SETTLEMENT AGREEMENT

This Settlement Agreement (hereinafter the “Agreement”), dated this 21st day of
September, 2018 is made and entered into by and among the Natural Resources Defense
Council, Inc. (“NRDC”) and the City of Pasadena (the “City”) (collectively the “Parties”),
who agree as follows:

RECITALS

A. On December 18, 2017, NRDC filed a verified petition for writ of mandate
against the City, captioned NRDC v. City of Pasadena, Los Angeles Superior Court,
Central District, Case No. BS171850. The petition alleges that the City failed to adopt,
implement, and enforce the California Department of Water Resources’ 2015 Model
Water Efficient Landscape Ordinance (MWELO), Cal. Code Regs. tit. 23, § 490 et seq., or
a local Water Efficient Landscape Ordinance (WELO) that is at least as effective in
conserving water as the 2015 MWELO. The petition further alleges that the City failed to
submit required annual reports describing the implementation and enforcement of its
WELO.

B. The Parties engaged in a series of informal settlement discussions. The
Parties agree that it is in their best interests to settle their disputes without further
litigation.

C. As a result, on June 4, 2018, the City adopted a WELO that is at least as
effective as the 2015 MWELO in conserving water. The effective date of the City’s
WELO is July 7, 2018. The City also submitted to the California Department of Water
Resources annual reports required under the 2015 MWELO for calendar years 2015,

D. Therefore, without admitting fault or liability, the Parties have agreed to
resolve all claims that exist between them arising out of the allegations in NRDC’s
petition, as further set forth below.
AGREEMENT

1. Required future action under this Agreement.
   a. No later than 28 months after the effective date of this Agreement, the City shall undertake and complete a supplemental water savings project or projects ("the project").

   i. The project must meet the following requirements:
      a. The project shall be designed to achieve a water savings of at least one acre foot per year (326,000 gallons) for a period of at least ten years following installation;
      b. The project shall be implemented within the City of Pasadena; and
      c. As of the effective date of this Agreement, the City of Pasadena has not funded the project, has not received land use approvals for the project, and has not started construction.

   ii. Reporting.
      a. By the end of the sixth full month following the effective date of this Agreement, and continuing every six months until completion, the City shall provide NRDC with status updates on the project. Such reports shall describe each element of the project, provide supporting information for the basis of projected water savings, and state the current timeline for installation and completion of each element of the project. Pasadena shall review and respond to feedback received from NRDC on the City’s semi-annual reports.
      b. On or before 28 months after the effective date of this Agreement, the City shall submit to NRDC a final description of the project, as implemented, confirming that the project achieving the above-mentioned water savings has been completed.
      c. If the City anticipates that the project will not be completed within the 28-month period, it shall request an extension from NRDC by providing notice as described herein, specifying the cause of delay, the steps the City took to avoid and/or mitigate the delay, and the amount of additional time needed to complete the project. NRDC shall not unreasonably withhold or delay approval for such an
extension if the City has demonstrated that it exercised best efforts to complete the project within the original 28-month period, and the amount of additional time needed to complete the project is reasonable. If NRDC fails to respond within 30 calendar days after receipt of the City’s request for an extension, the extension shall be deemed approved.

b. The parties shall file a stipulation requesting the court (1) dismiss the entire action, with prejudice; and (2) retain jurisdiction for purposes of enforcing this Agreement. The dismissal shall not prohibit parties from seeking relief for failure to comply with the remaining terms of this Agreement, including, but not limited to, Paragraph (1)(a)(ii)(c). If disputes arise under this Agreement, the parties agree to submit to the jurisdiction of the Los Angeles County Superior Court.

2. The Parties agree that the terms of this Agreement shall be enforceable in a court of law. For example, if the City fails to implement a project designed to achieve a water savings of at least one acre-foot per year, or fails to meet any of the deadlines for reporting on and completing such project as required herein, NRDC shall have the right to move to enforce the Agreement’s term.

3. Understanding of Agreement. The Parties acknowledge that they have carefully read this Agreement; that they understand its effect; and that they understand the provisions of this Agreement and knowingly and voluntarily agree to be bound by them.

