

Los Cerritos Wetlands Authority

Date: November 5, 2020

To: Governing Board Members

From: Sally Gee, Project Manager

Through: Mark Stanley, Executive Officer

Subject: Item 8: Consideration of a resolution authorizing an extension to the Memorandum of Agreement for the Los Cerritos Wetland Stewardship Program with the Aquarium of the Pacific

RECOMMENDATION: That the Los Cerritos Wetlands Authority (LCWA) authorize an extension to the Memorandum of Agreement for the Los Cerritos Wetland Stewardship Program with the Aquarium of the Pacific.

PROJECT DESCRIPTION: The LCWA entered into a Memorandum of Agreement (MOA) with the Aquarium of the Pacific (AOP) in 2013 and amended in 2016 to implement the Los Cerritos Wetlands Stewardship Program (LCWSP). The term of the agreement is expiring on December 31, 2020. This resolution would extend the current agreement to February 28, 2021 (Exhibit A), which would allow enough time to coordinate an amendment to the MOA to consider a long-term agreement between the LCWA and the AOP to continue implementation of the LCWSP. The AOP is highly qualified to provide such services including organizing and engaging the community, distributing information for habitat restoration events to the public at-large, and are leaders who represent the LCWSP.

BACKGROUND: The AOP has successfully implemented the Los Cerritos Wetlands Stewardship Program (LCWSP) by engaging the community, leverage funding for the LCWSP and providing services for sea turtle monitoring since 2013.

The LCWA continues to work with local non-profit groups to develop and implement the LCWSP through MOAs. These MOAs are highly beneficial for allowing public access into the Los Cerritos Wetlands and the public becoming active participates in stewardship activities. Without the MOAs, the LCWA does not have staff to administer, manage and implement a public program or sufficient time to allow public access into the Los Cerritos Wetlands. These non-profits continue to successfully implement the goals of the LCWSP, including, promoting community involvement through environmental education, maintenance, restoration, and monitoring of the wetlands.

In addition, these non-profits which manage the MOAs have abided to the LCWA set conditions for administration, which are: 1) any public events must be consistent with all applicable access agreements, 2) the MOAs will be at no cost to the LCWA, 3) the MOAs must meet all insurance and liability provisions that may be recommended by the LCWA legal counsel and 4) the entity has a proven ability to render such services.

FISCAL: This MOA will not incur any costs to the LCWA and LCWSP. The AOP is responsible for providing for itself any equipment needed for stewardship or educational purposes.

Exhibit A

MEMORANDUM OF AGREEMENT

AQUARIUM OF THE PACIFIC

AND

THE LOS CERRITOS WETLANDS AUTHORITY

AMENDMENT THREE

WHEREAS the Aquarium of the Pacific (hereinafter referred to as the Aquarium) is a non-profit organization with a mission to instill a sense of wonder, respect, and stewardship for the Pacific Ocean, its inhabitants, and ecosystems and a vision to create an aquarium dedicated to conserving and building Natural Capital (Nature and Nature's services) by building Social Capital (the interactions between and among peoples).

WHEREAS the Aquarium coordinates and conducts the Sea Turtle Monitoring Citizen Science Program (see attached) in partnership with the Los Cerritos Wetlands Authority (LCWA), Tidal Influence, California State University, Long Beach, and NOAA Fisheries on the property owned by the LCWA: and

WHEREAS the LCWA was established as a joint powers authority formed by San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC), State Coastal Conservancy (SCC), City of Long Beach (LBC) and City of Seal Beach (SBC) to provide for a comprehensive program of acquisition, protection, conservation, restoration, maintenance, and operation and environmental enhancement of the Los Cerritos Wetlands area consistent with the goals of flood protection, habitat protection and restoration, and improved water supply, water quality, groundwater recharge and water conservation; and

WHEREAS, the LCWA adopted the Los Cerritos Wetlands Stewardship Program (LCWSP) on December 14, 2011 to promote community involvement with environmental education, maintenance, restoration, and monitoring of the wetland areas owned by the LCWA; and

WHEREAS, this Memorandum of Agreement (MOA) provides the Aquarium with the authorization to enter into all LCWA properties in order for the Aquarium to conduct and implement the Sea Turtle Monitoring Citizen Science Program.

Further the Aquarium has provided the LCWA with all the necessary insurance and liability provisions as recommended by legal counsel which includes: the Aquarium shall continuously maintain a comprehensive general liability insurance policy with at least \$1,000,000 per claim and \$2,000,000 aggregate, which shall name the LCWA, its officers, board members, employees, representatives and agents as additional insured. Such comprehensive general liability insurance shall insure against any claims arising out of or associated with the Aquarium's operation and use of the LCWA properties, including but not limited, to claims for personal injury, death, and damage to real or personal property.

