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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

HOWARD JARVIS TAXPAYERS ASSN.;)
LINNEA WARREN; THOMAS WOLFE;)
EDWARD HENRY; AND ALL OTHERS)
SIMILARLY SITUATED,)
Plaintiffs,)
v.)
CITY OF PASADENA,)
Defendant.)

Case No. BC550394

**NOTICE AND UNOPPOSED MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT, AND POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: October 11, 2018
Time: 11:00 a.m.
Dept: 6

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1 **NOTICE AND MOTION**

2 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

3 PLEASE TAKE NOTICE that on October 11, March 27, 2018, at 11:00 a.m., in
4 Department 6 of the Superior Court for Los Angeles County, located at 312 North Spring
5 Street, Los Angeles, CA 90012, plaintiffs will and hereby do move, without opposition, for an
6 order granting final approval of the proposed settlement of this action.

7 This motion is made pursuant to Rules of Court, Rule 3.769 and the case law
8 interpreting it on the grounds that the proposed settlement was reached through arm's
9 length negotiation, is reasonable and fair to the plaintiff class, and is preferable to trial.

10 The motion is based on this notice, the supporting memorandum of points and
11 authorities, the supporting declarations of Timothy Bittle and April Vaught, any matter that
12 may be judicially noticed, and the arguments of counsel at the hearing.

13 DATED: August 14, 2018.

Respectfully submitted,

14 JONATHAN M. COUPAL
15 TREVOR A. GRIMM
16 TIMOTHY A. BITTLE
LAURA E. MURRAY

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TIMOTHY A. BITTLE
Attorneys for Plaintiffs

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I

3 SUMMARY OF THE LITIGATION

4 Plaintiffs filed this class action to challenge the rates charged by the City of Pasadena
5 for water service to customers who are not residents of the City.

6 On June 18, 2015, this Court certified the class as follows: "Property owners and tenants
7 whose owned or rented real property is located outside the boundary of territory incorporated
8 as the City of Pasadena, whose owned or rented real property receives water service from the
9 City of Pasadena, who are subject to the water rates and charges challenged herein, and who
10 have paid said rates and charges at any time since March 24, 2013."

11 The City refers to its in-city residents as "Area A," and its outside customers as "Area
12 B." There are three components to every customer's water bill: (1) a "Capital Improvements
13 Charge (hereafter "CIC Charge"), (2) a "Distribution and Customer Charge" (hereafter "D&C
14 Charge") and (3) a "Commodity Charge."

15 The "Capital Improvements Charge" covers the cost of capital improvements to the
16 City's water distribution system. The City currently charges Area B customers thirty-five
17 percent (35%) more than Area A customers for the Capital Improvements Charge. Although
18 the parties disagree as to the propriety of the 35% differential, the Complaint did not challenge
19 the Capital Improvements Charge.

20 The "D&C Charge" (sometimes called a "meter charge") is a fixed amount each billing
21 period, based on the property's potential demand for water as determined by its meter size.
22 The City currently charges Area B customers twenty-five percent (25%) more than Area A
23 customers for the D&C Charge.

24 The "Commodity Charge" is a variable amount each billing period, based on the quantity
25 of water actually delivered to the service address during the billing period. The Commodity
26 Charge is tiered so that the price per unit of water increases as one's water use increases. The
27 City currently charges Area B customers twenty-five percent (25%) more than Area A
28 customers for each tier of the Commodity Charge.

1 Plaintiffs brought this action alleging that the 25% surcharge added to Area B's
2 Commodity Charge and D&C Charge is arbitrary, not based on actual differences in the cost
3 to serve Area B because the City's cost to provide water service is not substantially different
4 from one side of the City's boundary line to the other. Plaintiffs argued that the 25% surcharge
5 violates Proposition 218's cost-of-service and proportionality requirements.

6 Proposition 218 added Article XIII D to the California Constitution in 1996. Section 6 of
7 that article governs fees and charges for property related services, including water rates.
8 (*Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205, 217.) Section 6(b)
9 provides that "[a] fee or charge shall not be extended, imposed, or increased by any agency
10 unless it meets all of the following requirements: (1) Revenues derived from the fee or charge
11 shall not exceed the funds required to provide the property related service. ... (3) The amount
12 of a fee or charge imposed upon any parcel or person as an incident of property ownership
13 shall not exceed the proportional cost of the service attributable to the parcel."

14 Plaintiffs' complaint seeks a ruling that the challenged Area B rates are excessive and
15 disproportionate under Article XIII D. It also seeks a refund of the alleged overcharges from
16 March 24, 2013, to the date refunds are paid.

17 Defendant City of Pasadena disagrees with plaintiffs and asserts that its rates are based
18 on a Cost of Service and Rate Design study performed by an independent consultant, Red Oak
19 Engineering, which concluded that Area A customers have a superior right to receive the City's
20 less expensive source of water (*i.e.*, groundwater) and that Area A customers are entitled to
21 a rate of return as investors or owners of the water system infrastructure. The City's expert
22 witnesses also opined that the City's 25% surcharge conformed to industry practice. The City
23 argues therefore that its rates fully comply with Proposition 218 and no adjustment, refund or
24 other relief is warranted.

