

31685

**ENVIRONMENTAL INDEMNITY AND ACCESS AGREEMENT  
[Oil and Gas Property]**

THIS ENVIRONMENTAL INDEMNITY AND ACCESS AGREEMENT ("**Agreement**") is made and entered into as of June 3, 2010 (the "**Effective Date**") between the City of Long Beach ("**City**"), LCW Partners, LLC, a Delaware limited liability company ("**LCW Partners**") and LCW Oil Operations, LLC, a Delaware limited liability company ("**LCW Oil**") (LCW Partners and LCW Oil, collectively and, where applicable, jointly and severally, "**LCW**").

RECITALS

A. City and LCW Partners have entered into a transaction whereby the City is conveying fee title to certain real property to LCW Partners in exchange for LCW Partners' conveyance to the City of fee title (oil and mineral rights excepted) to that certain real property comprised in part of approximately 33.8-acres and described in the attached Exhibit "A" (the "**Property**"). As part of LCW Partners' disclosures to the City, LCW Partners has provided documentation, listed in Exhibit "B", revealing that environmental contamination may exist in soil and/or groundwater or at, on or beneath the Property resulting from historic Oil and Gas Operations (defined below) conducted on the Property prior to the Effective Date, and by reason of a landfill on a portion of the property operated by a predecessor in interest to LCW. LCW acknowledges that it has no documentation with respect to possible environmental contamination of property containing fill material previously transported to the northwest corner of the Property, depicted in the attached Exhibit "A-1" (the "**Fill Property**").

B. Prior to the conveyance of the Property to the City, LCW Partners has conveyed to LCW Oil the mineral rights to the Property, including the right to extract same. In addition, concurrently herewith, LCW Oil and the City are entering into that certain Surface Use Release Agreement and Grant of Easements (the "**SURGE Agreement**"), dated as of the Effective Date, pursuant to which LCW Oil shall enjoy certain surface and subsurface easement rights (in some cases exclusive, and in some cases, non-exclusive) to use portions of the Property for oil and gas operations.

C. City and LCW desire to enter into this Agreement to set forth their respective rights and obligations relating to the Historic Oil and Gas Environmental Conditions and Landfill Conditions.

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and LCW hereby covenant and agree that the Recitals above are incorporated into the terms of this Agreement and as follows:

**AGREEMENT**

1. **Definitions.**

(a) "**Agency**" or "**Agencies**" means any federal, state or local agency having Jurisdiction over the Property over the reporting, assessment and remediation of contaminated soil and/or groundwater by reason of any Hazardous Substances at, on or under the Property.

(b) "**Environmental Conditions**" shall mean the presence of Hazardous Substances in air, soil, soil vapor, storm water, surface water and/or groundwater at, on, or

under the Property, in such quantities or concentrations as to require assessment, monitoring, and/or remediation required by Agencies with Jurisdiction, or in such quantities or concentrations as to constitute, or be claimed to constitute, a nuisance, trespass, unhealthful exposure, injury, or damage to third parties or the public, arising by reason of any conduct by any party on or at the Property prior to the Effective Date.

(c) **“Environmental Laws”** means any and all present and future federal, state and local laws, statutes, ordinances, regulations, policies and any other requirements of Agencies relating to health, safety, the environment or to any Hazardous Substances (defined below), including without limitation: 15 U.S.C. §2601 et seq. (the Toxic Substances Control Act); 33 U.S. Code §1251 et seq. (the Clean Water Act); 42 U.S. Code §6901 et seq. (the Resource Conservation and Recovery Act); 42 U.S. Code §7401 et seq. (the Clean Air Act); 42 U.S. Code §9601 et seq. (the Comprehensive Environmental Response, Compensation and Liability Act); 49 U.S. Code §1801 et seq. (the Hazardous Materials Transportation Act); 33 U.S.C. §2701 et seq. (the Oil Pollution Act); California Health & Safety Code (H&S Code) §25100 et seq. (Hazardous Waste Control); H&S Code §25300 et seq. (the Hazardous Substance Account Act); H&S Code §25404 et seq. (Unified Hazardous Waste and Hazardous Materials Management Regulatory Program); H&S Code §25531 et seq. (Hazardous Materials Management); H&S Code §25249.5 et seq. (the California Safe Drinking Water and Toxic Enforcement Act); H&S Code §25280 et seq. (Underground Storage of Hazardous Substances); H&S Code §25170.1 et seq. (the California Hazardous Waste Management Act); H&S Code §25501 et seq. (Hazardous Materials Response Plans and Inventory); H&S Code §18901 et seq. (California Building Standards); California Water Code §13000 et seq. (the Porter-Cologne Water Quality Control Act); local fire codes; and the regulations adopted and promulgated pursuant thereto, as well as any future statute relating to the use, release, or disposal of Hazardous Substances, or to the cleanup of air, surface waters, groundwater, soil or other media contaminated with such substances.

(d) **“Hazardous Substance”** means petroleum and petroleum products, and substances (whether solid, liquid, or gas) defined, listed, or otherwise classified as pollutants, hazardous wastes, hazardous substances, hazardous materials, extremely hazardous wastes, or words of similar meaning or regulatory effect under any present or future Environmental Laws or that may have a negative impact on human health or the environment, including but not limited to petroleum and petroleum products, asbestos, and asbestos-containing materials (**“ACM”**), polychlorinated biphenyls (**“PCBs”**), lead, lead-based paints, radon, radioactive materials, flammables, and explosives.

(e) **“Historic Oil and Gas Environmental Conditions”** shall mean the presence of Hazardous Substances in air, soil, soil vapor, storm water, surface water and/or groundwater at, on, or under the Property, in such quantities or concentrations as to require assessment, monitoring, and/or remediation required by Agencies with Jurisdiction, or in such quantities or concentrations as to constitute, or be claimed to constitute, a nuisance, trespass, unhealthful exposure, injury, or damage to third parties or the public, arising by reason of Oil and Gas Operations conducted on or at the Property prior to the Effective Date.

(f) **“Indemnification Notice”** is defined in Section 3(c)(i).

(g) **“Indemnified Party”** or **“Indemnified Parties”** shall mean the City and those persons and entities who now or in the future are the City’s elected and appointed officials, partners, employees, agents, representatives, departments, redevelopment agency and officers, and the City’s assignees or successors in interest as the owner of the Property,

and their members, managers, partners, employees, agents, representatives, departments, directors and officers.

(h) **"Jurisdiction"** means the jurisdiction legally granted to an Agency pursuant to applicable California code or Federal statutes or regulations to compel and supervise remediation of Historic Oil and Gas Environmental Conditions and Landfill Conditions at the Property.

(i) **"Landfill"** means that City Dump and Salvage No. 2 landfill located in the City of Long Beach, California, as further depicted in Exhibit "A-2".

(j) **"Landfill Conditions"** means the presence of Hazardous Substances in air, soil, soil vapor, storm water, surface water and/or groundwater at, on, or under the Property, in such quantities or concentrations as to require assessment, monitoring, and/or remediation required by Agencies with Jurisdiction, or in such quantities or concentrations as to constitute, or be claimed to constitute, a nuisance, trespass, unhealthful exposure, injury, or damage to third parties or the public, arising by reason of the Landfill operated on or at the Property prior to the Effective Date.