WHEREAS, the Aquarium has provided a Regular Scheduled Activities which includes a complete list of opportunities the public can participate and more importantly indicates the dates and times the Aquarium will be accessing LCWA properties; and

WHEREAS, the Aquarium obtained the necessary easements, access, and rights of entry for entering into all the necessary properties to conduct their program; and

WHEREAS, the Aquarium and the LCWA (hereinafter referred collectively as the “Parties”) have a mutual interest in the implementation of the Sea Turtle Monitoring Citizen Science Program which will promote and provide leadership in conservation and educate its members and the community so they may appreciate wetland habitat conservation and become stewards of the Los Cerritos Wetlands; and

NOW THEREFORE the Parties, each acting through duly authorized officers, enter into the following Memorandum of Agreement (MOA):

I. IT IS MUTUALLY AGREED:

- A. Parties agree to this MOA and are authorized to enter into this MOA for implementation of the Sea Turtle Monitoring Citizen Science Program.
- B. The Parties agree to send a representative to the quarterly LCW Partners Meeting and attend the LCWA Board Meetings and to provide updates on their ongoing public programs. In addition, the parties to agree to provide updates at each of the quarterly LCWA Board Meetings with written and oral reports.
- C. The Parties agree all inquiries, authorizations and permissions to enter LCWA properties can only be granted by the LCWA Property Manager or the LCWA Stewardship Coordinator and in compliance with the LCWSP. The LCWLT does not have the authority to grant permission to a third party to enter and use the LCWA properties.
- D. The Parties agree that all work contemplated under this agreement must be consistent with the terms of the LCWA joint powers agreement, LCWSP and the bylaws established by the Aquarium. Should there be any conflicts between the terms and conditions of the LCWA joint powers agreement, LCWSP and the bylaws established by the Stewards, the terms and conditions of the LCWA joint powers agreement shall control first, then the LCWSP, followed by the MOA and then the Aquarium bylaws.
- E. The term of the MOA shall be extended through February 28, 2021. This MOA is essential to meet the LCWA’s goals set forth in the Los Cerritos Wetlands Stewardship Program and meets the LCWA’s programmatic objectives of providing for a thriving wetlands ecosystem.
- E. No alteration or variation of the terms of this MOA shall be valid unless made in a written amendment to this MOA and signed by the parties hereto and no oral understanding or agreement incorporated herein shall be binding on any of the parties hereto.
- F. Coordination and communications between the Aquarium and LCWA will be clear, concise and consistent in order to effectively implement the LCWSP and avoid conflicts of scheduled tours, educational programs and other uses of the site. The Aquarium and LCWA Stewardship Coordinator will communicate (email, voicemail or written notification) on a monthly basis or when necessary on upcoming events.

- G. This information will be mutually shared with Los Cerritos Wetlands Land Trust and El Dorado Audubon and other local organizations or individuals wishing to access the LCWA properties and all communications will be conducted via LCWA Project Manager, first.
- H. Neither the LCWA nor any officer, agent or consultant thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by the Aquarium under or in connection with any work, authority or jurisdiction conferred upon the Aquarium and arising under this MOA. It is understood and agreed that the Aquarium shall fully defend, indemnify and save harmless the LCWA and all its officers, agent or consultant from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by the Aquarium under this MOA.
- I. Neither the Aquarium nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by the LCWA under or in connection with any work, authority or jurisdiction conferred upon by the LCWA and arising under this Agreement. It is understood and agreed that LCWA shall fully defend, indemnify and save harmless the Aquarium and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by the LCWA under this MOA.

II. RESPONSIBILITIES OF THE PARTIES

A. Aquarium of the Pacific:

- 1. The Aquarium can pursue funding from state, federal and local grants and from private funding sources, which will contribute to community-based restoration programs with opportunities for public participation and foster stewardship of the Los Cerritos Wetlands and will fully implement the LCWSP. Further, the LCWA will provide the Aquarium with the necessary Letters of Commitment and Support for any funds grants submitted.
- 2. The Aquarium will act as the fiscal agent and administer grants if awarded with a provision the Aquarium Project Manager and the LCWA Project Manager are Co-PIs and the Aquarium Project Manager will have oversight and final decisions for management of all grants awarded to the Sea Turtle Citizen Science Program. Quarterly Reports/Expenditures, Invoices, changes to the Work Program, Schedule and Budget will require review by the Aquarium and LCWA Project Managers.
- 4. The Aquarium will develop a work program that is consistent with the LCWSP within 30 days if grants are awarded. The work program will require final sign-off by the Aquarium Project Manager before submitting to the Granting Agency.

5. The Aquarium will provide up to 50 complimentary tickets for admission to the Aquarium of the Pacific to the Stewardship Program for volunteer rewards and incentives. Update the Stewardship Program website and Aquarium online calendar to publicize all LCWA and Aquarium upcoming public events.
6. Perform all work in accordance with all policies, procedures, practices, and standards that the LCWA would normally follow.
7. Will obtain prior approval of the LCWA for any educational tours or stewardship activities, including tour leaders and their credentials.
8. Ensure the safety of all volunteers and have all volunteers sign the Liability Waiver, provided by the Aquarium prior to their first session on LCWA properties.
9. Coordinate with the LCWA Property Manager on announcements of scheduled tours, educational programs and other uses of the site in order to avoid conflicting uses of the site.
10. Will undertake no stewardship activities without the supervision of a biologist approved by the LCWA.
11. Will share with the LCWA any biological data or other information that might be revealed during activities.
12. The Aquarium will provide oversight and final decisions for management of all grants awarded.
13. Will not incur any costs to the LCWA and its Stewardship Program. Will be responsible for providing for itself any equipment needed for stewardship or educational purposes.