25 II

26 SUMMARY OF THE SETTLEMENT

27 The plaintiff class representatives, and the Pasadena City Council at a regularly
28 scheduled and noticed meeting on December 4, 2017, agreed to the following terms of

1 settlement:

2 1. **Equalization of D&C Charge and Commodity Rates.** Within one year of final
3 approval by the Superior Court: After compliance with Proposition 218's notice and protest
4 procedure, the Pasadena City Council shall vote on adjustments to its water rates that eliminate
5 the 25% differential in its D&C Charge and its Commodity Rates for Areas A and B. The City
6 thereafter shall not adopt a rate differential or surcharge unless the rationale for such
7 differential or surcharge is applied consistently to each pressure zone and identifiable customer
8 class throughout both Area A and Area B. For example, if the differential or surcharge is based
9 on pumping costs, then the City shall set rates based on pumping costs for each pressure zone
10 and identifiable customer class in both Area A and Area B. If the differential or surcharge is
11 based on peaking factors, then the City shall set rates based on peaking factors for each
12 pressure zone and identifiable customer class in both Area A and Area B. The City shall not
13 base any differential or surcharge on a theory that Area A customers have a superior right to
14 receive groundwater, or that Area A customers are entitled to a rate of return as investors or
15 owners of infrastructure.

16 2. **CIC Differential.** Even though it was not a subject of plaintiffs' complaint,
17 nevertheless within the same one year described above, the differential between the Area A
18 and Area B Capital Improvements Charge (if any) shall be recalculated so that the differential
19 is based only upon the variation in projected costs of capital improvements to serve Area B, as
20 supported by a cost analysis and the Water System Capital Improvement Plan in compliance
21 with Proposition 218. Projected costs to be included in any Area B CIC differential are limited
22 to those bona fide costs that the City would not otherwise incur when it makes capital
23 improvements but for the fact that such improvements are located in unincorporated County
24 of Los Angeles.

25 3. **Future Rate Challenges.** Plaintiffs are free to challenge future rates,
26 differentials or surcharges (if any).

27 4. **No Refunds.** Plaintiffs waive their claim for refunds.

28 5. **No Incentive Payments.** Plaintiffs will not seek any incentive payments to the

1 the Court requested amendments to the proposed form of class notice to: (1) include the full
2 definition of the class; (2) explain whether attorney fees will be paid if the City Council rejects
3 adjustments to rates that eliminate the 25% surcharge; (3) allow class members to file an
4 objection without appearing at the final fairness hearing, or to participate in the final hearing
5 even if they did not file an objection; and (4) conform the deadlines for opting out and filing
6 written objections so they fall on the same date. (*Id.* at 2:20.) The hearing was continued.

7 On April 19, 2018, the parties filed a Joint Supplemental Brief in Support of Preliminary
8 Approval of Settlement. The supplemental brief responded to the Court's concern that the
9 City's promises were illusory by explaining that the City's consideration is offered in good faith,
10 but must be structured as it is because the law prohibits the City Council from committing to
11 adopt specific water rates before completing the Proposition 218 notice and protest
12 requirements (*Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172)
13 and prohibits the City Council from making decisions in settlement negotiations rather than at
14 public hearings (Gov. Code, § 54950 *et seq.*). (Joint Supplemental Brief at 1:11.)

15 The supplemental brief also provided the requested additional information requested by
16 the Court. Among other things, the supplemental brief explained that the adjusted rates will
17 apply to all customers whether or not they opt out of the class (*id.* at 4:5), that the amount of
18 the refunds waived by the class as part of the settlement is small compared to the future
19 monetary value of the reduced rates once the 25% surcharges are eliminated (*id.* at 4:14), and
20 that attorney fees will *not* be paid unless the City Council adopts adjustments to water rates that
21 eliminate the 25% nonresident surcharge (*id.* at 5:7).

22 The hearing on preliminary approval was reconvened May 3, 2018. Although the Court
23 was satisfied with the parties' answers to the questions raised at the previous hearing, the
24 Court had a new concern. The Court asked whether the settlement could be construed as an
25 illegal quid pro quo where the City is being paid to adopt legislation, and asked for additional
26 supplemental briefing on that issue. The hearing was continued.

27 On May 14, 2018, the parties filed a Second Joint Supplemental Brief in Support of
28 Motion for Preliminary Approval of Settlement citing authorities to show that the settlement of

1 a genuine disputed claim regarding the validity of a city ordinance does not run afoul of the
2 prohibition against bribing city officials to pass legislation. (*108 Holdings, Ltd. v. City of Rohnert*
3 *Park* (2006) 136 Cal.App.4th 186.)