(k) **"LCW's Response Deadline"** is defined in Section 3(c)(ii).

(l) **"Liabilities"** is defined in Section 3(a).

(m) **"Notice of Claim"** is defined in Section 3(c)(i).

(n) **"Oil and Gas Operations"** means extracting, operating, maintaining, installing, constructing, repairing, working over, reworking, recompleting, drilling, redrilling, replacing, testing oil, gas, and injection wells and/or any pipelines, utilities, storage facilities and related equipment and installations which are part of and used in conjunction with oil operations, equipment, technologies, and activities prior to the Effective Date.

(o) **"Related Indemnified Parties"** is defined in Section 3(c)(i).

(p) **"Remediation"** means collectively any environmental assessment, investigation, response, monitoring, remediation, and/or other corrective action as directed by any Agency with respect to Historic Oil and Gas Environmental Conditions and Landfill Conditions.

(q) **"Response Actions"** is defined in Section 8.

(r) **"Work Papers"** is defined in Section 3(f).

2. **Insurance.** Pursuant to the requirements of the Real Estate Exchange Agreement entered into between the City and LCW Partners, LCW Partners, at its sole cost and expense, will provide the City with an endorsement to LCW Partners' existing environmental insurance policy ("**Insurance Policy**") covering the Property and will add the City as an additional insured under such policy. The endorsement and policy will be in the form and with the limits of liability attached hereto as Exhibit "C". LCW Partners agrees to maintain such policy in effect for a period of 10 years from the Effective Date or until the City sells the Property to a third party, whichever is earlier. The parties agree to cooperate in terms of seeking coverage provided under the Insurance Policy. In addition, the City shall not take any action whatsoever

at the Property, or otherwise, or fail to take any reasonable action, that may result in any release or discharge, in whole or in part, of the insurer under the Insurance Policy or breach any condition or obligation on the part of the insured under the Insurance Policy that would give rise to a release or discharge, in whole or in part, of the insurer, or otherwise excuse the insurer, in whole or in part, from its obligations under the Insurance Policy, or constitute a waiver of any benefits provided by the Insurance Policy.

### 3. **Defense and Indemnification.**

(a) Subject to the limitations specified in Section 3(b) below, and provided that any party seeking to assert an Indemnified Claim (defined below) notifies LCW in accordance with Sections 8 and 10 of this Agreement, and except as otherwise expressly limited herein, LCW shall indemnify, protect, and hold the Indemnified Parties harmless from and against any and all actions, claims, causes of action, damages, liabilities, charges, administrative and judicial proceedings, Remediation, and all costs and expenses incurred in connection therewith (collectively, the "**Liabilities**") based on, arising out of, or in connection with:

(i) the presence of any Historic Oil and Gas Environmental Conditions in, on, under, from or affecting the Property;

(ii) the presence of any Environmental Conditions in, on, under from or affecting the Fill Property;

(iii) the presence of the Landfill Conditions in, on, under, from or affecting the Property;

(iv) LCW's conduct of Response Actions on the Property, or

(v) LCW's violation(s) of any Environmental Laws prior to the Effective Date.

(b) Notwithstanding anything provided in this Agreement to the contrary, including, without limitation, the provisions of Section 3(a), LCW shall not be liable for, and shall have no indemnity or defense obligations for:

(i) any consequential, special, or punitive damages, including damages for diminution in value;

(ii) those Liabilities specified in Section 7 of the SURGE Agreement, for which City is responsible or as to which LCW Oil is excused from indemnifying the City pursuant to Section 3 of the SURGE Agreement;

(iii) any Liabilities suffered by LCW or the City due to the City's failure to comply with the terms of this Agreement;

(iv) any Liability arising in connection with or by reason of LCW's Response Actions to the extent arising from or by reason of the negligence or willful misconduct of the Indemnified Parties or their contractors;

(v) any release of Hazardous Substances from the Landfill by reason, directly or indirectly, of construction, improvement, or development of, the Property (including, without limitation, grading and penetrations into the ground or other modifications to the physical condition of the Property); or

(vi) any and all Liabilities arising from or related to Liabilities to the extent caused by the negligence or willful misconduct of the Indemnified Parties or their contractors.

Liabilities set forth in Sections 3(a)(i) through 3(a)(v) above, to the extent not excluded in Sections 3(b)(i) through 3(b)(vi), are hereinafter collectively referred to as "**Indemnified Claims**". Without limiting the generality of the foregoing, the matters set forth in Sections 3(b)(i) through 3(b)(vi) shall be excluded from the definition of "Indemnified Claims." Nothing contained in Section 3(b)(v) shall be construed to prevent the normal public recreational use of the Landfill property so long as such use does not involve construction, development or improvement thereof, and this indemnification shall apply to Liabilities occurring by reason of normal public recreational use of the Landfill property so long as such use does not involve construction, development or improvement of the Landfill property. For purposes of this Agreement, "construction, development or improvement" (and similar words) of the Landfill property includes, without limitation, any grading on the Landfill property or penetrations into the ground, or other modifications to the physical condition of the Landfill property.

(c) In addition to its agreement to protect, indemnify, and hold harmless the Indemnified Parties for the Indemnified Claims specified in Section 3(a) above, LCW shall defend the Indemnified Parties in connection with any claim or demand against the Indemnified Parties arising out of or related to the Indemnified Claims. LCW's indemnity and defense obligation shall be subject to the following provisions:

(i) After receipt by an Indemnified Party of notice of any claim or the commencement of any action ("**Notice of Claim**") for which such Indemnified Party believes it is entitled to indemnification or defense under this Agreement, such Indemnified Party shall deliver written notice ("**Indemnification Notice**") to LCW of the claim promptly, but in no event later than twenty (20) days after the Indemnified Party's actual receipt of the Notice of Claim; provided, however, such failure to notify or delay in notifying LCW shall not relieve LCW from any liability which it may have to any Indemnified Party except to the extent of any actual prejudice to LCW from such failure or delay with respect to that certain Indemnified Party(ies) and those Indemnified Parties which derive their rights solely from their relationship with that certain Indemnified Party only (i.e., agents, representatives, employees, officers, directors, shareholders, partners, trustees, affiliates, beneficiaries, attorneys, successors, representatives, heirs, executors, and assigns of an Indemnified Party) (collectively, "**Related Indemnified Parties**"). The Indemnification Notice shall describe in reasonable detail the facts known to the Indemnified Party giving rise to such indemnification claim. Thereafter, the Indemnified Party shall promptly deliver to LCW after the Indemnified Party's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the claim (excluding documents protected by attorney-client privilege).

(ii) LCW shall have thirty (30) business days from the receipt of such written notice ("**LCW's Response Deadline**") in which to respond to the Indemnified Parties' request that LCW retain counsel to defend the Indemnified Parties against the claim or demand. LCW's failure to respond by LCW's Response Deadline shall be deemed to be a refusal to retain counsel to defend the Indemnified Parties against the claim or demand.

