

## OPTION AGREEMENT

THIS OPTION AGREEMENT (“Agreement”) is effective as of this 2 day of September 2016, (“Effective Date”) and is entered into by and between LOS CERRITOS WETLANDS, LLC, a California limited liability company (“OPTIONEE”) and the LOS CERRITOS WETLANDS AUTHORITY, a joint exercise of powers agency established pursuant to Government Code Section 6500 *et seq.* (“LCWA”). LCWA and OPTIONEE are sometimes referred to herein individually as a “Party” and together as the “Parties.”

### RECITALS

A. LCWA is the owner of an approximately 5.1-acre parcel of undeveloped property, which acreage includes approximately 1 acre of dedicated roadway, located at the northeast corner of Studebaker Road and Westminster Boulevard in the City of Long Beach described and depicted in Exhibit “A” (the “LCWA Site”).

B. OPTIONEE is the owner of an approximately 154-acre operating oil field, which acreage includes approximately 4 acres of dedicated roadway, located at 6433 E. Second Street between Pacific Coast Highway and Studebaker Road along 2nd Street/Westminster Boulevard in the City of Long Beach commonly known as the Synergy Oil Field, described and depicted in Exhibit “B” (the “OPTIONEE Property”).

C. OPTIONEE intends to establish a mitigation bank and public access trail on the northerly approximately 77.3 acres of the 154-acre Synergy Oil Field described in Exhibit “C” (the “Mitigation Bank Site”) and implement wetlands and habitat restoration pursuant to a mitigation bank and restoration plan (“Mitigation Bank Restoration Plan”) to be approved by the Interagency Review Team, the initial mapping of the bank components is depicted in Exhibit “D” (the “Mitigation Bank Mapping”). OPTIONEE also intends to implement a habitat revegetation plan (“Revegetation Plan”) as mapped on Exhibit “E” over time on the southerly approximately 69.92 acres of the OPTIONEE Property (the “Revegetation Site”) as oil operations on the 69.92-acre area are removed. OPTIONEE may, in its sole discretion, elect to establish a mitigation bank on the Revegetation Site which it will own and manage.

D. OPTIONEE also intends to construct public access improvements, specifically a public trail along the perimeter of the Mitigation Bank Site, and to improve for LCWA’s use as a public visitors center an existing building and construct a parking lot within approximately 3 acres of the OPTIONEE Property as depicted in Exhibit “F” (collectively the “Public Access Improvements”) in support of LCWA’s mission, which is “to provide for a comprehensive program of acquisition, protection, conservation, restoration, maintenance and operation and environmental enhancement of the Los Cerritos Wetlands.”

E. In order to implement the Mitigation Bank Restoration Plan, the Revegetation Plan, and make the Public Access Improvements, OPTIONEE proposes to phase out its oil production operations on the Revegetation Site and to relocate a portion of its oil production operations on the LCWA Site.

F. OPTIONEE is seeking various permits, approvals, and/or entitlements (collectively, "Entitlements") from, *inter alia*, the City of Long Beach, the California Coastal Commission, the U.S. Army Corps of Engineers, the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service for the establishment of the Mitigation Bank, the implementation of the Mitigation Bank Restoration Plan, the removal of oil field equipment, the construction of the Public Access Improvements, the operation of oil wells and related facilities on the LCWA Site and a second off-site location unaffiliated with LCWA known as the "Pumpkin Patch Site." The requested Entitlements include, but are not limited to:

- a. City of Long Beach approval of an amendment to the Southeast Area Development and Improvement Plan ("SEADIP") to permit oil drilling and oil production activities, on among properties, the LCWA Site;
- b. City of Long Beach approval of an Oil Operating Area Boundary Change, Oil Drilling Permit and Oil Well permit to permit oil drilling and oil production activities on, among other properties, the LCWA Site;
- c. City of Long Beach Site Plan Review approval for proposed improvements to be constructed on the LCWA Site, Pumpkin Patch Site, and the OPTIONEE Property;
- d. City of Long Beach certification of the Los Cerritos Wetlands Restoration and Wetlands Consolidation Project Environmental Impact Report ("EIR") pursuant to CEQA; and
- e. California Coastal Commission approval of a Local Coastal Program amendment to reflect the SEADIP amendment, and a Consolidated Coastal Development Permit ("CDP") to construct the oil production facilities and to implement the wetlands mitigation plan.