4 On May 22, 2018, the hearing on preliminary approval was reconvened. The Court was
5 satisfied with the parties' answer to its last question. Although the Court had a couple of final
6 concerns, it set October 11, 2018, at 11:00 a.m. as the date and time for the final fairness
7 hearing. The Court requested a 60-day opt out period to replace the 45-day period originally
8 agreed to by the parties, and it wanted notices to the class amended to state that opt-outs and
9 objections would only need to be postmarked by the applicable deadlines as opposed to being
10 received by the Claims Administrator by those dates. The parties also raised a concern of their
11 own. Plaintiff Edward Henry had passed away while the case was pending, and the parties
12 sought guidance from the Court regarding his signature on the settlement agreement. The
13 Court determined that because other plaintiffs continue to serve as class representatives, and
14 because no incentive award will be sought by any class representative, Mr. Henry need not
15 execute the settlement agreement for it to be effective and binding. The hearing was
16 continued.

17 On May 30, 2018, the parties lodged with the Court an updated and fully executed
18 settlement agreement, and updated notices to the class. The updated notices reflected the
19 actual deadlines and hearing dates as set by the Court, included the full definition of the class,
20 stated that attorney fees will not be paid if the City Council rejects adjustments to rates that
21 eliminate the 25% surcharge, stated that class members may file an objection without
22 appearing at the final fairness hearing and may participate in the final hearing even if they do
23 not file an objection, stated that opt-outs and objections would only need to be postmarked by
24 the applicable deadlines as opposed to being received by the Claims Administrator, and
25 reflected a 60-day opt out period as ordered by the Court. The settlement agreement also
26 stated that attorney fees will not be paid if the City Council rejects adjustments to rates that
27 eliminate the 25% surcharge, and deleted plaintiff Edward Henry as a required signatory.

28 The hearing on preliminary approval was reconvened June 13, 2018. The Court, being

1 satisfied that all of its questions had been answered and all of its requests had been complied
2 with, made a preliminary finding that the settlement is fair and in the best interest of the class,
3 and therefore granted preliminary approval of the settlement agreement. The Court's Order
4 also approved the description of the settlement class, approved the proposed methods of, and
5 form of, notice to the class regarding the settlement, and approved Kurtzman Carson
6 Consultants, LLC ("KCC") as the Claims Administrator to oversee the notice program, record
7 and retain any opt-outs or objections, and produce a final report to the Court. The Court set
8 a deadline of July 11, 2018, to give notice to the class. The Judge's signed Order was filed
9 June 20, 2018.

10 IV

11 COMPLIANCE WITH, AND RESULTS OF, NOTICE TO THE CLASS

12 The City of Pasadena provided KCC with a list of names and addresses for current and
13 former water customers who fall into the settlement class for this case. (Vaught Dec. at 1.)
14 On July 11, 2018, KCC mailed 8,139 notices of the proposed settlement to the members of the
15 settlement class using the addresses supplied by the City. (*Id.*) 194 of these notices were
16 returned as undeliverable as of August 7, 2018. (*Id.*) KCC was able to find updated addresses
17 for 39 of the customers whose notices were returned undeliverable, and re-mailed those
18 notices. (*Id.*)

19 Also on July 11, 2018, KCC activated a website regarding this settlement
20 (<http://howardjarvisvcityofpasadena.com>). This website provides information on the case, a
21 copy of the proposed settlement agreement, and instructions explaining how to object to or opt
22 out of the settlement. (*Id.*)

23 At KCC's request, the Pasadena Star-News published a one-half page advertisement
24 providing notice of the proposed settlement on three dates over the course of three weeks: July
25 12, July 18, and July 25, 2018. (*Id.*)

26 Both the website and the notice published in the Pasadena Star-News list a toll-free
27 phone number class members may call with questions about the case and the proposed
28 settlement: 866-637-9469. (*Id.*)

1 The mailed notice, as well as the notice published online and in the Pasadena Star-
2 News informed class members that the deadline to opt-out of or object to the proposed
3 settlement is September 11, 2018. (*Id.* at 2.)

4 The last report from KCC prior to the filing of this motion was produced on August 7,
5 2018. As of that date, KCC had received a total of six opt-outs and zero objections regarding
6 the proposed settlement. (*Id.* at 1.)

7 As the deadline to opt-out of or object to the proposed settlement is September 11,
8 2018, KCC plans to provide an updated declaration on the administration and results of the
9 settlement notice program after that date, but not later than September 27, 2018. (*Id.* at 2.)

10 V

11 THE PROPOSED SETTLEMENT WARRANTS FINAL APPROVAL

12 A class action settlement should be approved where the court finds that it is not the
13 product of fraud or collusion, and is fair, adequate, and reasonable to the class members.
14 (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128, 133; *Reed v. United*
15 *Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 337; *Nordstrom Com. Cases* (2010) 186
16 Cal.App.4th 576, 581.) Moreover, a class action settlement is presumed to be fair if: (1) it is
17 “reached through arm’s length bargaining; (2) investigation and discovery are sufficient to allow
18 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4)
19 the percentage of objectors is small.” (*Chavez v. Netflix* (2008) 162 Cal.App.4th 43, 52
20 (quoting *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802); *Wershba v. Apple*
21 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 245.)

22 The requirements for approval are deferential to the settling parties, as California law
23 “favors and encourages compromises and settlements of controversies made in or out of
24 court.” (*Ebensteiner Co., Inc. v. Chadmar Group* (2006) 143 Cal.App.4th 1174, 1179-80.)

