of this Agreement.

28 5. City will maintain exclusive control over the work described herein.

1 Nothing in this Agreement shall be deemed to require City to approve any plan, proposal,
2 suggestion, application or request submitted by Applicant.

3 6. City agrees to provide Applicant with monthly invoices together with
4 reasonably detailed supporting documentation.

5 7. In the event that City wishes to revise the scope of services to transfer
6 money from one task to another, without increasing the overall Project costs, the Director
7 of City's Development Services Department may do so with the prior written approval of
8 Applicant.

9 8. City shall provide to Applicant a monthly written request for
10 reimbursement of the costs described in Exhibit "A" that were incurred by City in the
11 previous month, together with reasonably detailed supporting documents including copies
12 of invoices for outside consultants that include number of hours, hourly rates and
13 description of tasks performed. Hourly rate schedules for outside consultants are provided
14 in Exhibit "B" attached hereto. Within thirty (30) days after receiving each such request
15 from City, Applicant shall pay to City the total reimbursement amount set forth in such
16 request.

17 9. City shall use its best efforts to complete the processing of the
18 Discretionary Actions.

19 10. This Agreement shall commence effective as of January 1, 2016 and
20 shall terminate on April 1, 2017 (the "Termination Date") unless sooner terminated as
21 provided below. However, the Parties may mutually agree in writing to extend the term of
22 this Agreement by negotiating such extension at least sixty (60) calendar days prior to the
23 Termination Date. Notwithstanding anything to the contrary contained in this Agreement,
24 in no event shall the term of this Agreement extend beyond the end of the month in which
25 an extension is completed and entered into by the Parties.

26 11. Prior to the Termination Date, either of the Parties may terminate its
27 rights and obligations under this Agreement, with or without cause, upon sixty (60) calendar
28 days written notice given to the other. Upon termination of this Agreement, the Parties'

1 obligations under this Agreement shall terminate except with respect to the obligations of
2 the Parties for time period occurring prior to the Termination Date.

3 12. Unless otherwise provided herein, any notice, request, consent,
4 instruction or other document to be given hereunder by either of the Parties to the other
5 shall be in writing and delivered in person facsimile transmission (with confirmed receipt)
6 or mailed first-class, postage prepaid, as follows:

7 If to Applicant:: Beach Oil Minerals Partners, LLC
8 4901 Birch Street
Newport Beach, CA 92660

9 If to City: City of Long Beach
10 Office of the City Manager
333 West Ocean Blvd., 13th Floor
11 Long Beach, CA 90802

12 With copy to: City of Long Beach
13 Attn: Director of Development Services
333 West Ocean Blvd., 3rd Floor
14 Long Beach, CA 90802

15 Each such notice shall be effective on the date received and may be
16 delivered to such other place as any of the Parties may designate by written notice given
17 to the other.

18 13. This Agreement constitutes the entire agreement between the Parties
19 pertaining to the subject matter hereof and supersedes all prior agreements,
20 understanding, negotiations and discussions, whether oral or written, of the Parties. No
21 supplement, modification or waiver of this Agreement shall be binding unless executed in
22 writing by the Parties to be bound thereby.

23 14. If any one or more of the provisions contained in this Agreement shall
24 be found to be invalid, illegal or unenforceable in any respect, the validity, legality and
25 enforceability of the remaining provisions contained herein shall not, in any way, be
26 affected or impaired thereby.

27 15. This Agreement shall be construed in accordance with and governed
28 by the laws of the State of California.

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1 16. The headings and captions to the various articles, sections,
2 subsections, subdivisions and other provisions of this Agreement have been inserted for
3 convenient reference only, and shall not have the effect of amending or changing the
4 express terms and provisions of any such article, section, subsection, subdivision or other
5 such provision thereof.


6 17. This Agreement and all written documents pursuant thereto shall be
7 maintained as a public record.


8 18. The Parties agree that this Agreement is solely for the benefit, and it
9 does not, nor is it intended to, create any rights in favor of or obligation owing to any third
10 parties.