(iii) If the claim or demand gives rise to a duty to defend under this Agreement, then LCW shall, no later than LCW's Response Deadline, retain counsel at its expense to defend the Indemnified Parties against the claim or demand. As soon as practicable after the selection of counsel, but in no event later than LCW's Response Deadline, LCW shall notify the Indemnified Parties of the identity of the counsel selected. The counsel selected by LCW shall be subject to the Indemnified Parties' reasonable approval. If necessary, as a condition precedent to LCW's obligation to retain counsel for the Indemnified Parties, the Parties agree to and will execute a mutually acceptable conflict waiver letter. However, if an Indemnified Party reasonably determines, based upon written advice of counsel, that a conflict of interest exists that would make it inappropriate for the same counsel to represent both LCW and a particular Indemnified Party, then the Indemnified Party shall be entitled to retain its own counsel at the reasonable expense of LCW; provided that, LCW shall not be responsible for the fees and expenses of more than one such separate counsel. The Indemnified Parties shall reasonably cooperate with LCW in such defense and make available to LCW all witnesses, pertinent records, materials and information in the Indemnified Parties' possession or control relating thereto as is reasonably requested by or on behalf of LCW except as protected by attorney-client privilege. Similarly, in the event an Indemnified Party is, directly or indirectly, conducting the defense against any such Indemnified Claim, LCW shall cooperate with the Indemnified Party in such defense and make available to the Indemnified Party, at LCW's expense, all such witnesses, records, materials and information in LCW's possession or control relating thereto as is reasonably requested by the Indemnified Party except as protected by attorney-client privilege.

(d) If a claim(s) or demand(s) gives rise to a duty to defend under this Agreement and LCW fails to retain counsel for the Indemnified Parties by LCW's Response Deadline, then the Indemnified Parties may retain counsel to defend themselves against such claims or demands. LCW shall pay all reasonable attorneys' fees and expenses incurred by such counsel in defending the Indemnified Parties against the claim or demand, until LCW engages counsel to undertake such defense.

(e) Notwithstanding any provision set forth in Section 3, any Indemnified Party may take such actions as it deems prudent to defend itself in connection with any Indemnified Claim, provided that such actions shall be at the respective Indemnified Parties' sole cost and expense, except to the extent provided in Section 3(d) above.

(f) The Parties further agree that, within sixty (60) calendar days of receipt by LCW, LCW will forward to the City copies of all non-privileged: (i) correspondence exchanged with Agency(ies) with Jurisdiction over Historic Oil and Gas Environmental Conditions and Landfill Conditions at the Property; (ii) correspondence and documents relating to the defense or settlement of any third-party claim pertaining to or affecting Historic Oil and Gas Environmental Conditions or Landfill Conditions at the Property; and (iii) testing results, draft reports, sampling data, results of assessment, remediation, monitoring, risk assessment data and analyses, and any reports issued in connection with Historic Oil and Gas Environmental Conditions or Landfill Conditions at the Property (collectively "**Work Papers**") in LCW's care, custody, or control. LCW shall forward copies of the Work Papers to the addresses set forth below.

(g) No compromise or settlement of such Indemnified Claim may be effected by either the Indemnified Parties or LCW without the consent of the other (which shall not be unreasonably withheld or delayed). Notwithstanding the foregoing, LCW may pay, settle or compromise an Indemnified Claim without the written consent of the Indemnified Parties so long

as such settlement: (i) includes an unconditional release of the Indemnified Parties from all Liability in respect of such Indemnified Claim, (ii) does not subject the Indemnified Parties to any injunctive relief or other equitable remedy, and (iii) does not include a statement or admission of fault, culpability or failure to act by or on behalf of any Indemnified Party.

**4. Term.**

(a) This Agreement shall terminate on the twentieth (20<sup>th</sup>) anniversary of the Effective Date, and thereafter neither City, LCW Partners, nor LCW Oil shall have any further obligations or liability whatsoever under this Agreement.

(b) Notwithstanding anything provided herein to the contrary, in the event the City, or its successors in interest or assigns, constructs, develops, or improves the Property (including, without limitation, any grading on the Property or penetrations into the ground, or other modifications to the physical condition of the Property), where such construction, development, or improvement, directly or indirectly, results in any release of Hazardous Substances from the Landfill that requires any Response Action, then the indemnification obligations in Section 3(a)(iii) shall terminate and be of no further force or effect, it being acknowledged and agreed that LCW shall have no liability whatsoever for any cost, claim, loss, damage, liability, or Response Action resulting from a disturbance of Hazardous Substances comprising the Landfill caused, directly or indirectly, by any such construction, development, or improvement, of the Property, and the City shall indemnify, defend, protect, and hold harmless LCW, its officers, directors, shareholders, owners, partners, agents, employees, parent companies, subsidiaries and affiliates, from any cost, loss, claim damage, liability or Response Action resulting from any construction, development, or improvement, by the City or its successors or assigns, resulting in a release of Hazardous Substances from the Landfill on the Property.

**5. Release.** Except as provided by Section 4(b), LCW, on behalf of itself and its officers, directors, shareholders, owners, partners, agents, employees, parent companies, subsidiaries and affiliates, hereby releases, acquits and forever discharges the Indemnified Parties from any and all Indemnified Claims. LCW represents and warrants that it has read and fully understands the statutory language of Section 1542 of the Civil Code of the State of California, which reads as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

LCW expressly and specifically waives and relinquishes any and all protections, privileges, rights and benefits under Section 1542 as to the Indemnified Claims.

**6. SURGE Agreement; Historic Oil and Gas Environmental Conditions.** Notwithstanding anything to the contrary herein, this Agreement shall not in any way absolve LCW Oil of its obligations under the SURGE Agreement. Any conditions identified in the environmental reports listed in Exhibit "B" hereto will be deemed to fall within the definition of "Historic Oil and Gas Environmental Conditions". Notwithstanding any other provision of law, upon tendering any claims hereunder, in the event of a dispute as to whether a condition at the Property falls within the definition of "Historic Oil and Gas Environmental Conditions" under this Agreement, or "Current Oil and Gas Environmental Conditions" under the SURGE Agreement,

LCW Partners and LCW Oil, and not the City, will have the burden to determine which category such condition falls within and if necessary to apportion or allocate any responsibilities under this Agreement or the SURGE Agreement without material delay, loss or liability to the City.

7. **Assessment, Monitoring and Remediation Activities.** Subject to the limitations of LCW's obligations in Section 3(b), if an Agency with Jurisdiction orders Remediation of Historic Oil and Gas Environmental Conditions or Landfill Conditions, then LCW agrees to assume responsibility for and cause the completion of, as necessary, such Remediation, to the standard applicable to each of the parcels comprising the LCW Property based on the current zoning as of the Effective Date for the applicable parcel (the "**Current Remediation Standard**"), and agrees to obtain and comply with all guidance, directives and approvals from applicable Agencies in furtherance of its obligations, if any. If and to the extent LCW is obligated to undertake any Remediation to a standard higher than the Current Remediation Standard, or if the City requests and LCW agrees to undertake such Remediation to a standard higher than the Current Remediation Standard, then the City shall promptly reimburse LCW for the amount by which the costs and expenses incurred by LCW for Remediation of the Property to such higher standard exceeds the costs that would have been incurred by LCW with respect to such Remediation to the Current Remediation Standard (including, without limitation, any additional costs incurred by LCW had the City not paid for a portion of the cost of the Remediation). Without limiting the generality of the foregoing, LCW shall be responsible for the installation and operation of any methane gas monitoring and extraction systems that may be required by an Agency with Jurisdiction with respect to the Landfill.

