



Legislation Text

File #: 09-0160, **Version:** 1

Recommendation to authorize City Manager to execute a Real Estate Exchange Agreement, providing overall terms and conditions of an exchange of approximately 12.1 acres of City-owned land for surface rights to approximately 33.77 acres of privately-owned wetlands. (Districts 1,3)

The Los Cerritos Wetlands (Wetlands) cover nearly 450 acres at the southeast convergence of the City of Long Beach with the City of Seal Beach. Historically, there have been three separate ownerships included within the Wetlands: the Hellman Property, containing approximately 174 acres, the Bryant Property, containing approximately 87 acres, and the Bixby Property, containing approximately 175 acres. The Wetlands consist of a combination of aquatic, semi-aquatic and terrestrial habitats that result from periodic flooding by tidal waters, rainfall or runoff. The Wetlands provide habitat for a vast array of organisms, including many endangered species. The Wetlands also provide a vital link between land and open water, exporting nutrients and organic material, buffering the effects of storms, filtering and assimilating many pollutants from runoff, reducing shoreline erosion and improving water quality. Most importantly, the Wetlands provide an opportunity for passive enjoyment and quiet observation of a natural habitat and national resource.

In 2002, City Council entered into a confidentiality agreement with The Trust for Public Lands (TPL), utilizing their expertise to assist in negotiating a possible acquisition of the Bixby Property. In 2003 City Council authorized an amendment to the confidentiality agreement to include the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) to assist the City and TPL in negotiating for the acquisition of the Bixby Property, and including the Bryant and Hellman Properties. In December 2005, City Council authorized the formation of a Joint Powers Authority, referred to as the Los Cerritos Wetlands Authority (LCWA), whose function is to acquire, protect, restore and maintain the Wetlands. The Coastal Conservancy and the City of Seal Beach joined with the RMC and the City of Long Beach as members of the LCWA.

In June 2006, the LCWA acquired 66 acres of the Bryant Property, successfully protecting a significant portion of the Wetlands. The acquired land included operating oil wells, with a determination by the Coastal Conservancy that ongoing oil operations are compatible with the long-term goal of public access, and wetland and habitat restoration. Negotiations for the Hellman Property are ongoing with acquisition anticipated in 2009. The Bixby Property remained the most complicated and difficult site to acquire, primarily as a result of bifurcated ownership and the value of perceived development potential.

Recently, LCW Partners, LLC (LCW) acquired the Bixby Property, which consolidated the bifurcated ownership. The principals of LCW have evidenced a cooperative posture during discussions regarding Wetlands acquisition. However, because of perceived development potential, and the limiting valuation criteria of State-approved appraisals, the offering price has not matched the selling price. While there exists a more cooperative owner, this funding gap has historically impeded any progress toward acquisition.

As discussed at the City Council meeting of February 3, 2009, staff is proposing that the City exchange the Public Service Yard (PSY) for surface rights to the privately owned property south of Second Street easterly of the Marketplace (2nd Street).

The PSY, depicted on the attached Exhibit A, contains approximately 12.1 acres. The property is zoned IG or General Industrial, and is valued at approximately \$15 per square foot, or \$7.9 million. This value reflects the unique constraints of the property, including indirect access, uncertified fill, environmental impacts, historic buildings, a County easement, and demolition costs. The Public Services Bureau (PSB) currently occupies a portion of the property. Upon completion of the proposed transaction, the City shall have a rent-free, six-month period to relocate the PSB. The City and Long Beach Airport are currently engaged in discussions to consolidate maintenance operations and relocate the PSB to a recently vacated facility at the Long Beach Airport. Staff has determined that the entire PSB cannot co-locate on the site with Long Beach Airport staff; as a result, the City-owned, former MTA Bus Maintenance Facility, located at 970 West Chester Place, is being investigated for temporary occupancy of the Street Maintenance Division of PSB.

The 2nd Street property, depicted on the attached Exhibit B, contains approximately 33.77 acres. Under the Southeast Area Development and Improvement Plan, which controls the zoning for this area, the 2nd Street property is zoned for Business Park, which allows for office commercial, light industrial, restaurants and hotel. While the extent of development on this property remains speculative, for the trade to be valued equally, the 2nd Street property would need to achieve a minimum of \$6 per square foot. It is staff's opinion that this value is achievable.