25 A. The Settlement is Not the Product of Fraud or Collusion, but of Arm’s-Length Bargaining

26 To guard against fraud or collusion, the court must satisfy itself that the parties are
27 adverse and that the settlement was negotiated at arm’s length. (*Carter v. City of Los Angeles*
28 (2014) 224 Cal.App.4th 808, 820; *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.)

1 That test is met here. The plaintiffs are customers of the defendant City of Pasadena. They
2 were alleging that the City overcharges them and were seeking a rate adjustment and refunds.
3 The City's interest in defending its rates was not limited to just avoiding the payment of refunds.
4 It also wanted to protect its residents from the rate increase that would be necessary to
5 compensate for the loss of revenue if its nonresident customers prevailed in their challenge to
6 the 25% surcharge. Neither party had anything to gain by surrendering to the other party.

7 Moreover, the settlement followed three formal sessions of arm's-length negotiations
8 that were unsuccessful before the parties were able to reach agreement on the eve of trial.
9 Specifically, on April 14, 2015, the parties attended a full-day mediation conducted by the Hon.
10 George P. Schiavelli (ret.). (Bittle Dec. at 2:8.) That mediation was unsuccessful. (*Id.*) This
11 Court then ordered the parties to a settlement conference with Judge Helen I. Bendix, the first
12 session of which occurred on December 16, 2015. That session was unsuccessful, but the
13 parties returned for a second session on March 16, 2016, which was also unsuccessful. (Bittle
14 Dec. at 2:10.) Those efforts, with respected judicial neutrals, spanned almost one year and
15 evidence the arm's-length negotiations the parties engaged in from the start of the litigation,
16 which supports finding the settlement is the product of good faith and extensive negotiations.
17 (See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52-53.)

18 Further, one of the named plaintiffs, the Howard Jarvis Taxpayers Association ("HJTA"),
19 has as one of its stated core missions to act as a "watchdog" to protect California taxpayers.
20 (Bittle Dec. at 3:13.) Thus, unlike the more common class action where the plaintiffs are
21 exclusively private individuals represented by class counsel who does nothing other than class
22 actions, here one of the named plaintiffs is a non-profit association whose motivation is not
23 driven by attorney fees for class counsel and an incentive award to the named plaintiffs.
24 Rather, HJTA has every incentive to achieve what it assesses as meaningful relief for
25 taxpayers as distinct from a quick payday for its attorneys or the named representatives. The
26 parties did not begin negotiating the dollar amount of attorney fees until after the other
27 settlement terms had been accepted and reduced to writing. (Bittle Dec. at 2:23.) And notably,
28 none of the named class representatives will be seeking an incentive award as part of the

1 settlement, further emphasizing the settlement is driven by the results gained for the class.
2 Thus, the proposed settlement is a financial compromise on both sides in that plaintiffs are
3 giving up their refunds, the City must pay for a new rate study, and the City's residents will likely
4 see a small increase in their water rates. The class, however, will see the indefinite elimination
5 of surcharges based on residency. Clearly, then, the parties' interests are adverse and the
6 proposed settlement was the product of arm's length bargaining.

7 *B. Discovery Was Sufficient for Counsel to Act Intelligently*

8 The next factor in applying the presumption of fairness is whether sufficient investigation
9 and discovery were conducted to enable the parties and their counsel to make an informed
10 settlement decision. Here, there has been more than adequate investigation and discovery.
11 (*Chavez*, 162 Cal.App.4th at 53 (characterizing as “extensive” discovery which included “written
12 discovery, document production, and depositions of key Netflix employees”).) Here, the City
13 deposed two of the three named plaintiffs, as well as both of the plaintiffs’ designated expert
14 witnesses. (Bittle Dec. at 2:13.) Plaintiffs deposed the City’s Person Most Knowledge-able on
15 numerous topics and also deposed both of the City’s designated expert witnesses. (Bittle Dec.
16 at 2:14.) In response to written discovery requests from the plaintiffs, the City produced 5,576
17 pages of documents and responded to a combined total of 108 interrogatories, requests for
18 admission and requests for production. In response to written discovery requests from the City,
19 plaintiffs responded to a combined 97 interrogatories, requests for admission and requests for
20 production. Additionally, both sides filed trial briefs and a joint exhibit list, and were ready for
21 trial. This discovery and investigation is sufficient to allow the parties and this Court to act
22 intelligently.

23 *C. Counsel is Experienced in Similar Litigation*

24 The third factor in applying the presumption of fairness is whether counsel has
25 experience in similar litigation. Here, counsel for both parties have relevant experience. The
26 City’s lawyer, Holly Whatley, is a partner in the law firm Colantuono, Highsmith & Whatley,
27 which are recognized experts in Proposition 218 matters. Plaintiffs’ counsel, Timothy Bittle, is
28 the Director of Legal Affairs for the Howard Jarvis Taxpayers Association, which authored and

1 sponsored Proposition 218. Both attorneys have litigated class actions, and both were aware
2 of the strength of their opponent’s case when they recommended this settlement to their clients.
3 (Bittle Dec. at 2:7, 3:7.)