8. **Response Actions.**

(a) LCW shall conduct any necessary response actions and activities resulting from its obligations under this Agreement ("**Response Actions**") in compliance with all applicable Environmental Laws. LCW shall commence such Response Actions within twenty (20) business days after receiving notice of same, and shall thereafter diligently prosecute the Response Action to completion; provided, however, LCW's undertaking of the Response Action is conditioned upon LCW first receiving applicable agency approvals and permits to perform any and all Response Actions on the Property (including any and all required consents from the City), if any such approvals, permits and consents are required, and such 20 business day period for commencing the Response Action shall be extended for the amount of time reasonably required for LCW to develop any necessary plans and to secure the necessary permits. LCW shall promptly remove from the Property any wastes or other materials generated as a result of such Response Action activities. Without limiting the generality of the foregoing, LCW and the City shall reasonably cooperate with each other to seek reasonable, cost-effective methods and means of performing Response Actions, if any such actions become necessary. LCW shall have the right to engage any and all consultants, advisors, and contractors reasonably required to effect the Response Action, including determination of all methods and means of performing the Response Actions. LCW shall have the right to control and direct the actions to be taken and costs to be incurred in responding to any and all Indemnified Claims. Except in emergency situations where public, safety or welfare is threatened ("**Emergency Situations**"), Indemnified Parties shall not take any Response Action or incur any costs with respect to Indemnified Claims without the prior written consent of LCW, which consent may not be unreasonably withheld. Notwithstanding the foregoing, if an Indemnified Party takes Response Actions or incurs any costs with respect to an Indemnified Claim where no Emergency Situation exists, without LCW's prior written consent, then LCW shall not be liable for such costs, and LCW's overall liability to such Indemnified Party and Related Indemnified



Parties shall be reduced to the extent LCW is actually prejudiced from the Response Actions taken by such Indemnified Party.

(b) Notwithstanding the provisions set forth in Section 8(a), if LCW fails to commence taking Response Actions or thereafter fails to diligently prosecute the Response Actions to completion, an Indemnified Party may, but shall not be required to, take reasonable Response Actions for the Indemnified Claim to mitigate its damages, and all reasonable costs and expenses incurred by such Indemnified Party in connection therewith or relating thereto shall be reimbursed by LCW upon demand by such Indemnified Party.

(c) The City hereby grants to LCW, and its consultants, contractors, employees and agents, a license to access the Property as necessary to allow LCW to accomplish its obligations under the Agreement. Such a license shall allow LCW to, among other things, bring onto the Property such equipment or machinery as may be reasonably necessary to conduct appropriate Response Actions and to defend any Indemnified Claims. In entering the Property to conduct the Response Actions, LCW accepts the Property conditions as may exist from time to time without any representation or warranty of the City, and without any duty of the City to warn of any conditions. Except to the extent otherwise governed by this Agreement, LCW agrees to assume all risks associated with entry and presence on the Property. Except as otherwise provided in this Agreement, the City shall not be liable for any injury of any kind whatsoever to any person entering upon the Property under this Agreement arising from any cause whatsoever except for injuries caused by the negligence or intentional conduct of the Indemnified Parties.

(d) Prior to commencing any Response Action, LCW shall provide at least three (3) full business day's prior written notice to the City of the date on which LCW proposes to commence the Response Action (except in any situation calling for emergency response action, where this notice requirement is waived),

(e) Notwithstanding anything provided herein to the contrary, LCW's liabilities and obligations hereunder are conditioned upon the City and other Indemnified Parties reasonably cooperating with LCW.

(f) LCW will perform any Response Actions required under this Agreement in a commercially reasonable manner. Further, LCW will interfere as little as reasonably practicable with the City's activities on the Property. LCW agrees that entry upon the Property shall be limited to the extent necessary for the performance of the Response Actions.

(g) The City shall sign any and all consent forms required by such governmental agencies in connection with such permits and approvals.

(h) The City or the City's agent shall be entitled, at its sole option and expense, to have a representative present during the performance of the Response Actions.

(i) LCW shall, during the term of this Agreement and at all times during which access is available to them, require all contractors or subcontractors performing the Response Actions required under this Agreement, and their employees and agents, to maintain insurance with the following coverage:

(i) Workers Compensation with statutory limits;

- (ii) Automobile Liability with \$1,000,000 single limit or equivalent; and,
- (iii) Commercial General Liability, with \$2,000,000 single limit or equivalent.

LCW shall cause the City to be named as an additional insured on each contractor and subcontractor's Commercial General Liability insurance policy.

(j) To the extent that the Response Actions entail air, soil and/or groundwater assessment and/or sampling, the City retains the right, at the City's cost, to have a contractor of its choice present and obtain split samples.

(k) Upon completion of any and all Response Actions, LCW shall cause any tools, equipment, or materials placed on the Property to be removed.

(l) Neither any agent, employee, or representative of LCW nor its contractors may consume, sell, serve, distribute, or give any alcoholic beverages to anyone on or about the Property in connection with performing any Response Actions. If the City learns of any such activities in connection with the Response Actions, the Response Actions shall cease immediately and LCW shall cause the offending individual(s) to be removed from the Property immediately and reimburse all of the City's fees and costs in connection therewith.

(m) If the presence, use, on or off-site disposal or transport of Historic Oil and Gas Environmental Conditions or Landfill Conditions on, to, under, from or about the Property as a result of any necessary Response Actions undertaken by LCW results in any spills or releases of Hazardous Substances, any injury to person, or any injury or damage to the Property, then LCW shall promptly and at its sole cost notify the City, obtain all permits and approvals necessary to remove such Hazardous Substances or otherwise remedy any suspected problem, and remove such Hazardous Substances and remedy any associated problems in accordance with applicable legal requirements and good business practices.

(n) Except as reasonably necessary to implement and complete any necessary Response Actions, LCW shall not cause or permit any Hazardous Substance to be brought upon, kept, or used in or about the Property without the City's prior written consent.

(o) LCW shall not suffer or permit to be enforced against the Property, or any part thereof, any mechanics', materialmen's, contractors', or subcontractors' liens arising from, or any claim for damage arising out of, the Response Actions conducted by LCW. LCW agrees to indemnify the Indemnified Parties, and hold the Property free and harmless from all liability for any and all such liens, claims, demands, together with reasonable attorneys' fees and all costs and expenses incurred in connection with such liens. LCW shall, at its expense, pay and satisfy any adverse judgment that may be rendered thereon before the enforcement thereof. Notwithstanding anything to the contrary contained in this paragraph, in the event of the recordation of such lien, LCW shall have the right, in good faith, to contest the validity of any such lien, claim, or demand, but in such case, upon demand of the Indemnified Parties, LCW shall post a bond as required by law within 30 days after receipt of demand from the Indemnified Parties, in an amount equal to such contested lien, claim, or demand.