G. A condition precedent to the approval of the Entitlements identified above in Recital F is the preparation by the City of Long Beach of an environmental impact report ("EIR") pursuant to CEQA.

H. The Parties desire to enter into this Option Agreement setting forth their respective rights and obligations with respect to OPTIONEE's option to effect an exchange of the LCWA Site for the OPTIONEE Property on the terms and conditions set forth below.

## AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto do hereby mutually covenant and agree as follows:

1. **Incorporation of Recitals.** All recitals set forth above are incorporated herein by this reference.
2. **Option.** LCWA hereby grants to OPTIONEE an exclusive option (the "Option")

to acquire the LCWA Property in exchange for the transfer of the OPTIONEE Property from OPTIONEE to LCWA on the terms to be set forth in a Land Exchange Agreement to be negotiated between LCWA and OPTIONEE, the general terms and framework of which are set forth on the Land Exchange Agreement Framework, attached as **Exhibit "G"** (the "Land Exchange Framework"). As set forth in the Land Exchange Framework, OPTIONEE'S conveyance of the OPTIONEE Property shall occur in phases. Upon exercise of the Option, OPTIONEE will transfer to LCWA the Mitigation Bank Site, and LCWA will transfer the LCWA Site to OPTIONEE. Concurrent with the land exchange, OPTIONEE will record an Irrevocable Offer of Dedication of fee title to the Revegetation Site in favor of LCWA (the "Offer of Dedication"), which offer may be accepted by LCWA or a successor agency upon cessation of all oil production activities and clean up and remediation of the Revegetation Site as may be required by the Division of Oil, Gas and Geothermal Resources, or other regulatory agency having jurisdiction over said activities, estimated to be 40 years after issuance of the CDP and conclusion of any litigation. The Offer of Dedication shall acknowledge that OPTIONEE shall have the right to enter on the Revegetation Site to continue its oil production activities and conduct clean up and remediation of the Revegetation Site while the Offer of Dedication remains in effect. The Offer of Dedication shall further acknowledge that OPTIONEE shall have the right to revegetate areas where oil production activities have ceased and reserves the right, in its sole discretion, to establish a mitigation bank on the Revegetation Site which it will own and manage. LCWA may accept the Offer of Dedication earlier at its sole discretion, provided, however, that OPTIONEE shall retain the right to continue its oil production activities, perform any required clean up and remediation of the Revegetation Site as may be required by the Division of Oil, Gas and Geothermal Resources, or other regulatory agency having jurisdiction over said activities, and conduct revegetation and/or habitat restoration or creation for purposes to mitigation bank establishment after LCWA's early acceptance of the Offer of Dedication. OPTIONEE will transfer to LCWA the Public Access Improvements only after OPTIONEE's new office building is constructed, OPTIONEE has relocated its offices to the new office building, and OPTIONEE has completed conversion of the current office to a visitors center, which is anticipated to be approximately two years after receipt of entitlements and conclusion of litigation but no later than five years after receipt of entitlements and conclusion of litigation.

3. **Condition Precedent to Exercise of the Option.**

a. **CEQA Compliance.** OPTIONEE may exercise the Option only after and upon occurrence of the certification of the EIR pursuant to CEQA by the City of Long Beach, and completion of any legal challenge to the EIR, and in compliance with the terms set forth in the land exchange agreement to be entered into by the Parties.

