

Los Cerritos Wetlands Authority

Date: November 7, 2024

To: Governing Board Members

From: Mark Stanley, Executive Officer

Subject: **Item 08: Consideration of a resolution to authorize the Executive Officer to enter a non-binding Memorandum of Understanding with Ecosystem Investment Partners to investigate the viability of creating a wetland mitigation bank on LCWA property**

Recommendation:

That the LCWA board approve a resolution to authorize the Executive Officer to enter a non-binding Memorandum of Understanding with Ecosystem Investment Partners to investigate the viability of creating a wetland mitigation bank on the LCWA property.

Project Description:

Exhibit A: Project Location

Exhibit B: Draft MOU for Consideration

If approved, this resolution would authorize the Executive Officer to enter into a non-binding Memorandum of Understanding (MOU) with Ecosystem Investment Partners (EIP), to explore the viability of creating a wetland mitigation bank on LCWA owned property within the Central Los Cerritos Wetlands (see “LCWA”, Exhibit A Project Location). The non-binding MOU would not create any legally binding rights or obligations to either party, and neither party would be obligated to enter into any binding agreement as a result of the MOU.

Rather, the MOU would formalize an agreement between both parties to work together in good faith and promote an atmosphere of collaboration between them, as both parties invest their time in the exploration of a wetland mitigation bank on the Authority’s property. The MOU provides an initial framework and agreement in principle to cooperate on the potential creation of a wetland mitigation bank.

A draft MOU acknowledges that if EIP is able to complete the following activities, it would have earned any mitigation bank credits authorized by the Inter-Agency Review Team (IRT), which is responsible for overseeing mitigation bank development and approval in California.

1. Control land through purchase of fee title, or through mitigation use right agreements on parcels of land in the central portion of the Los Cerritos Wetlands that are contiguous and contain sufficient conservation and ecological values to develop a mitigation bank.
2. Investigate and obtain site-specific biological and technical data and completing a bank design sufficient for review as a Prospectus by an Interagency Review Team (IRT).
3. Completion of documentation, applications, and agreements sufficient for obtaining all permits necessary for the permitting and construction of a wetlands mitigation bank.
4. Approval of a Bank Enabling Instrument by the IRT
5. Successful capping and abandonment of all existing oil wells on the subject property or addressing access and protection issues sufficient to address potential concerns of oil well owners, the IRT, and the LCWA collectively or individually.
6. Construction of the mitigation bank to “as built” specifications sufficient to satisfy the IRT and the LCWA.

Background:

Ecosystem Investment Partners was founded in January of 2006, with a goal of combining ecological restoration with economic development. It creates market-based solutions to accelerate and simplify regulatory compliance for businesses who need to offset or provide mitigation for unavoidable permitted impacts to wetlands, streams and habitat areas. In June of 2007 the firm completed its first acquisition, 1,000 acres within the Great Dismal Swamp National Wildlife Refuge in Virginia, where it established its first mitigation bank in 2010. Since then, EIP’s biological restoration projects have revitalized wetlands, streams, and regionally significant habitats across the United States. Notable projects include Lookout Slough (CDWR) in Solano County, Riverpark Mitigation Bank (Western Riverside County Regional Conservation Authority) in Riverside County, in addition to several others currently underway in 9 states.

EIP has obtained an option to purchase land adjacent to LCWA properties, owned by the Bryant family (see Exhibit A Project Location Map “Bryant”). It has also held initial meetings with Synergy Oil and Gas to discuss the company’s experience in the formation of a mitigation bank on the Northern Synergy Oil site (now owned by the LCWA), as well as Signal Hill Petroleum who currently oversee oil operations at the Central Los Cerritos Wetlands. Additionally, EIP representatives have met with the City of Long Beach’s City Manager, Director of Development Services, and Councilmember/LCWA Board Chair Duggan. LCWA staff met with EIP on two occasions to better understand EIP’s objectives,

due diligence and progress to date, and the possibility of a mitigation bank on LCWA owned land. It is the LCWA's understanding that each of these entities are open to the idea of working toward a mitigation bank within the central area.

Fiscal:

The MOU does not require the LCWA to expend or in any way fund EIP's activities. There is no intent to assume any additional costs beyond the normal course of LCWA business.