9. **Backfill.** If LCW is required to backfill excavations at the Property pursuant to the terms of this Agreement, then LCW may cause the backfilling of such excavations with excess soil, if any, from elsewhere on the Property to the extent allowed by law. If a grading plan exists

that has been approved by LCW, then any such excavations shall not be inconsistent with such grading plan. If backfilling is required, and if no excess soil is available on the Property, then to the extent allowed by law, LCW may import Clean Soil from off-site. For purposes of this Agreement, the term "**Clean Soil**" shall mean soil that LCW's environmental consultant has tested, on a random sampling basis, and which, according to all Parties, meets or surpasses local cleanup criteria.

10. **Notices.** All notices or other communications required or permitted under the Agreement shall be in writing, and shall be personally delivered, sent by recognized overnight mail service or sent by registered or certified mail, postage prepaid, return receipt requested, or sent by facsimile, and shall be effective upon the first business day following receipt at the following addresses:

To City:                   City of Long Beach  
333 W. Ocean Boulevard, 13th Floor  
Long Beach, California 90802-4664  
Attention: City Manager

with a copy to:       Long Beach City Attorney's Office  
333 W. Ocean Boulevard, 11th Floor  
Long Beach, California 90802-4664  
Attention: City Attorney  
Fax: 562 436-1579

To LCW:                   Thomas Dean  
3626 Long Beach Boulevard  
Long Beach CA 90807  
Fax: (562) 427-0368  
Email: tom@tomdeanco.com

with a copy to:       Jeffrey Berger  
2101 Rosecrans Avenue  
Suite 3280  
El Segundo, CA 90245  
Fax: (310) 640-6866  
Email: jeff@big62.com

Notice of change of address shall be given by written notice in the manner detailed in this Section. Rejection or other refusal to accept, or the inability to delivery because of changed address of which no notice was given, shall be deemed to constitute receipt of the notice, demand, request or communication sent.

11. **Miscellaneous.**

(a) **Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(b) **Joint and Several Liability.** The obligations of "LCW" set forth herein shall be joint and several obligations of LCW Partners and LCW Oil.

(c) **Waivers.** No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No waiver or extension of any breach of any covenant or provision shall be effective unless in writing and signed by the party claimed to have waived the covenant or provision. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

(d) **Professional Fees.** In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, agreements or provisions on the part of the other Party arising out of this Agreement, then in that event the prevailing party shall be entitled to have and recover of and from the other all costs and expenses of the action or suit, including reasonable attorneys' fees, accounting and engineering fees, and any other professional fees resulting therefrom.

(e) **Entire Agreement.** This Agreement represents the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

(f) **Time of Essence.** City and LCW hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable) default under this Agreement by the party so failing to perform.

(g) **Construction.** Headings at the beginning of each section and subsection are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared this same. Unless otherwise indicated, all references to sections and subsections are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference. All dates prescribed in this Agreement shall mean any time on or before 5:00 p.m., Los Angeles time on such date. In the event the date on which LCW or City is required to take any action under this terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day. For purposes of this Agreement, the term "business day" shall not include Saturdays, Sundays or legal holidays.

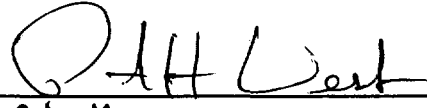
(h) **Governing Law: Choice of Forum.** The parties hereto acknowledge that this Agreement has been negotiated and entered into in the State of California. The parties hereto expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California. Any court action which arises under this Agreement shall be brought in Los Angeles County, California.

(i) **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

(j) **Warranty of Authority.** The individuals executing this Agreement on behalf of each party have the legal power, right and actual authority to bind the party to the terms and conditions hereof.

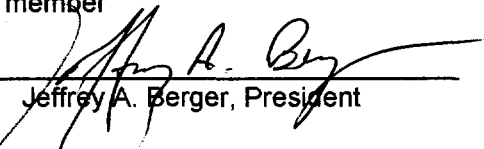
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year written above.

THE CITY OF LONG BEACH

By:   
Its City Manager

LCW PARTNERS, LLC,  
a Delaware limited liability company

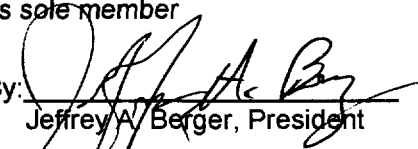
By: LCW Holdings, LLC,  
a Delaware limited liability company, its  
sole member

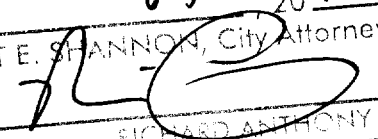
By:   
Jeffrey A. Berger, President

LCW OIL OPERATIONS, LLC,  
a Delaware limited liability company

By: LCW Partners, LLC,  
a Delaware limited liability company, its  
sole member

By: LCW Holdings, LLC,  
a Delaware limited liability company,  
its sole member

By:   
Jeffrey A. Berger, President

APPROVED AS TO FORM  
6-3 20 10  
ROBERT E. SHANNON, City Attorney  
By:   
RICHARD ANTHONY  
DEPUTY CITY ATTORNEY

**EXHIBIT A**  
**Legal Description of the Property**

(aka the "Oil and Gas Property")

**Parcel 1 (N/A)**

**Parcel 2**

**S'yly Portion**

Parcel 3 as shown on the map attached to that certain Certificate of Compliance on communication with Lot Line Adjustment LLA 9906-14 recorded January 25, 2000 as Instrument No. 00-0112748, of Official Records of Los Angeles County, California, more particularly described as follows:

In the City of Long Beach, County of Los Angeles, State of California, being Parcel 3 of Parcel Map No. 19212, as shown on Map filed in Book 260, pages 93 and 94 of Parcel Maps, in the office of the county recorder of said county, modified by MLA 9605-01, filed as instrument number 96-1307894 in the office of the county recorder of said county, and a portion of Parcel 2 of Parcel Map No. 7470, as shown on map filed in Book 121, Pages 36 through 39 of Parcel Maps, in the office of the county recorder of said county, and modified by MLA 9605-01, filed as instrument no. 96-1307893 in the office of the county recorder of said county, said portion being described as follows: Beginning at the northeasterly terminus of that certain course shown on MLA 9605-01, said course bears North 52°11'12" East and has a distance of 264.04 feet; thence South 52°11'12" West a distance of 18.41 feet; thence North 24°05'56" West a distance of 39.06 feet; thence North 52°12'40" East a distance of 205.49 feet to a boundary of said Parcel 3; thence southeasterly along a non-tangent curve, a radial to said curve bears South 55°44'13" West, having a radius of 1293.00 feet, through a central angle of 05°24'34" a distance of 122.07 feet to the easterly most point of said Parcel 2, a radial of said curve bears South 61°08'47" West; thence North 89°54'03" West a distance of 195.66 feet; thence South 00°05'57" West a distance of 46.63 feet to the point of beginning.