11 19. In entering into this Agreement, City does not waive any of its
12 regulatory rights and/or obligations or discretion with respect to its consideration of the
13 Discretionary Actions.

14 IN WITNESS WHEREOF, the Parties have hereunto caused this Agreement
15 to be executed and delivered, as of the date first appearing above, by their duly authorized
16 offices.

BEACH OIL MINERALS PARTNERS, LLC, a limited liability company

19 By: 
20 Name: Michael Barmettler
21 Title: Secretary of Beach Oil Investments, LLC
Managing Member

22 By: 
23 Name: Frank T. Suryan, Jr.
24 Title: Chairman of Beach Oil Investments, LLC
Managing Member
"Applicant"

CITY OF LONG BEACH, a municipal corporation

26 By: 
27 City Manager

28 // "City"

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Approved as to form on the 9th day of FEBRUARY, 2016⁷.

CHARLES PARKIN, City Attorney

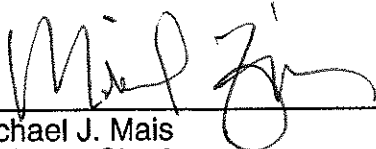
By: 
Michael J. Mais
Assistant City Attorney

EXHIBIT A

Reimbursement Services



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 3rd Floor, Long Beach, CA 90802 (562) 570-5237

April 19, 2016

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager to execute all documents, including amendments, necessary to enter into a Reimbursement Agreement with Lyon Housing (Pumpkin Patch) XLV, LLC, for reimbursement costs related to project management for entitlements for wetlands restoration for a portion of property at 6433 East 2nd Street and relocation of oil facilities to 6701 East Pacific Coast Highway, for a period of one year with the option to renew for two additional one-year periods;

Authorize the City Manager to execute all documents, including amendments, necessary to enter into a contract with Lisa Wise Consulting, Inc., for coastal zone consulting services, in an annual amount of \$120,000, and an additional 10 percent contingency in the amount of \$12,000, for a total annual amount not to exceed \$132,000, for a period of one year with the option to renew for two additional one-year periods, at the discretion of the City Manager; and

Increase appropriations in the Development Services Fund (EF 337) in the Development Services Department (DV) by \$132,000. (District 3)

DISCUSSION

The project applicants, Lyon Housing (Pumpkin Patch) XLV, LLC (Lyon Housing), and Los Cerritos Wetlands, LLC, have requested entitlements to relocate oil infrastructure from the Synergy Oil and Gas, LLC (Synergy) oil field at 6433 East 2nd Street to a site owned by the Los Cerritos Wetlands Authority and the 7-acre Pumpkin Patch site at 6701 East Pacific Coast Highway, where Synergy executive offices will also be constructed (Exhibit A – Project Location Map). The northern portion of the Synergy oil field will be restored through the creation of a Wetlands Mitigation Bank. Staff has determined that the complexity of the project, the number of discretionary approvals required, and the number of City and external agencies and stakeholders involved in various phases of project review and approval warrant a high level of coordination and oversight, to ensure compliance with all local, regional, State and federal procedural requirements and statutory provisions, and that the project remains on schedule.

HONORABLE MAYOR AND CITY COUNCIL

April 19, 2016

Page 2 of 3

Lyon Housing, representing both applicants, has agreed to participate in a Reimbursement Agreement (Agreement) between the City and its respective parties as a means to facilitate the project review process. The Agreement will allow the City to select and utilize its own consultant, Lisa Wise Consulting, Inc. (LWC), to act as Project Manager to supplement staff in the review and processing of this project, as outlined in their Scope of Work (Exhibit B – Consultant Scope of Work for Project Management). LWC has specialized expertise in coastal zone issues and is familiar with the City's Local Coastal Program. LWC will provide required coastal zone expertise and work at City staff's direction to coordinate the various parties involved in the process, including the applicants, the EIR consultant, the California Coastal Commission, and other relevant stakeholders. City staff will continue to report through their respective City departments for direction and feedback.