Exhibit A: Los Cerritos Wetlands Map





Via Electronic Mail

September 19th, 2024

Mark Stanley
Los Cerritos Wetlands Authority
C/o Rivers and Mountains Conservancy
100 N. Old San Gabriel Canyon Road
Azusa, CA 91702

RE: Central Portion of Los Cerritos Wetlands

Dear Mark,

Thank you for the productive conversations regarding the central portion of the Los Cerritos Wetland property in Long Beach. Ecosystem Investment Partners (EIP) is at the point now where we believe there may be a path forward for us to invest in this ecological restoration opportunity. We would like to be in a position to demonstrate that the portion of the land owned by the Los Cerritos Wetland Authority (LCWA) may be available for our investment in design, permitting, and construction of a wetland mitigation bank. To that end, we are proposing to enter into a non-binding Memorandum of Understanding with the LCWA that describes the general terms and conditions that would allow a mutually beneficial outcome.

Please find attached an initial draft of such an MOU for your consideration

Sincerely,

A handwritten signature in black ink that reads "Adam Davis".

Adam Davis
Managing Partner

DRAFT Memorandum of Understanding

This Memorandum of Understanding ("MOU") is made and entered into on November 15, 2024 (the "Effective Date") by and between Ecosystem Investment Partners and Los Cerritos Wetlands Authority, both of whom are collectively known as the "Parties."

1. Parties:

Ecosystem Investment Partners ("EIP") creates market-based solutions to accelerate and simplify regulatory compliance for businesses who need to offset or provide mitigation for unavoidable permitted impacts to wetlands, streams and habitat areas.

Los Cerritos Wetlands Authority ("LCWA") is a joint powers authority, pursuant to Government Code § 6500, et. seq. consisting of the California Coastal Conservancy, the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, the City of Long Beach, and City of Seal Beach. LCWA currently owns approximately 243 acres of Wetlands with the purpose to provide protection, restoration and enhancement of the Los Cerritos wetlands in the East Long Beach and North Seal Beach areas.

2. Recitals:

WHEREAS, purpose of the LCWA is 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 habitat protection and restoration, flood protection, and improved water supply, water quality, groundwater recharge and water conservation.

WHEREAS, acquisition may be by way of gift, devise, purchase, or exchange and shall extend to any interest in real or personal property necessary to carry out the purposes of this Agreement.

WHEREAS, EIP wishes to more formally investigate and potentially invest in a portion of land owned by LCWA in the City of Long Beach California. Specifically, EIP believes that LCWA's land may be eligible for EIP's investment in design, permitting, and construction of a wetland mitigation bank on all or a portion of LCWA's land, as more specifically depicted in Exhibit A which is attached hereto and incorporated herein by reference; and

WHEREAS, EIP met with the LCWA on 6/18/24 and 9/12/24 to discuss the possibility of EIP aiding LCWA in accomplishing its mission of habitat enhancement and protection through restoration efforts on land owned by LCWA;

THEREFORE, the Parties are desirous to enter into a non-binding Memorandum of Understanding between them, setting forth the working arrangements and understanding necessary to further investigate the viability of creating a wetland mitigation bank on LCWA's

land.

3. Purpose and Scope:

The purpose of this Memorandum is to provide a framework, and the Parties' initial agreement in principle to collaborate on the potential creation of a wetland mitigation bank.

4. Term:

The term of this MOU is effective for a period of [INSERT TERM] from the Effective Date, unless extended or terminated earlier by the Parties. Any Party may terminate this MOU for any reason by providing thirty (30) day written notice to the other Party.

5. Description of EIP Actions Demonstrating Good Faith Efforts:

The Parties agree that EIP has demonstrated good faith progress by:

- Obtaining an option to purchase land adjacent to LCWA owned by the Bryant family
- Meeting with Signal Hill Petroleum to discuss accommodations necessary for its existing oil infrastructure on the central portion of the Los Cerritos Wetlands
- Meeting with Synergy Oil and Gas regarding its experience in developing a wetland mitigation bank on the northern portion of the Los Cerritos Wetlands
- Meeting with Councilmember (and LCWA Chair) Kristina Duggan, her Chief of Staff Nick Kaspar, City Manager Tom Modica, and Director of Development Services Christopher Koontz, regarding the interests and objectives of the City of Long Beach with regard to the central portion of the Los Cerritos Wetlands
- Conducting site visits and initial high-level diligence regarding the opportunities and risks associated with developing a mitigation bank in this location

6. Non-Binding:

The Parties expressly acknowledge that this MOU is non-binding and does not create any legally binding rights or obligations, and creates no legally cognizable or enforceable rights or remedies, legal or equitable, in any forum. No party is obligated to enter into any binding agreement as a result of this MOU.