Excepting that portion of said Parcel 3 of Parcel Map No. 19212 described as follows: Beginning at the northeasterly terminus of a certain course shown on MLA 9605-01, said course bears North 52°11'12" East and has a distance of 264.04 feet; thence South 52°11'12" West a distance of 18.41 feet to the true point of beginning; thence South 24°05'56" East a distance of 29.81 feet; thence South 52°11'12" West a distance of 239.59 feet; thence North 37°52'23" West a distance of 28.96 feet; thence North 52°11'12" East a distance of 246.69 feet to the true point of beginning.

### **Parcel 3**

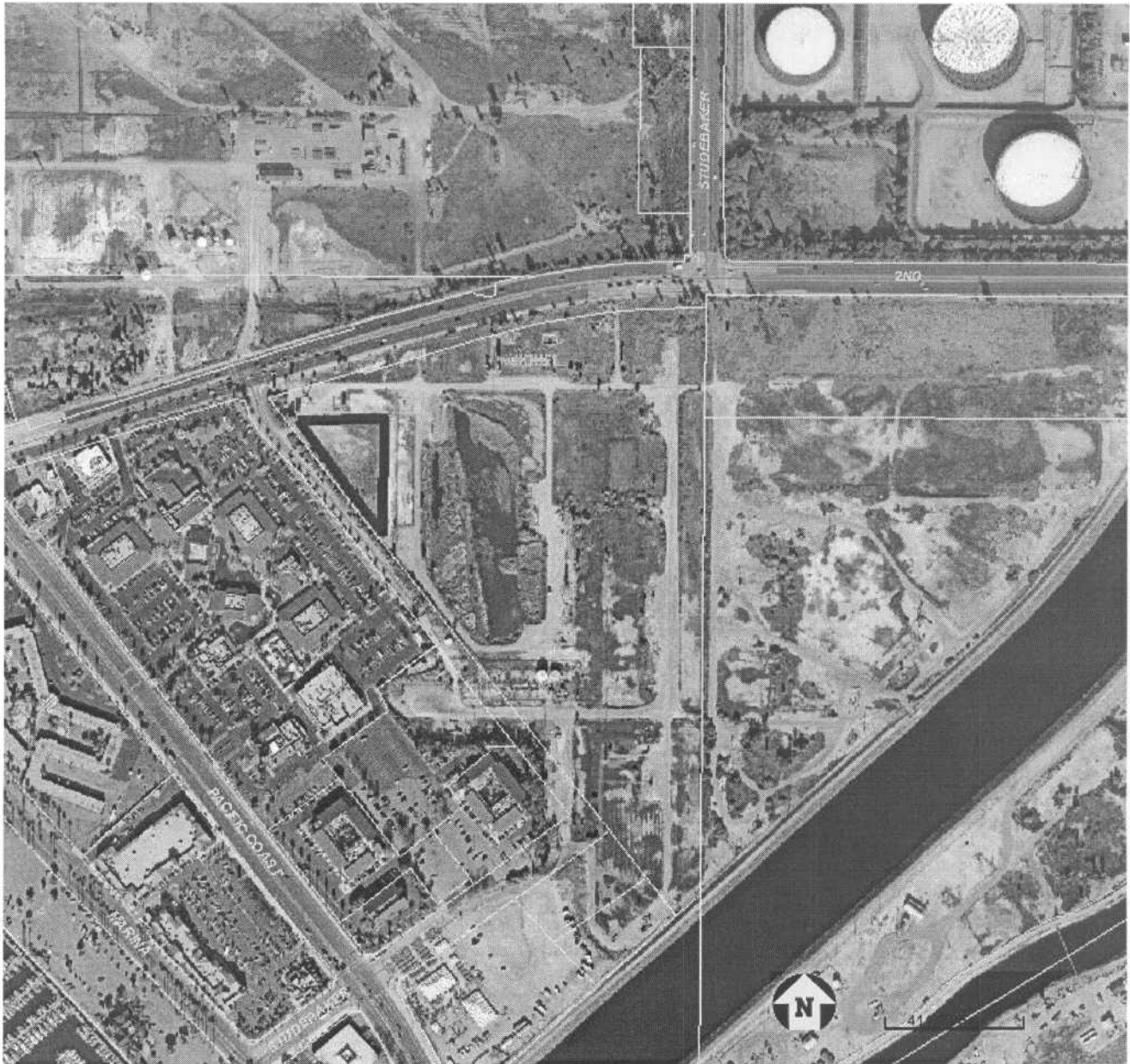
**30 ac.±**

That portion of the Northwest 1/4 of Fractional Section 11, Township 5 South, Range 12 West, in the Rancho Los Alamitos, in the City of Long Beach, County of Los Angeles, State of California, together with that portion of Westminster Avenue vacated by Resolution No. C-2192 of said City of Long Beach, described as a whole as follows:

Beginning at the intersection of a line parallel with and 57 feet northeasterly measured at right angles from that certain course shown as having a bearing of South 37°43'30" West, in the northeasterly boundary of Lot 1 of Tract No. 26635, as per map recorded in Book 684, page 51, 52, and 53 of Maps, of said county, and its prolongation with the centerline of Second Street as said centerline is shown on said Tract No. 26635; thence easterly along the easterly prolongation of said centerline of Second Street to a line parallel with and 850 feet northeasterly, measured at right angles from the first hereinabove mentioned parallel line; thence along parallel line South 37°43'30" West to a point in the southeasterly line of Westminster Avenue, 100.00 feet wide, as described in part of Parcels 3 through 10, inclusive in deed to the County of Los Angeles, recorded December 3, 1962 as Instrument No. 4500, in Book D-1842, Pages 137 through 145, inclusive, of Official Records of said county, said point being the True Point of Beginning; thence northeasterly along Westminster Avenue to the North South 1/4 centerline of said Section 11; thence southerly along said North South 1/4 centerline to the northwesterly line of that certain 400 foot strip of land described as Parcel 1 in the Deed to the Los Angeles County Flood Control District, recorded in Book 3984, Page 236 of Official Records of said county; thence southwesterly along the boundary line of Parcel Map No. 14983, as per map filed in Book 190, pages 52 and 53 of Parcel Maps, records of said county; thence northwesterly along said last mentioned northeasterly boundary to the True Point of Beginning of this description.



## EXHIBIT A-1

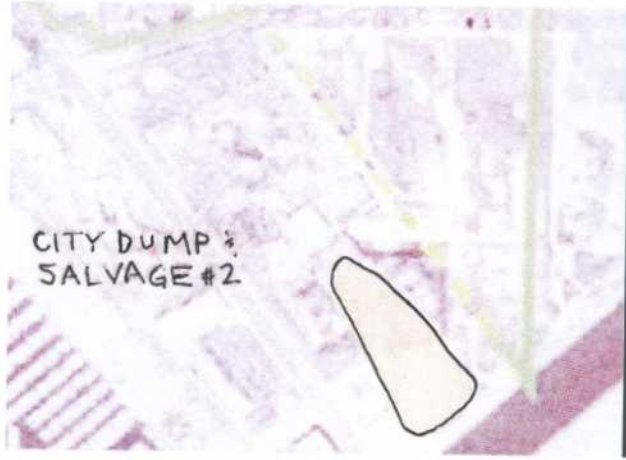


### Disclaimer

DISCLAIMER OF DATA ACCURACY: The services provided on this web site are intended for informational purposes only and the GIS data used is compiled from various sources and is subject to constant change. While reasonable effort has been made to ensure the accuracy of the data, the information provided herein may be inaccurate or out of date.