4. Release of Unknown Claims. NRDC expressly acknowledges that NRDC is aware of the existence of California Civil Code § 1542 and its meaning and effect. NRDC expressly acknowledges that NRDC has read and understands the following provision of that section which provides:

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.

NRDC expressly waives and releases any rights which NRDC may have under California Civil Code § 1542 with respect to the matters covered by this Agreement, to the
fullest extent NRDC may do so lawfully. NRDC further acknowledges that NRDC may later discover facts different from or in addition to those facts now known to NRDC or believed by NRDC to be true with respect to any or all of the matters covered by this Agreement, and NRDC agrees that this Agreement nevertheless shall remain in full and complete force and effect.

5. No Admission of Liability. The execution of this Agreement affects the settlement of claims that are disputed, contested, and denied. The Parties understand and agree that nothing herein is intended to or shall be deemed or construed to be an admission of liability by any Party in any respect or to any extent whatsoever, and the Parties shall not make any representation to the contrary.

6. Costs and Attorneys’ Fees. The City agrees to pay NRDC $38,000 dollars in costs and attorneys’ fees in full satisfaction of NRDC’s claim for costs and attorneys’ fees in this Lawsuit. Upon receipt of appropriate IRS form W-9, the City shall make this payment to NRDC by check, payable to Natural Resources Defense Council, Inc., and mailed to:

Claire Woods
Natural Resources Defense Council
111 Sutter Street, 21st Floor
San Francisco, CA 94104

The City shall make this payment within thirty (30) days of the date that NRDC files a request for dismissal of the litigation, pursuant to paragraph (1)(b) of this Agreement. With the exception of the fees contemplated by this paragraph, the Parties shall bear their own attorney’s fees and costs in the matter. Notwithstanding the foregoing, this Agreement shall not limit either party from seeking attorney’s fees and costs in any action to enforce this Agreement, to the extent such party is entitled to fees and costs by law.

7. Entire Agreement. This Agreement contains the entire understanding and Agreement of the Parties with respect to the subject matter hereof. The Parties hereby acknowledge and represent that in releasing, discharging and settling certain claims and in executing and entering into this Agreement, no other party, nor any agent, attorney or other representative of any party has made any promise, representation, warranty, covenant, warning or inducement whatsoever, express or implied, except as contained in this Agreement, concerning all or any part of the subject matter hereof, to induce them to execute this Agreement. The Parties hereby acknowledge and represent that they have not
executed this Agreement in reliance upon any promise, covenant, representation, warranty, warning or inducement not specifically contained in this Agreement.

8. No Oral Modifications. This Agreement may not be changed, nor may any covenant, representation, or other provision be waived, except by written agreement signed by both Parties.

9. Construction. Counsel for the represented Parties have negotiated, read and approved as to form the language of this Agreement, the language of which shall be construed in its entirety according to its fair meaning and not strictly for or against any of the Parties.

10. Authority. Each person signing this Agreement on behalf of a Party represents and warrants that he or she has the authority and capacity to make the promises and releases set forth in this Agreement.

11. Effective Date. The effective date of this Agreement shall be the date on which the last person to execute this Agreement does so, as reflected in the signature blocks below.

12. Applicable Law. This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties hereto shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

13. Mutual Release. This Agreement is a full, final, and binding resolution between the Parties, including their agents, employees, representatives, officers and successors and assigns, of claims and defenses related to NRDC’s petition for writ of mandate and the facts alleged therein, and the Parties mutually release such claims and defenses.

The foregoing is so stipulated and agreed between the undersigned parties.
For Natural Resources Defense Council, Inc.

Michael Wall
Litigation Co-Director

Ed Osann
Director, National Water Use Efficiency

9/19/2018

9/20/2018
For City of Pasadena:

Steve Mermell
City Manager

APPROVED AS TO FORM:

Jayan N. Rad, Chief Assistant City Attorney
Arnold F. Lee, Deputy City Attorney

9/21/18
Date