4 *D. The Proposed Settlement is Fair, Adequate and Reasonable*

5 The preceding discussion demonstrates that the proposed settlement is entitled to a
6 presumption that it is fair and reasonable because it was negotiated at arm’s length by
7 experienced counsel who knew the facts. Other factors buttress this presumption, “such as the
8 strength of plaintiffs’ case ... the amount offered in settlement ... [and] the presence of a
9 governmental participant.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244-
10 45 (internal quotations and citations omitted).)

11 1. The Strength of Plaintiffs’ Case

12 To determine whether a settlement is fair to the class and warrants approval, courts
13 assess whether the relief offered by the settlement is reasonable in light of the strength of
14 plaintiff’s case. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.) Though
15 plaintiffs remain confident that they could prevail at trial, the City would no doubt argue that the
16 lower cost water it produces pursuant to the City’s adjudicated groundwater rights in the
17 Raymond Basin should be reserved for those customers within City boundaries as a matter of
18 water law and, as a result, the 25% differential in the commodity rate for Area B customers is
19 justified. Further, the City would argue that its costs to serve customers in a jurisdiction it does
20 not control – unincorporated Los Angeles County – including permit costs, County standards
21 for equipment and capacity, and relocation demands are higher than the costs to serve
22 customers inside the City. The City would also likely argue that serving customers at higher
23 elevations in Area B justifies the rate differential.

24 Plaintiffs have responsive arguments to the City’s defenses, but the outcome at trial is
25 uncertain. If the City were to prevail on any of its theories, the class might obtain little or
26 nothing from the litigation. The proposed settlement offers both sides certainty and eliminates
27 the risk of an adverse judgment at trial.

28 ///

1 2. The Amount Offered in Settlement

2 The elimination of the 25% Commodity and D&C differential is estimated to benefit the
3 class on average approximately \$1.1 million annually into the future indefinitely. Moreover, in
4 plaintiffs' eyes, they will no longer be discriminated against based on their residency. Added
5 to this is the agreement related to the Capital Improvements Charge which, because it was not
6 challenged in Plaintiffs' Complaint, is relief that a victory at trial would not have attained. This
7 result is more than reasonable.

8 3. Presence of a Governmental Participant

9 The defendant is a governmental entity, which weighs in favor of approval. (See
10 *Officers for Justice v. Civil Serv. Com.* (9th Cir. 1982) 688 F.2d 615, 625; *Touhey v. United*
11 *States* (C.D. Cal. July 25, 2011) No. EDCV 08-01418-VAP, 2011 LEXIS 81308, at *20-21 (fact
12 that defendants "are the government" weighed "in favor of final approval").)

13 4. The Opinion of Experienced Class Counsel

14 California courts also value highly the opinion of counsel experienced in the type of
15 litigation being settled. (See, e.g., *Chavez*, 162 Cal. App. 4th at 53.) Here, Class Counsel has
16 extensive experience litigating Proposition 218 cases, including other related tax refund actions.
17 (Bittle Dec. at 3:12.) Based upon Class Counsel's substantial experience in the Proposition
18 218 field, he believes the present settlement is fair, reasonable and adequate and in the best
19 interest of the Class members. (*Id.* at 3:16.)

20 5. Reaction of the Class Members

21 The fact that, at this writing, no class member has objected to the settlement, also
22 weighs in favor of court approval. (*Nordstrom Com. Cases*, 186 Cal.App.4th at 581; *Officers*
23 *for Justice*, 688 F.2d at 625.)

24 E. The Scope of the Release is Proper

25 The release must be broad enough to achieve its purpose – *i.e.*, releasing claims that
26 the parties are agreeing to settle, in order to prevent unfairly exposing a party to continuing
27 litigation over the same subject matter. (*Villacres v. ABM Industries, Inc.* (2010) 189 Cal. App.
28 4th 562, 589.) The release in the Settlement achieves a proper balance by being limited to

1 claims “that were or could have been brought against the City and/or its Related Parties, or any
2 of them, during the Class Period, arising from the facts alleged in the Complaint” and includes
3 a waiver of “the protections afforded by California Civil Code section 1542, solely as they relate
4 to the allegations contained in Plaintiff’s Complaint.”

5 *F. Expense and Delay Would be Considerable If the Action Were to Proceed*

6 The benefits of this settlement must also be balanced against the risk, expense, and
7 complexity of further litigation for both parties. (*7-Eleven Owners for Fair Franchising v.*
8 *Southland Corp.* (2000) 85 Cal. App. 4th 1135, 1152.) Although plaintiffs are prepared to
9 proceed with trial, further litigation would produce additional delay and expense, not to mention
10 risk, that is unwarranted given the fairness of the settlement. This is especially true given the
11 strong likelihood that the non-prevailing party would appeal, and given the slow pace at which
12 the courts of appeal are deciding cases.