B. Los Cerritos Wetlands Authority:

1. Provide Aquarium with the necessary keys/combinations to enter the LCWA properties and facilities.
2. Provide storage space for Aquarium equipment and materials necessary to perform research activities associated with the Sea Turtle Monitoring Citizen Science Program.
3. Coordinate with the Aquarium on announcements of scheduled tours, educational programs and other uses of the site in order to avoid conflicting uses of the site.
4. LCWSP will be updated and kept current as necessary additionally these updates will be distributed directly to the Aquarium Program Manager to allow for timely implementation of these updates in their program.
5. LCWA will apply and retain all necessary regulatory permits such as Coastal Development Permits and obtain right of entry permits for implementation of the Sea Turtle Monitoring Citizen Science Program.

Sea Turtle Monitoring Citizen Science Program*

Synopsis: The Sea Turtle Monitoring Citizen Science Program at the Los Cerritos Wetlands enables citizens to collect important baseline data and see first-hand the connection between a charismatic and endangered marine species, the Los Cerritos Wetlands, the ocean, and our urban influence. Originally funded by the Aquarium of the Pacific's Marine Conservation Research Institute, the program now consists of more than 60 citizen science volunteers. The program has been collecting data since October 2012.

Goal: *To improve estimates of the total number of individuals and determine areas most highly frequented in order to better understand the population dynamics of Pacific green sea turtles in the San Gabriel River, while simultaneously inspiring citizens to consider our connection to this endangered species throughout our watersheds.*

Location/Date/times: Monitoring sessions take place at 10 stations along the San Gabriel River bike trail (between PCH and 7th St) the first Saturday of every month from 9a-9:30a. Volunteers are asked to arrive around 8:15a at the dirt lot off Westminster (DWP Light) where they are directed to park on the side of the dirt road.

Partners: *Aquarium of the Pacific, Los Cerritos Wetlands Authority, Tidal Influence, NOAA Fisheries, and California State University, Long Beach.*

**This program, schedule and tasks may require revisions and updates as necessary but these revisions are only approved by the LCWA Property Manager. Note: The number of volunteers has grown substantially. NOAA has expressed interest in adding an afternoon session. The Aquarium is still working out the logistics, but these shifts would also take place the first Saturday of the month.*

This Memorandum of Agreement constitutes the entire Agreement between Los Cerritos Wetlands Authority and the Los Cerritos Wetlands Land Trust and may be modified only by further written Agreement between the parties hereto.

For the Aquarium of the Pacific

Signed: _____
Peter Kareiva, President and CEO

Date _____

For the Los Cerritos Wetlands Authority

Signed: _____

Date _____
Samuel Schuchat, Chair

November 5, 2020 - Item 8

RESOLUTION 2020-07

RESOLUTION OF THE LOS CERRITOS WETLANDS AUTHORITY (LCWA)
AUTHORIZING AN EXTENSION TO THE MEMORANDUM OF AGREEMENT
FOR THE LOS CERRITOS WETLANDS STEWARDSHIP PROGRAM
WITH THE AQUARIUM OF THE PACIFIC

WHEREAS, the Los Cerritos Wetlands Authority has been established between the Coastal Conservancy, the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, the City of Seal Beach and the City of Long Beach to facilitate the acquisition, protection, conservation, restoration, maintenance and operation an environmental enhancement of the Los Cerritos Wetlands; and

WHEREAS, the LCWA has further been established to focus on projects which will provide open space, habitat restoration, and watershed improvement projects within the Los Cerritos Wetlands; and

WHEREAS, this action will authorize an amendment to the Memorandum of Agreement with the Aquarium of the Pacific; and

WHEREAS, the LCWA has acquired certain properties which will require active stewardship; and

WHEREAS, the LCWA had adopted a Los Cerritos Wetlands Stewardship Program; and

WHEREAS, this action is exempt from the environmental impact report requirements of the California Environmental Quality Act (CEQA); NOW

Therefore be it resolved, that the LCWA hereby:

1. FINDS that this action is consistent with the purposes and objectives of the LCWA.
2. FINDS that the actions contemplated by this resolution are exempt from the environmental impact report requirements of the California Environmental Quality Act.
3. ADOPTS staff report dated November 5, 2020.
4. AUTHORIZES an extension to the Memorandum of Agreement with the Aquarium of the Pacific to February 28, 2021.

~ End of Resolution ~

Passed and Adopted by the Board of the Los Cerritos Wetlands Authority
On November 5, 2020

Sam Schuchat, Board Chair

ATTEST: _____
Christina Bull Arndt
Deputy Attorney General