The Parties understand, acknowledge and agree that the City of Long Beach shall prepare and certify the EIR pursuant to CEQA, and that LCWA is a responsible agency with respect to that EIR and intends to rely upon the EIR prior to entering into the land exchange agreement. OPTIONEE acknowledges and agrees that by entering into this Agreement, LCWA is not waiving or limiting its discretion as a responsible agency to comment. The EIR shall analyze the environmental impacts of the approval and implementation of the Entitlements, including construction and operation of the oil production facilities on the LCWA Site and the implementation of the Mitigation Bank Plan and the Public Access Improvements on the OPTIONEE Property. The Parties further understand, acknowledge, and agree that entering into

this Option Agreement does not grant to either Party any entitlement for use or development of the OPTIONEE Property or the LCWA Site, and that no physical changes to the environment will occur as a result of the execution of the Option Agreement.

b. **Completion of appraisals for the LCWA Site and the OPTIONEE Property.** Appraisals of the LCWA Site and the OPTIONEE Property shall be conducted by a qualified appraiser approved by both parties. The parties agree to engage an appraiser at OPTIONEE's sole expense to conduct appraisals of the LCWA Site and the OPTIONEE Property within 45 days of the execution of the Option Agreement and the appraiser shall complete the appraisal as soon as reasonably possible. The appraisals shall be conducted by a qualified appraiser approved by both parties. The parties shall discuss and agree upon with the appraiser the methodology by which the appraisal will be conducted, including what factors will and will not be considered in determining the value of the respective properties. The appraisals may be updated, if determined necessary by LCWA prior to execution of the Land Exchange Agreement. Any such update will utilize the same methodology and assumptions that were applied to the initial appraisal. In the event the value of the OPTIONEE Property exceeds the appraised value of the LCWA Site, no additional compensation beyond the land exchange itself will be owed by LCWA to OPTIONEE. In the event the appraised value of the LCWA Site exceeds the appraised value of the OPTIONEE Property, OPTIONEE may elect to exercise the Option and compensate LCWA for the difference in value or terminate the Option.

LCWA agrees to submit the appraisals upon completion of the appraisals to a public entity mutually agreed upon by the parties for completion of administrative review and approval of the appraisals. The parties agree that no other agency review or approval of the appraisals is required.

c. OPTIONEE shall exercise the Option within six (6) months after the receipt of all entitlements described in Section 6, below, and completion of all legal challenges to the EIR and the entitlements, or eight (8) years from the Effective Date of this Agreement, whichever occurs first.

d. So long as the Option is validly exercised by OPTIONEE, the following shall apply:

i. An escrow shall be opened with Fidelity National Title Insurance Company (the "Escrow Holder") to consummate the closing of the transaction contemplated by the Land Exchange Framework and this Option Agreement. Each party agrees to execute such additional escrow instructions as Escrow Holder may reasonably require in connection therewith so long as the same do not conflict with this Agreement.

ii. The Land Exchange shall occur by no later than the closing dates set forth in the Land Exchange Agreement to be negotiated and executed by the Parties.

4. **Due Diligence.**

a. With respect to the OPTIONEE Property and the LCWA Site, during the period commencing fifteen (15) days following the Effective Date of this Agreement and

terminating 365 days thereafter or the date the parties select to close escrow ("Closing Date"), whichever occurs first, each Party, its agents, contractors and subcontractors shall have the right to enter upon the property of the other Party which is the subject of this Agreement, at reasonable times during ordinary business hours following not less than twenty-four (24) hours prior notice to the other Party, to make such inspections, surveys and tests as may be necessary in the Party's discretion; provided however, that any invasive structural, soils or environmental investigations or other invasive tests shall require the prior written consent of the other Party (which approval shall not be unreasonably withheld) including the other Party's approval of a proposed scope of work. Each Party shall use care and consideration in connection with any of its inspections or tests and the other Party shall have the right to be present during any inspection of the property by the other Party or its agents. A Party shall restore the property to its condition existing prior to such inspections or tests immediately after each such test and/or inspection. Each Party hereby indemnifies, protects, defends (with counsel chosen by the other Party) and holds the other Party and the Property free and harmless from and against any and all claims, costs, losses, liabilities, damages, lawsuits, judgments, actions, proceedings, penalties, demands, attorneys' fees, mechanic's liens, or expenses of any kind or nature whatsoever (collectively referred to herein as "Claims"), arising out of or resulting from any entry and/or activities upon the property by the Party, the Party's agents, contractors and/or subcontractors. A Party's obligations under this paragraph shall survive any termination of this Agreement.