13 Against the risk of loss and the possibility of many more years of delay, the settlement
14 provides the class with a speedy and permanent reduction in their water rates equal to what
15 they would receive if they prevailed at trial. Moreover, the settlement provides a benefit that
16 the class would not receive even if it prevailed at trial; namely, the recalculation of the CIC
17 charge (that was not challenged in plaintiffs’ complaint) so that it is based solely on costs
18 related to working with the County of Los Angeles, rather than the historic (and allegedly
19 arbitrary) 35% surcharge. Since this case is already four years old, it is time for the rights and
20 claims of the class to be finally vindicated, and for the cloud of litigation to be lifted from the City
21 of Pasadena.

22 ///

1 CONCLUSION

2 For all of the foregoing reasons, plaintiffs request final approval of the proposed
3 settlement (Ex. A) and entry of the [Proposed] Order provided herewith.

4 DATED: August 14, 2018.

Respectfully submitted,

5 JONATHAN M. COUPAL
6 TREVOR A. GRIMM
7 TIMOTHY A. BITTLE
8 LAURA E. MURRAY

9 

10 _____
11 TIMOTHY A. BITTLE
12 Counsel for Plaintiffs
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Exhibit A

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (the "Agreement") is entered into by the Howard Jarvis Taxpayers Association, a California nonprofit corporation, Linnea Warren, an individual, and Thomas Wolfe, an individual (collectively, "Plaintiffs"), individually and in their capacities as class representatives, and the City of Pasadena, a California municipal corporation ("City").

RECITALS

A. City operates Pasadena Water & Power ("PWP"), which provides water service to both the City's residents and to certain areas outside the City's boundaries.

B. The City's water rates consist of three primary components: (1) a distribution and customer charge ("D&C"), (2) a commodity rate; and, (3) a capital improvements charge ("CIC").

C. For customers outside the City's boundaries, the City imposes a 25% surcharge on both the D&C charge and the commodity rate.

D. On March 24, 2014, Plaintiffs and Edward Henry submitted a Claim for Refund to the City Clerk on behalf of all property owners and tenants whose owned or rented real property is located outside the boundary of territory incorporated as the City of Pasadena, whose owned or rented real property receives water service from the City of Pasadena, who are subject to the D&C charges and commodity rates and who have paid such rates and charges at any time since March 24, 2013. The Claim for Refund was denied by operation of law pursuant to Government Code section 911.6(c).

E. On July 1, 2014, Plaintiffs and Edward Henry filed suit against the City in *Howard Jarvis Taxpayers Association, et al. v. City of Pasadena*, Los Angeles Superior Court Case No. BC550394 (the "Lawsuit"). The Lawsuit challenges the D&C charge and the commodity rate, but not the CIC, and includes causes of action for declaratory relief and refund.

F. On January 29, 2015, Plaintiffs moved to certify a class action against the City, and on July 10, 2015, the Court granted the Plaintiffs' and Edward Henry's class certification motion. Trial was set for November 6, 2017.

G. The parties have reached a tentative agreement whereby Plaintiffs will waive their claim for water service charge refunds if the City agrees to take steps to equalize certain water rates for customers of PWP inside and outside the City's boundaries and to limit the projected costs that can be included in any differential in the CIC charged to customers of PWP outside the City's boundaries.

H. Edward Henry has since deceased and the Court on May 22, 2018 found that because the Plaintiffs identified above continue to serve as class representatives and named plaintiffs and because no incentive award will be sought by any class representative, Mr. Henry need not execute this settlement agreement for it to be effective and binding.

I. Accordingly, it is now the intention of the parties and the objective of this Agreement to settle and dispose of, fully and completely and forever, any and all claims and causes of action in the Lawsuit.

1. **DEFINITIONS.** This Section includes definitions that are defined as follows:

1.1. "Area A" means the water service territory of PWP that is within the City of Pasadena's incorporated territory.

1.2. "Area B" means the water service territory of PWP that is outside the City of Pasadena's incorporated territory.

1.3. "Class" or "Class Member" means all persons who currently or formerly are property owners and tenants whose owned or rented real property is located outside the boundary of the territory incorporated as the City of Pasadena, whose owned or rented real property receives water service from the City of Pasadena, who are subject to the water rates applicable to customers outside the City's incorporated territory, and who have paid said rates and charges at any time since March 24, 2013.

1.4. "Class Period" means March 24, 2013 through the effective date of the revised water rates that may be adopted pursuant to Section 2.1 below.

1.5. "Class Counsel" or "Plaintiffs' Counsel" means the Howard Jarvis Taxpayers Foundation.

1.6. "Court" means the Superior Court of California for the County of Los Angeles.

1.7. "City" means the City of Pasadena.

1.8. "City's Counsel" means the law firm Colantuono, Highsmith & Whatley, PC.