Key terms of the Reimbursement Agreement are as follows:

- 1) The Agreement is effective January 1, 2016 through April 1, 2017, with the option to renew for two one-year periods. This will allow the City to recapture expenses incurred since the application submittal, including preparation for the project kick-off meeting and coordination of the project schedule and EIR processing, as these activities have already commenced. The extensions will allow continuity in project management should unforeseen circumstances result in substantial project delay.
- 2) Staff estimates annual costs of approximately \$120,000 to be reimbursed by the applicant, Lyon Housing, and payable in periodic deposits of \$20,000 upon prior notice by staff, as needed. The City expects to be reimbursed only for those expenses actually incurred. If actual costs do not exceed estimated total annual costs of \$120,000, Lyon Housing is not liable for payment to the City beyond the actual expenses incurred.
- 3) In the event actual costs exceed the estimated costs set forth in the Reimbursement Agreement, Lyon Housing agrees to pay the actual costs.
- 4) Notwithstanding the above, the City and Lyon Housing agree to amend the Agreement to reflect greater expenses paid or incurred, or anticipated to be paid or incurred, in the event that City costs exceed the estimated costs by more than 10 percent (or \$12,000) due to the need for services not anticipated by the City at the time of the signing of the Agreement.
- 5) The City will maintain exclusive control over the work to be performed by LWC. Nothing in the Agreement shall be deemed to require the City to approve any plan, proposal, suggestion, application or request submitted by Lyon Housing.

This matter was reviewed by Assistant City Attorney Michael J. Mais on March 28, 2016 and by Budget Management Officer Victoria Bell on March 31, 2016.

TIMING CONSIDERATIONS

City Council action on this matter is not time critical.

FISCAL IMPACT

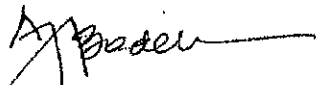
Costs for the project management contract are estimated at \$132,000, including the recommended 10 percent contingency of \$12,000. If approved, the services will be performed by Lisa Wise Consulting, Inc. Currently this project is not budgeted; therefore, a \$132,000 appropriation increase, offset by reimbursement from Lyon Housing, in the Development Services Fund (EF 337) in the Development Services Department (DV) is requested.

There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

AJB:LT:lt
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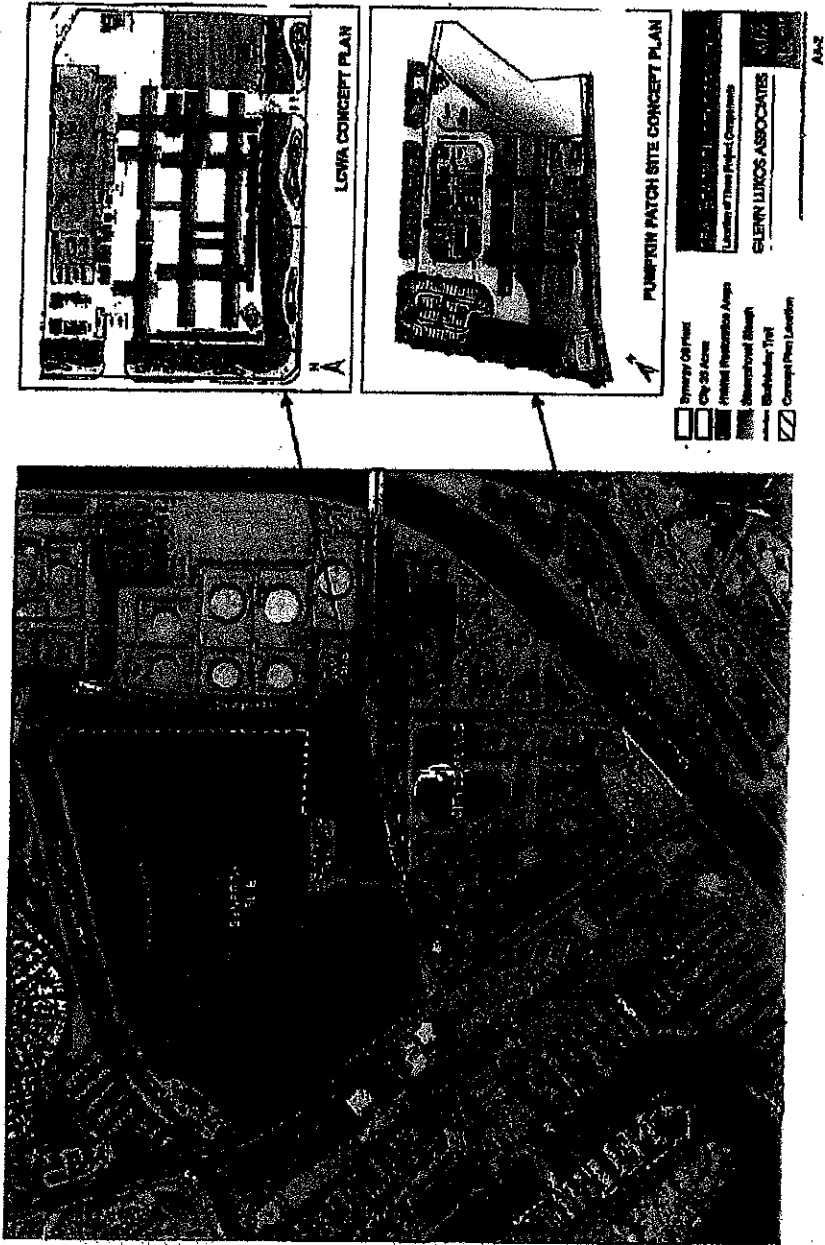
APPROVED:


PATRICK H. WEST
CITY MANAGER

Attachments: Exhibit A – Project Location Map
Exhibit B – Consultant Scope of Work for Project Management

EXHIBIT A

Exhibit A



Lisa Wise Consulting, Inc.
planning economics natural resources

City of Long Beach

Project Management Services

Scope of Work

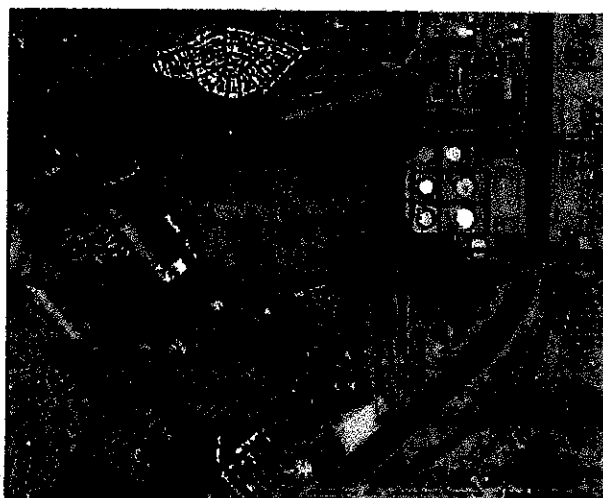
Prepared by: Lisa Wise Consulting, Inc.

Prepared on: February 8, 2016

This proposed scope of work and budget is for project management services performed by Lisa Wise Consulting, Inc. (LWC) for the City of Long Beach (City). The project understanding, tasks, and budget described below are based on LWC's understanding of the City's expectations, and LWC's experience with similar projects. LWC will revise the scope of work as necessary to meet the City's expectations.

PROJECT UNDERSTANDING

Within the City's jurisdiction, Synergy Oil and Gas (as Los Cerritos Wetlands, LLC) and Lyon Communities (as Lyon Housing (Pumpkin Patch) XLV, LLC) seek to relocate oil infrastructure from and restore wetlands on the Synergy Oil Field (formerly known as the Bixby Oil Field or the Berger and Dean Properties). Oil infrastructure from the Synergy Oil Field will be relocated to the five-acre Seal Beach Oil Field that is owned by the Los Cerritos Wetlands Authority (LCWA) and to the seven-acre Pumpkin Patch parcel at the intersection of Highway 1 and the San Gabriel River owned by Lyon Communities. The Pumpkin Patch site will also include Synergy Oil and Gas executive offices and headquarters. Wetlands on Synergy Oil Field will be restored through creation of a Wetlands Mitigation Bank.