Acquisition of the 2nd Street property will provide unfettered access to the Bryant wetlands and ultimately protect the majority of the wetlands properties south of Second Street.

The issues of most concern in the proposed exchange are environmental condition and ongoing oil operations. Regarding environmental condition, it is proposed that each party retain its existing obligations and liabilities, and hold the other party harmless. The parties shall agree to work cooperatively and in mutual interest to minimize each party's exposure to potential environmental cost through intelligent planning, design, and use of each property. Any action required by an oversight agency for environmental remediation is intended to be conducted on a risk-based approach. A risk-based approach to remediation considers the intensity of use of a property when determining its level of cleanup. In this scenario, for the PSY, a general industrial use is the baseline use upon which remediation goals will be set. For the 2nd Street property, an appropriate baseline use would include wetlands, habitat and passive open space, in conjunction with ongoing oil operations. As an additional protective measure, the City may be included as an insured party under an existing environmental insurance policy for the 2nd Street property.

Regarding ongoing oil operations, the parties will negotiate a Surface Use Release and Grant of Easement (SURGE) document, similar to the one negotiated and executed for the Bryant Wetlands acquisition. This document will identify exclusive and non-exclusive areas that will be reserved for oil operations. The exclusive areas will include, as example, existing well locations and other required above ground improvements. The non-exclusive areas will include, as example, access roadways, pipeline and other utility corridors. The document will also describe certain areas that will be reserved exclusively for habitat protection, wetlands restoration and passive open space. The parties will work cooperatively to ensure, to the extent reasonably possible, that access roadways and utility corridors may be used by both parties.

The framework of the proposed exchange is as follows:

Subject to a Surface Use Release and Grant of Easement document approved by the Rivers and Mountains Conservancy and the Coastal Conservancy, the City will convey the following property under the following terms and conditions:

1. The PSY, depicted on Exhibit A, containing 12.1 acres, more or less, subject to the following conditions precedent.
 - i. Approval of title
 - ii. Approval of zoning
 - iii. Approval of a hold-harmless provision
 - iv. A zoning confirmation letter, setting forth allowed uses
2. The City will receive through fee conveyance, the surface rights to the 2nd Street property depicted on Exhibit B, containing 33.77 acres, more or less, subject to the following conditions precedent.
 - i. Approval of title
 - ii. Approval of environmental condition, including a hold-harmless provision and the inclusion of the City as a insured party in an environmental insurance policy
 - iii. A Surface Use Release and Grant of Easement (SURGE) document detailing exclusive and non-exclusive rights for oil operations and wetlands preservation, restoration and enjoyment

Staff seeks City Council's approval of the framework above. It is anticipated that each parties' due diligence efforts will take approximately 90 days, allowing for a close of escrow to occur in the second quarter of 2009.

ENVIRONMENTAL CLEARANCE

A Categorical Exemption, CE 10-09, has been issued in connection with this proposed transaction in accordance with the provisions of the California Environmental Quality Act.

This matter was reviewed by Deputy City Attorney Richard F. Anthony on January 20, 2009 and by Budget Division Officer Victoria Bell on February 6, 2009.

City Council authorization is requested on February 10, 2009, in order to proceed with Phase I in a timely manner.

The relocation of the Public Service Bureau at the Public Service Yard has been a longterm goal of the City. Co-location at the Long Beach Airport with their maintenance staff is the preferred alternative. The Street Maintenance Division cannot be accommodated at the Long Beach Airport site, and other sites, including the City-owned MTA Bus Storage Lot, located at 970 West Chester Place, and Gas & Oil property, located at Junipero Avenue and Spring Street, are being reviewed for appropriateness. Cost to relocate the Public Service Yard is estimated at \$500,000. These costs will be absorbed within the Public Works annual operating budget.

Approve recommendation.

MICHAEL P. CONWAY
DIRECTOR OF PUBLIC WORKS

NAME
TITLE

APPROVED:

PATRICK H. WEST
CITY MANAGER