1.9. "Effective Date" means the date on which the Final Approval Order has been entered and has become final. For the purposes of this Section, "final" means (a) if no objection is raised to the proposed settlement at the Fairness Hearing, the date on which the Final Approval Order is entered; or (b) if any objections are raised to the proposed settlement at the Fairness Hearing, the latest of (i) the expiration date of the time for filing notice of any appeal from the Final Approval Order, (ii) the date of final affirmance of any appeal of the Final Approval Order, (iii) the expiration of the time for, or the denial of, a petition for writ of certiorari to review the Final Approval Order or, if certiorari is granted, the date of final affirmance of the Final Approval Order following review pursuant to that grant; or (iv) the date of final dismissal of any appeal from the Final Approval Order or the final dismissal of any proceeding on certiorari to review the Final Approval Order.

1.10. "Fairness Hearing" means the hearing at which the Court decides whether to approve this Agreement as fair, reasonable, and adequate.

1.11. “Final Approval Order” means an order by the Court finally approving the Settlement and entering a judgment thereon.

1.12. “Full Class Notice” means the full legal notice of the terms of the proposed Settlement, as approved by Plaintiffs’ Counsel, City’s Counsel, and the Court, to be provided to Class Members pursuant to Section 2.8 of this Agreement and attached hereto as **Exhibit B**, or such other form to which the parties mutually agree, in writing, as it may be approved by order of the Court.

1.13. “Lawsuit” means *Howard Jarvis Taxpayers Association, et al. v. City of Pasadena*, Los Angeles Superior Court Case No. BC550394.

1.14. “PWP” means Pasadena Water & Power, a municipal utility operated by the City.

1.15. “Plaintiffs” means the Howard Jarvis Taxpayers Association, a California nonprofit corporation, Linnea Warren, an individual, and Thomas Wolfe, an individual in their individual capacities and in their capacities as representatives of the Class.

1.16. “Preliminary Approval Order” means a Court order substantially in the form of **Exhibit A** hereto, preliminarily approving the proposed Settlement in accordance with the terms of this Agreement, providing for notice of the proposed Settlement to Class Members by means of the Full Class Notice, and setting the date of the Fairness Hearing.

1.17. “Publication Notice” means the Court-approved form of Notice of this Agreement to the Settlement Class for publication in the Pasadena Star News or as otherwise ordered by the Court substantially in the form of **Exhibit C** hereto.

1.18. “Related Parties” means all of the City’s past, present, and future Mayor, council members, city managers, city clerks, finance directors, employees, agents, attorneys, and all their respective predecessors and successors in interest and legal representatives.

1.19. “Released Claims” means and includes any and all claims, demands, rights, damages, obligations, suits, and causes of action of every nature and description whatsoever, ascertained or unascertained, suspected or unsuspected, existing or claimed to exist, including both known and unknown claims of the Plaintiffs and all Class Members, that were or could have been brought against the City and/or its Related Parties, or any of them, during the Class Period, arising from the facts alleged in the Complaint and also including claims arising from the thirty-five percent (35%) CIC differential charged to the City’s water customers in Area B.

1.20. “Response Period” means the time period commencing with the City’s mailing of the Full Class Notice under Section 2.8 and ending sixty (60) calendar days thereafter.

1.21. “Settlement” means the settlement of the Lawsuit and related claims and Released Claims in accordance with the terms of this Agreement.

1.22. “Settlement Administrator” means the qualified, third party selected by the Parties and approved by the Court in the Preliminary Approval Order to administer this Agreement. The Parties agree to recommend that the Court appoint KCC, LLC, formerly known as “Gilardi & Co.,”

LLC”, as Settlement Administrator and the City shall pay all costs and reasonable expenses of the Settlement Administrator, as additional consideration for this Agreement.

1.23. “Settlement Class” means all property owners and tenants who at any time since March 24, 2013 owned or rented real property located outside the boundary of territory incorporated as the City of Pasadena, whose owned or rented real property received water service from the City of Pasadena, who are or were subject to the D&C charges, the CIC and commodity rates imposed on customers in Area B and who at any time since March 24, 2013 have paid said rates and charges.

1.24. The term “Settlement Class Member” means an individual Class Member who has not excluded himself or herself from the Settlement.

2. SETTLEMENT TERMS.

2.1 Equalization of D&C Charge and Commodity Rates. No later than one year after the Final Approval Order and in compliance with Proposition 218 and applicable public notice and protest hearing requirements, the City Council shall consider adjusting water rates to eliminate any differential between Areas A and B in its D&C charge and Commodity rate schedules, so that the D&C charge and Commodity rate schedules for Area A customers are the same as the D&C charge and Commodity rate schedules for Area B. If the differential is so eliminated, the City thereafter shall not adopt a rate differential or surcharge for its D&C charge and Commodity rates unless the rationale for such differential or surcharge is applied consistently to each pressure zone and identifiable customer class throughout both Area A and Area B. For example, if the differential or surcharge is based on pumping costs, then the City shall set rates based on pumping costs for each pressure zone and identifiable customer class in both Area A and Area B. If the differential or surcharge is based on peaking factors, then the City shall set rates based on peaking factors for each pressure zone and identifiable customer class in both Area A and Area B. The City shall not base any differential or surcharge on a theory that Area A customers have a superior right to receive groundwater, or that Area A customers are entitled to a rate of return as investors or owners of infrastructure. However, the City solely retains its adjudicated groundwater pumping rights, and these groundwater rights are not affected by this settlement.