EXHIBIT A-2



**EXHIBIT B**  
**Environmental Reports and Disclosures Concerning the LCW Property**

1. Letter dated September 17, 2009 from the United States Environmental Protection Agency to the City of Long Beach, concerning for Reasonable Care Requirements.
2. Simon Environmental Engineering Inc. (Simon-EEI, 1990). Report of Subsurface Environmental Assessment Bixby Ranch Property, Westminster Avenue and Studebaker Road, Long Beach, California. Prepared for Bixby Ranch Company. August 24, 1990.
3. IT Corporation (IT, 1992). "A" Lease Site Investigation, Long Beach, California. Prepared for Bixby Ranch Company. Volume I. September 1992.
4. IT Corporation. "A" Lease Site Investigation, Long Beach, California. Prepared for Bixby Ranch Company. Volume II. September 1992.
5. IT Corporation (IT, 1993). Phase I Environmental Assessment for Real Property-The Marketplace Office Park, Long Beach, California. Prepared for Bixby Ranch Company. October 1993.
6. IT Corporation. Final 1994-1995 Semiannual Groundwater Sampling and Analysis Report Market Place Sanitary Landfill. Prepared for Bixby Ranch Company. January 1996.
7. IT Corporation. Final 1994-1995 Semiannual Groundwater Sampling and Analysis Report Studebaker-Loynes Sanitary Landfill. Prepared for Bixby Ranch Company. February 1996.
8. Ninyo & Moore Geotechnical and Environmental Sciences Consultants. Asbestos and Lead-Based Paint Survey, Bixby "A" Lease, Westminster Avenue and Pacific Coast Highway, Long Beach, California. Prepared for Bixby Ranch Company. July 23, 2003.
9. Ninyo & Moore Geotechnical and Environmental Sciences Consultants (Ninyo & Moore, September 2003). Water Quality Research Report, Bixby "A" Lease, Westminster Avenue and Pacific Coast Highway, Long Beach, California. Prepared for Bixby Ranch Company. September 3, 2003.
10. Ninyo & Moore Geotechnical and Environmental Sciences Consultants. File Review Report, Bixby "A" Lease, Westminster Avenue and Pacific Coast Highway, Long Beach, California. Prepared for Bixby Ranch Company. September 22, 2003.
11. Ninyo & Moore Geotechnical and Environmental Sciences Consultants (Ninyo & Moore, October 2003). Phase II Environmental Site Assessment, Bixby "A" Lease, Westminster Avenue and Pacific Coast Highway, Long Beach, California. Prepared for Bixby Ranch Company. October 30, 2003.

**EXHIBIT "C"**  
**Insurance Policy & Endorsement**

Insurance Provider: American International Specialty Lines Ins Company

Policy No.: PLS 3174707

Coverage: Pollution Legal Liability.

Limits: Each Incident: \$10,000,000; Aggregate Limit: \$20,000,000

Certificate of Insurance is attached.



# CERTIFICATE OF LIABILITY INSURANCE

OP ID SN  
LCWPA-1

DATE (MM/DD/YYYY)

06/02/10

<b>PRODUCER</b>  The Dougherty Company, Inc. P.O. Box 7277 Long Beach CA 90807 Phone: 562-424-1621 Fax: 562-490-0432	<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>	
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
<b>INSURED</b>  LCW Partners, LLC 3626 Long Beach Blvd. Long Beach CA 90807	INSURER A: American International Company	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

### COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A			<b>GENERAL LIABILITY</b>				EACH OCCURRENCE	\$
			<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
			<input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR				MED EXP (Any one person)	\$
			<input checked="" type="checkbox"/> <b>Pollution</b>				PERSONAL & ADV INJURY	\$
			GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	\$
			<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG	\$
			<b>AUTOMOBILE LIABILITY</b>				COMBINED SINGLE LIMIT (Ea accident)	\$
			<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
			<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
			<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
			<input type="checkbox"/> HIRED AUTOS					
			<input type="checkbox"/> NON-OWNED AUTOS					
			<b>GARAGE LIABILITY</b>				AUTO ONLY - EA ACCIDENT	\$
			<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	\$
							AGG	\$
			<b>EXCESS / UMBRELLA LIABILITY</b>				EACH OCCURRENCE	\$
			<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
			<input type="checkbox"/> DEDUCTIBLE					\$
			RETENTION \$					\$
			<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				WC STATU-TORY LIMITS	OTH-ER
			ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)				E.L. EACH ACCIDENT	\$
			If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
			<b>OTHER</b>					

### DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate holder named Loss Payee and Additional Insured as respects their interest subject to policy terms, conditions and exclusions. \*Except 10 days notice for non payment of premium.

### CERTIFICATE HOLDER

### CANCELLATION

LONGB - 2  City of Long Beach, a California Municipal Corporation 333 W. Ocean Blvd. Long Beach CA 90802	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30*</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  AUTHORIZED REPRESENTATIVE <i>J. Casno</i>
--	---

Client#: 11379

LCWPARTN

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/28/10

<b>PRODUCER</b> Edgewood Partners Ins Center Lic#0B29370 (949) 263-0606 19000 MacArthur Blvd, PH Fir Irvine, CA 92612	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.												
<b>INSURED</b> LCW Oil Operations, LLC 2101 Rosecrans Ave. Ste.# 3280 El Segundo, CA 90245	<table border="1"> <tr> <th>INSURERS AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: <b>St. Paul Fire &amp; Marine Ins.Co.</b></td> <td></td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table>	INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: <b>St. Paul Fire &amp; Marine Ins.Co.</b>		INSURER B:		INSURER C:		INSURER D:		INSURER E:	
INSURERS AFFORDING COVERAGE	NAIC #												
INSURER A: <b>St. Paul Fire &amp; Marine Ins.Co.</b>													
INSURER B:													
INSURER C:													
INSURER D:													
INSURER E:													

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRC	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC.	VK08303971	01/01/10	01/01/11	EACH OCCURRENCE	\$1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$100,000
						MED EXP (Any one person)	\$5,000
						PERSONAL & ADV INJURY	\$1,000,000
						GENERAL AGGREGATE	\$2,000,000
						PRODUCTS - COMP/OP AGG	\$1,000,000
		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
A		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input checked="" type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10000	VK08303971	01/01/10	01/01/11	EACH OCCURRENCE	\$10,000,000
						AGGREGATE	\$10,000,000
							\$
							\$
							\$
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS	OTH-ER
						E.L. EACH ACCIDENT	\$
						E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$
		OTHER					

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**

Certificate holder named additional insured as respects general liability but only if required by written contract with named insured prior to an occurrence and per attached end.# 0G041 0306. Coverage is subject to all policy terms, conditions and exclusions. 10-day notice of cancellation for non-payment of premium.