7. The Parties' Obligations:

- A. The Parties agree to work together in good faith to promote a genuine atmosphere of collaboration in support of an effective and efficient partnership as EIP invests time and funds in further pursuit of a wetland mitigation bank on LCWA's land and adjacent land.
- B. If EIP is able to successfully complete the following activities, LCWA would agree that EIP would have earned, and be entitled to, any mitigation bank credits that are authorized and approved by the Inter-Agency Review Team ("IRT"), consisting of the

Agencies responsible for overseeing California's natural resources and mitigation bank development and approval in California:

- Control land through purchase of fee title, or through mitigation use right agreements on parcels of land in the central portion of the Los Cerritos Wetlands that are both contiguous and contain sufficient conservation and ecological values to develop a mitigation bank
- Investigate and obtain site-specific biological and technical data and completing a bank design sufficient for review and approval as a Prospectus by the IRT
- Complete documentation, applications and agreements sufficient for obtaining all permits necessary for the permitting and construction of a wetlands mitigation bank
- Approval of a Bank Enabling Instrument by the IRT
- Successful capping and abandonment of all existing oil wells on the subject property *or* addressing access and protection issues sufficient to address potential concerns of oil well owners, Interagency Review Team (IRT), and the LCWA, collectively or individually.

- C. **Construction of the mitigation bank to 'as built' specifications sufficient to satisfy the IRT and the LCWA.** This MOU does not require LCWA to expend, distribute, or in any way pay any monetary funds or represent any obligation for LCWA to fund any or part of EIP's activities. All costs incurred pursuant to this MOU will be the responsibility of the party that incurs them, unless expressly stated otherwise.

8. Confidentiality:

The Parties understand that LCWA is a joint powers authority, which is subject to the California Public Records Act. Therefore, the Parties agree to maintain confidentiality of any documents, agreements, or other information that may be disclosed to the extent permitted by law.

9. Governing Law; Venue:

This MOU shall be governed by and construed in accordance with the laws of the state of California. In the event that suit is brought by a Party, the Parties agree that trial of such action shall be vested exclusively in the County of Los Angeles.

10. Entire Agreement:

This MOU contains the entire agreement and understanding between the Parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between the Parties relating to the subject matter of this MOU that are not fully expressed herein.

11. Amendment:

This MOU may be amended in writing by the authorized representatives of the Parties.

12. Headings:

Section headings are for convenience purposes only and shall not be used in the interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this MOU as of the Effective Date by the signatures of their authorized representatives set forth below.

Adam Davis
Managing Partner
Ecosystem Investment Partners

Mark Stanley
Executive Officer
Los Cerritos Wetlands Authority

November 7, 2024– Item 08

RESOLUTION 2024-07

RESOLUTION OF THE LOS CERRITOS WETLANDS AUTHORITY
(LCWA) AUTHORIZING THE EXECUTIVE OFFICER TO ENTER A
NON-BINDING MEMORANDUM OF UNDERSTANDING WITH
ECOSYSTEM INVESTMENT PARTNERS TO INVESTIGATE THE
VIABILITY OF CREATING A WETLAND MITIGATION BANK ON
LCWA PROPERTY

WHEREAS, the Los Cerritos Wetlands Authority (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, Ecosystem Investment Partners is a private organization that has restored thousands of acres of wetlands across the United States through the formation and use of mitigation banks, and;

WHEREAS, The LCWA has held initial meetings with Ecosystem Investment Partners to discuss the possibility of the formation of a mitigation bank on LCWA owned land, and;

WHEREAS, Ecosystem Investment Partners has held initial meetings with the City of Long Beach, Synergy Oil and Gas, Signal Hill Petroleum, and adjacent land owners, the Bryant Family, who have each expressed a willingness to cooperate on a potential mitigation bank.

WHEREAS, the LCWA has received and provided comments on a draft Memorandum of Understanding setting forth the working arrangements and understanding necessary to further investigate the viability of creating a wetland mitigation bank on LCWA property, and'

WHEREAS, the LCWA and Ecosystem Investment Partners wish to enter into a non-binding Memorandum of Understanding; and NOW

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

Therefore be it resolved, that the LCWA hereby:

1. FINDS that the actions contemplated by this resolution are exempt from the environmental impact report requirements of the California Environmental Quality Act.
2. FINDS that this action is consistent with the purposes and objectives of the LCWA.

3. ADOPTS the staff report dated November 7, 2024.
4. AUTHORIZES the Executive Officer to negotiate and enter into a non-binding Memorandum of Understanding with Ecosystem Investment Partners setting forth the working arrangements and understanding necessary to further investigate the viability of creating a wetland mitigation bank on LCWA property.

~ End of Resolution ~

Passed and Adopted by the Board of the LOS CERRITOS WETLANDS
AUTHORITY on November 7, 2024.

Kristina Duggan, Chair

ATTEST:

Elizabeth St. John
Deputy Attorney
General