Synergy Oil Field (Synergy Oil & Gas):
Relocate oil infrastructure off-site.
Restore wetlands.

Seal Beach Oil Field (Los Cerritos Wetlands Authority): Expand oil drilling operations and infrastructure.

Pumpkin Patch (Lyon Communities):
Expand oil drilling operations and infrastructure. Build executive offices and headquarters.

Figure 1. Project Site

Source: Base Image from Google Earth.

Shown above in Figure 1, the project consists of removal and remediation of oil production facilities and equipment, relocation of oil wells and related infrastructure from the Synergy Oil Field, wetlands restoration, establishment of a wetlands mitigation bank on the restored wetlands on the Synergy Oil Field, and public access improvements. The project also entails construction of a ±5,000-square foot office building, ±12,000 square feet of storage, storage tanks, and a water treatment facility on the Pumpkin Patch property. If appropriate, a limited number of oil wells remaining on the Synergy Oil Field may be relocated to an additional parcel in the Southeast Area Development and Improvement Plan (SEADIP) area (see reference to Seal Beach Oil Field in Figure 1).

As part of its development review operation for this project, the City asked LWC to provide ongoing project management services to facilitate timely review and processing of the project application, which includes requests for approval of the following discretionary actions:

- Environmental impact report (EIR),
- Local coastal program (LCP) amendment,
- Zoning code amendment (SEADIP),
- Zoning change (map amendment),
- Local coastal development permit (LCDP),
- Oil map amendment, and
- Site plan review.

TASK 1. PROJECT COORDINATION

For the project coordination, LWC will serve as the City's point of contact and work with the City to usher the project application through development review in accordance with the Permit Streamlining Act (Government Code § 65920 et seq.), the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.), and other applicable federal, state, and local policy.

LWC understands that the City's internal project management team will directly manage City staff and other consultants contributing to the project. However, to address the complexities of the project LWC will work with the City's internal project management team to facilitate coordination of the project team (i.e., City staff, consultants, the applicant and its consultants) and other entities (i.e., California Coastal Commission staff).

Among other items, project coordination includes:

- Work with City staff to develop a project schedule that reflects completion of the EIR, site plan review, public workshops, Planning Commission and City Council study

sessions, public hearings, submittal to the California Coastal Commission for required permits, and other key milestones and meetings;

- Facilitate a project kick-off meeting among City, consultant, applicant, and relevant agency staff to introduce the project team and roles, review and discuss the project schedule, and establish a communication protocol;
- Coordinate and facilitate regularly scheduled project team meetings. The meeting schedule will be mutually agreed to by the City and the applicant as a means of ensuring regular communication of the project status between the City and the applicant;
- Maintain communication among to the project team at-large (i.e., the City, applicants, consultants, etc.) by managing a schedule of regular meetings to anticipate and address potential issues;
- Regularly update the City staff on project status in writing at regular intervals (e.g., weekly, monthly, etc.) as agreed upon;
- Ensure that relevant project team members, agency staff, and subject matter experts are involved in meetings and deliverable production as needed; and
- Track project deadlines through use of a project management system.

TASK 2. COMMENT ON MATERIALS

Along with project coordination, LWC will, as needed, provide the City with comments on project deliverables and other materials.

TASK 3. ADDITIONAL SERVICES

As directed by the City, LWC will provide additional services requested that are not outlined in Tasks 1 and 2.

However, at this time, LWC understands that LWC, will not be responsible for:

- Technical review,
- Public outreach and noticing,
- Ensuring other City consultants satisfy their respective scopes of work, or
- Advice on negotiations between the City and other parties.

EXHIBIT B

Hourly Rate Schedule

HOURLY BILLING RATES

The project is to be billed on a time and materials basis. LWC fee structure is as follows:

- Principal: \$195 per hour
- Director: \$160 per hour
- Senior Associate: \$147 per hour
- Associate: \$104 per hour