b. Prior to any entry upon the property of the other Party by a Party or any of a Party's agents, contractors, subcontractors or employees, the Party shall deliver to the other Party a certificate of insurance showing that the Party making such entry is carrying a commercial general liability insurance policy with a financially responsible insurance company covering the activities of such Party thereon. Such insurance certificate shall evidence that such insurance policy shall have a per occurrence limit of at least One Million Dollars (\$1,000,000) and an aggregate limit of at least Two Million Dollars (\$2,000,000), and shall name the other Party as an additional insured. Such insurance shall be primary and noncontributing with any other insurance available to the other Party and shall contain a full waiver of subrogation clause.

5. **Title.** Concurrent with recordation of the Memorandum of Option described in Section 17, below, OPTIONEE agrees at its sole cost for the benefit of LCWA to obtain from Fidelity National Title Insurance Company ("Title Company") a standard coverage Title Policy for the LCWA Site.

6. **Authority to Apply for Entitlements.** During the term of the Option, and subject to LCWA's approval of those applications for the LCWA Site, OPTIONEE is authorized to pursue on behalf of itself and the LCWA, as applicable, certain entitlements (the "Entitlements") affecting the LCWA Site, including but not limited to the following:

a. City of Long Beach approval of an Oil Operating Area Boundary Change, Oil Drilling Permit and Oil Well permit to permit oil drilling and oil production activities on, among other properties, the LCWA Site;

b. City of Long Beach approval of an amendment to the Southeast Area Development and Improvement Plan ("SEADIP") to permit oil drilling and oil production activities on, among other properties, the LCWA Site;

c. City of Long Beach Site Plan Review approval for proposed improvements to be constructed on the LCWA Site;

d. City of Long Beach certification of an environmental impact report pursuant to CEQA; and

e. California Coastal Commission approval of a Consolidated Coastal Development Permit and Local Coastal Program amendment that authorizes oil drilling and oil production activities on, among other properties, the LCWA Site. 

By signing this Agreement, LCWA agrees to cooperate with OPTIONEE to process the Entitlements, including but not limited to signing applications, and to allow OPTIONEE, its consultants and any representatives of the local, state and federal agencies that process applications for the Entitlements to enter on and inspect the LCWA Site.

7. **No Representations, Warranties, AS-IS Transfer.** OPTIONEE acknowledges and agrees that LCWA has not made and is not making any representations as to the suitability of the LCWA Site and does not warrant suitability for the purpose(s) intended by OPTIONEE. The foregoing disclaimer and waiver includes, without limitation, topography, climate, air, water rights, utilities, present and future zoning, the state of current entitlements or the ability to obtain future entitlements, soil, subsoil, grading, compaction, the acreage of the LCWA Site, the existence or effect of any governmentally regulated or protected wetlands, endangered species, flora, fauna or other natural habitat and the effect of same upon the development of the LCWA Site, access to public road. OPTIONEE acknowledges and agrees that the LCWA Site is to be conveyed, and accepted by OPTIONEE in its present condition, "AS-IS," "WHERE-IS," "WITH ALL FAULTS."

8. **Default.** In the event of a Party's default of its obligations hereunder, the non-defaulting Party shall have the right to require specific performance of the defaulting Party's obligations hereunder in addition to all of the non-defaulting party's rights and remedies at law or in equity. The exercise of any right or remedy shall not be exclusive but shall be cumulative of all other rights and remedies.