**CERTIFICATE HOLDER**

City of Long Beach, a California  
 Municipal Corporation  
 333 West Ocean Boulevard  
 Long Beach, CA 90802-4664

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

CC: 000 000  
\* M: 00 I: 000 T: 001  
\* O C O O 2 VK08303971 8899

**ADDITIONAL PROTECTED PERSONS ENDORSEMENT - OIL OR GAS  
NONOPERATING WORKING INTEREST OR ROYALTY INTEREST  
OWNER REQUIRED BY WRITTEN CONTRACT FOR INSURANCE -  
OIL AND GAS COMMERCIAL GENERAL LIABILITY**

This endorsement changes your Oil And Gas Commercial General Liability Protection.

**How Coverage Is Changed**

There are nine changes that are explained below.

1. The following is added to the Who Is Protected For Injury Or Damage section. This change adds certain protected persons and limits their protection.

**Oil or gas nonoperating working interest.**

Each of your oil or gas nonoperators that you agree in a written contract for insurance to add as an additional protected person under this agreement is a protected person only for its liability that:

- results from its nonoperating working interest in a well, oil lease, or gas lease you operate; and
- is for covered injury or damage.

In addition, each such oil or gas nonoperator is a protected person only for the lesser of:

- the limits of coverage required by that written contract for insurance; or
- the limits of coverage available under this agreement.

*Your oil or gas nonoperator* means:

- any owner, including a carried-interest owner; or
- any co-venturer or mining partner; that has a nonoperating working interest in any well, oil lease, or gas lease you operate.

*Written contract for insurance* means that part of any written contract or agreement in which you agree to purchase or maintain insurance provided by this agreement if such contract or agreement:

- was made before; and
- is in effect when; the event begins or the offense is committed.

*Additional protected person* may also be called an additional insured in the written contract for insurance.

**Oil or gas royalty interest owner.** Each of your oil or gas royalty interest owners that you agree in a written contract for insurance to add as an additional protected person under this agreement is a protected person only for its liability that:

- results from its royalty interest in a well, oil lease, or gas lease you operate; and
- is for covered injury or damage.

In addition, each such oil or gas royalty interest owner is a protected person only for the lesser of:

- the limits of coverage required by that written contract for insurance; or
- the limits of coverage available under this agreement.

*Your oil or gas royalty interest owner* means any owner of royalty rights in any well, oil lease, or gas lease you operate.

2. The following is added to the Who Is Protected For Pollution Clean-Up Costs section. This change adds certain protected persons and limits their protection.

**Oil or gas nonoperating working interest.**

Each of your oil or gas nonoperators that you agree in a written contract for insurance to add as an additional protected person under this agreement is a protected person only for its liability that:

- results from its nonoperating working interest in a well, oil lease, or gas lease you operate; and
- is for covered pollution clean-up costs.

In addition, each such oil or gas nonoperator is a protected person only for the lesser of:

- the limits of coverage required by that written contract for insurance; or
- the limits of coverage available under this agreement.

**Oil or gas royalty interest owner.** Each of your oil or gas royalty interest owners that you agree in a written contract for insurance to add as an additional protected person under this agreement is a protected person only for its liability that:

- results from its royalty interest in a well, oil lease, or gas lease you operate; and
- is for covered pollution clean-up costs.

In addition, each such oil or gas royalty interest owner is a protected person only for the lesser of:

- the limits of coverage required by that written contract for insurance; or
- the limits of coverage available under this agreement.

3. The following is added to the Pollution clean-up costs section of the What This Agreement Covers section, but only for this endorsement. This change broadens coverage.

We'll also pay amounts your oil or gas nonoperator or your oil or gas royalty interest owner is legally required to pay for covered pollution clean-up costs that result from a sudden and accidental pollution incident which:

- begins while this agreement is in effect;
- results from your work or your completed work in the performance of your oil or gas operations, other than such work or completed work that is or was performed at, on, in, or from a waste site; and
- doesn't result from any intentional and willful violation of any governmental law, regulation, or rule by you, your oil or gas nonoperator, your oil or gas royalty interest owner, or anyone acting on your or any such person's or organization's behalf.

4. The following is added to the first paragraph of the Right and duty to defend section, but only for this endorsement. This change broadens coverage.

We'll also have the right and duty to defend your oil or gas nonoperator or your oil or gas royalty interest owner against a claim or suit for pollution clean-up costs covered by this agreement.

5. The following is added to the definition of suit in the Right and duty to defend section, but only for this endorsement. This change broadens coverage.

We'll also consider a suit to include an arbitration proceeding for pollution clean-up costs to which your oil or gas nonoperator or your oil or gas royalty interest owner must submit, or submits with our consent, and any other alternative dispute resolution proceeding for pollution clean-up costs to which any such person or organization submits with our consent.

6. The following is added to what we consider judgment to include in the Right and duty to defend section, but only for this endorsement. This change broadens coverage.

We'll also consider a judgment to include a governmental ruling or order that has imposed liability for pollution clean-up costs on your oil or gas nonoperator or your oil or gas royalty interest owner.

7. The following replaces the fifth paragraph of the Pollution injury or damage exclusion, but only for this endorsement. This change excludes coverage.

Also, we won't apply this exclusion to bodily injury or property damage that results from a sudden and accidental pollution incident which:

- begins while this agreement is in effect;
- takes place at, on, in, or from a protected person's premises or a protected person's work site, other than a waste site;
- doesn't result from pollution work by or for any protected person or others, other than pollution work for which the pollution clean-up costs are covered under the Pollution clean-up costs section of this agreement; and
- doesn't result from any intentional and willful violation of any governmental law, regulation, or rule by you, your oil or gas nonoperator, your oil or gas



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royalty interest owner, or anyone acting on your or any such person's or organization's behalf.

- 8. The following replaces the third paragraph of the Primary or excess other insurance section, but only for this endorsement. This change limits coverage for certain additional protected persons.

We'll also apply this agreement as excess insurance over the part or parts of any primary or excess other insurance that provides coverage for your oil or gas nonoperator or your oil or gas royalty interest owner. However, if you specifically agree in a written contract for insurance that this insurance must be primary to, or non-contributory with, other insurance issued directly to your oil or gas nonoperator or your oil or gas royalty interest owner, we'll apply this agreement as primary insurance for damages for injury or damage covered by the Additional Protected Persons Endorsement - Oil Or Gas Nonoperating Working Interest Or Royalty Interest Owner Required By Written Contract that are incurred by any such person or

organization, and we won't share those damages with that other insurance. But we'll still apply this agreement as excess insurance over the part or parts of any primary or excess other insurance that provide control of well pollution bodily injury or property damage coverage and apply to those damages.

- 9. The following is added to the When this agreement is excess insurance section, but only for this endorsement. This change broadens coverage.

In addition, we'll defend your oil or gas nonoperator or your oil or gas royalty interest owner against a claim or suit for pollution clean-up costs covered by this agreement if no provider of other insurance will do so. In return, we'll require that we be given all of any such person's or organization's rights against each such provider of other insurance.

**Other Terms**

All other terms of your policy remain the same.