9. **Legal Fees.** If a party brings any action, arbitration or suit against the other for any matter relating to or arising out of this Agreement, then the prevailing party in such action or dispute, whether by final judgment or settlement, shall be entitled to recover from the other party all costs and expenses of suit and appeal, including actual attorneys' fees and expert witness fees. Any judgment or order entered in any final judgment shall contain a specific provision providing for the recovery of all costs and expenses of suit, including actual attorneys' fees incurred in enforcing, perfecting and executing such judgment.

10. **Indemnity, Hold Harmless and Duty to Defend.** Except with respect to a material breach by LCWA of a covenant set forth in this Agreement, OPTIONEE shall indemnify, defend, protect and hold harmless LCWA, its constituent members, directors, officers and employees from and against any and all claims, demands, causes of action, suits, judgments, arising out of the above described entitlement process, and also directly or indirectly arising

from, in connection with, or related in any way to this Option Agreement and the conveyance of the LCWA Site to OPTIONEE and/or conveyance of the OPTIONEE Property to LCWA. The provisions of this Section 10 shall survive the termination of this Agreement.

11. **Assignment; Binding Effect.** This Agreement and the rights and obligations of the Parties contained herein shall run with the land. No Party shall have the right to assign, pledge or otherwise transfer its rights under this Agreement.

12. **Consideration.** LCWA acknowledges and agrees that OPTIONEE has paid LCWA the non-refundable sum of Three Hundred Thousand Dollars (\$300,000.00) (“Option Consideration”) as separate and individual consideration for granting this Option to OPTIONEE. The Option Consideration shall be delivered to LCWA within seven (7) calendar days of this Effective Date.

13. **Bona Fide Offers of Third Parties.** Notwithstanding anything to the contrary in this Agreement, if at any time LCWA receives a bona fide third party offer to purchase or otherwise acquire the LCWA Site, LCWA shall not accept such offer.

14. **Term and Termination.** The term of this agreement shall be for four (4) years from the Effective Date of this Agreement, which term may be extended for an additional four (4) years as provided in Section 16, below. OPTIONEE shall have the right, but not the obligation, to terminate the Option upon the occurrence of any of the events set forth in Sections 14.a.-14.e., below:

- a. The City fails to certify the EIR;
- b. The City certifies the EIR, but the EIR certification is either challenged in a court of competent law in the State of California or vacated by a court of competent law in the State of California;
- c. The City fails to approve the Entitlements;
- d. The Coastal Commission fails to approve and issue the Consolidated Coastal Development Permit or certify the Local Coastal Program amendment to allow oil production activities on the LCWA Site, or the Coastal Commission’s approval of either or both the Consolidated Coastal Development Permit and Local Coastal Program amendment is challenged in a court of competent law in the State of California or vacated by a court of competent law in the State of California; or
- e. OPTIONEE elects to terminate this Agreement upon completion of the appraisals as provided in Section 3.b., above.
- f. If OPTIONEE has not otherwise terminated the Option Agreement pursuant to Sections 14.a-14.e., above, OPTIONEE may elect to terminate the Option Agreement or refuse to exercise the Option. If OPTIONEE elects to terminate the Option Agreement or not exercise the Option, OPTIONEE shall convey to LCWA fee title to the approximately 42.2-acre Steamshovel Slough (“Slough Property”). The property subject to the conveyance is depicted in the attached **Exhibit “H”**. The conveyance shall be subject to OPTIONEE’s reservation of

rights to enter upon the Slough Property to conduct wetlands and habitat restoration activities on its Mitigation Bank Site pursuant to obtaining regulatory permits and approvals, including altering the course of the Steamshovel Slough and diverting water to the remainder of OPTIONEE's Property, including the Mitigation Bank Site and the Revegetation Site, and constructing physical improvements such as a berm or installing sheet piles required to protect OPTIONEE's Property (the Mitigation Bank Site and the Revegetation Site). OPTIONEE shall also grant to LCWA an easement across OPTIONEE's Mitigation Bank Site and Revegetation Site, if necessary, to access the Slough Property. Conveyance of the Slough Property is not required if OPTIONEE terminates the Option pursuant to Sections 14.a.- e., above.

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Upon notice to LCWA of OPTIONEE's election to terminate pursuant to Section 14.f., LCWA shall reimburse OPTIONEE the consideration described in Section 12, above, as follows:

i. If OPTIONEE terminates before twelve (12) months from the Effective Date (i.e., within one year after the Effective Date), LCWA shall reimburse OPTIONEE the sum of Two Hundred Thousand Dollars (\$200,000).

ii. If OPTIONEE terminates before twenty-four (24) months from the Effective Date (i.e., within two years after the Effective Date), LCWA shall reimburse OPTIONEE the sum of One Hundred Thousand Dollars (\$100,000).

iii. If OPTIONEE terminates after the second anniversary of the Effective Date, LCWA is not obligated to reimburse OPTIONEE any portion of the consideration described in Section 12, above.

LCWA's reimbursement shall be paid within thirty (30) days of receipt of OPTIONEE's notice, unless otherwise agreed to by the Parties.

15. **Notices.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by a nationally recognized overnight courier or sent by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed received upon the earlier of (a) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, or (b) if mailed, on the date of delivery as shown on the sender's registry or certification of receipt.

All notices to OPTIONEE shall be sent to:

Los Cerritos Wetlands, LLC  
6433 E. Second Street  
Long Beach, CA 90803  
Contact: John McKeown

All notices to LCWA shall be sent to:

Los Cerritos Wetlands Authority  
100 Old San Gabriel Canyon Road  
Azusa, CA 91702  
Contact: Mark Stanley, Executive Officer

16. **Extension of Option.** The term of this Option may be extended by OPTIONEE at its sole election in the event all of the Entitlements have not been received by the end of the initial term of the Option by providing written notice to LCWA. The Option may be extended for a period of an additional four (4) years.

17. **Recordation of Memorandum of Option.** Within ten (10) calendar days of the Effective Date of this Agreement, the OPTIONEE shall cause a Memorandum of Option to be recorded in the Official Records of Los Angeles County.

18. **Miscellaneous.**

a. **Required Actions of OPTIONEE and LCWA.** OPTIONEE and LCWA agree to execute such instruments and documents and to diligently undertake such actions (at no cost to the undertaking party except as otherwise expressly provided herein) as may be reasonably required in order to consummate the purchase and sale herein contemplated and shall use good faith efforts to accomplish the closings in accordance with the provisions hereof.

b. **Time of Essence.** Time is of the essence of each and every term, condition, obligation and provision hereof. All references herein to a particular time of day shall be deemed to refer to Pacific Standard Time.

c. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument and may be delivered by PDF file or other electronic means.

d. **Captions.** Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

e. **No Obligations to Third Parties.** Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties thereto, to any person or entity other than the parties hereto.

f. **Amendment to this Agreement.** The terms of this Agreement may not be modified or amended except by an instrument in writing executed by all of the Parties hereto.

g. **Waiver.** The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision

hereof.

h. Choice of Law. The Parties intend that this Agreement and all of its terms and provisions shall be construed in accordance with, and all disputes hereunder shall be governed by, the laws of the State of California.

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*[SIGNATURES ON THE FOLLOWING PAGE]*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

**"LCWA"**

**LOS CERRITOS WETLANDS AUTHORITY**

By:   
Name: \_\_\_\_\_

Its: Chair

**"OPTIONEE"**

**LOS CERRITOS WETLANDS, LLC**

By:   
Name: John McKeown

Its: Chief Executive Officer

By:   
Name: Hong Duan

Its: President

RECEIVED  
10-20-18  
SEC. OF SUP.  
LOS CERRITOS  
WETLANDS AUTHORITY