2.2 CIC Differential. Within the same one year described in Section 2.1, the differential between the Area A and Area B Capital Improvements Charge (if any) shall be calculated so that the differential is based upon the variation in projected costs of capital improvements to serve Area B, as supported by a cost analysis and the Water System Capital Improvement Plan in compliance with Proposition 218. Projected costs to be included in any Area B CIC differential are limited to those bona fide costs that the City would not otherwise incur when it makes capital improvements but for the fact that such improvements are located in unincorporated County of Los Angeles.

2.3 Agreement Void. If the City Council does not approve rates within the one year period in the manner described in Sections 2.1 and 2.2, or only considers such rates without adopting them, then this Agreement is void and the matter will return to court for a trial, and Plaintiffs’ attorneys will not be entitled to the attorneys’ fees and expenses noted below.

2.4 Future Rate Challenges. Plaintiffs are free to challenge future rates, differentials or surcharges (if any).

2.5 No Refunds. Plaintiffs waive any right to and will not seek distribution of refunds to the Class.

2.6 No Incentive Payments. The named Plaintiffs will not seek any incentive payments to Plaintiffs in their capacities as representatives of the Class.

2.7 Attorneys' Fees and Costs. City will not object to Class Counsel's claim for fees and costs in any amount not to exceed in total \$485,000, subject to the Court's approval following a noticed motion. City shall pay this amount or any lesser amount otherwise ordered by the Court within ten (10) days of the adoption of the City's new water rates consistent with Sections 2.1 and 2.2. Class Counsel's attorneys' fees will not be paid if the City does not adopt new water rates or if the adopted rates do not comply with the conditions in Sections 2.1 and 2.2.

2.8 Notice. Subject to Court approval, within thirty (30) days after entry of the Preliminary Approval Order, the City, or at its direction the Settlement Administrator, shall issue the Full Class Notice via, (i) a separate mailing from the Settlement Administrator to the City's current customers who are Class Members and (ii) a mailing to former customers who are Class Members at the addresses for those former customers last known to the City. The Full Class Notice shall be substantially in the form attached hereto as **Exhibit B**. The Settlement Administrator, shall publish in the Pasadena Star News the Publication Notice substantially in the form attached hereto as **Exhibit C**. Such publication shall be in such form, size, manner and prominence as class action notices of this type are customarily published within Los Angeles County and in no event shall be less than one-half page in length.

2.9 Objections to the Settlement. Objections by any Class Member to: (a) the proposed settlement contained in the Settlement Agreement and described in the Notice; (b) the payment of Attorneys' Fees and Expenses; and/or (c) entry of the Final Order and the Final Judgment shall be heard at the Fairness Hearing. Any papers submitted in support of said objections shall be considered by the Court, at the Fairness Hearing if, at least thirty (30) calendar days before the Fairness Hearing, such Class Member postmarks to the Settlement Administrator, at an address to be specified by the Settlement Administrator, the following:

- (a) Notice of his, her or its objection, which shall contain:
 - (i) A heading referring to this Action;
 - (ii) A statement of the legal and factual bases for the objection;
 - (iii) The objector's name, address, telephone number, and email address;
 - (iv) Copies of at least one water bill or other evidence of Class membership; and
 - (v) The signature of the Class Member and his, her or its counsel (if the Class Member is represented by counsel).

(b) The Settlement Administrator will record the date of postmark of the objection and forward it to both Lead City Counsel and Class Counsel no later than three (3) business days after receipt. The Settlement Administrator will also file the original objections with the Clerk of the Court no later than twenty (20) days before the date of the Fairness Hearing. A Class Member need not appear, in person or by counsel, at the Fairness Hearing in order for his, her or its objection to be considered, and a Class Member need not file an objection to participate in the Fairness Hearing.

2.10 Exclusion from the Settlement Class. Any Class Member who does not want to be bound by this Agreement, and who thus wishes to be excluded from the Settlement, must submit a written request to opt out with the Settlement Administrator at least thirty (30) calendar days before the Fairness Hearing and as specified in the Preliminary Approval Order. The Settlement Administrator will record the date of postmark of the request for opt-out and forward it to both Lead City Counsel and Class Counsel no later than three (3) business days after receipt. The Settlement Administrator will also file the original requests to opt out with the Clerk of the Court no later than twenty (20) days before the scheduled Fairness Hearing date. The Settlement Administrator shall retain copies of all written requests to opt out until such time as it has completed its duties and responsibilities under this Agreement. The request to opt out shall be signed by the Class Member, and include his/her/its name, address, telephone number and Pasadena Water and Power customer account number, if known, with a statement that includes the Class Member's desire to opt out of the class action involving the City of Pasadena's water rates charged to customers outside its incorporated territory. The opt-out request may be, but is not required to be, submitted on the form included in the Full Class Notice.

(a) Class Members who opt out of the Settlement shall relinquish their rights to benefit under the terms of this Agreement and will not release their claims under Section 3.2, below. However, Class Members who fail to submit a valid and timely request or exclusion on or before the date specified in the Preliminary Approval Order shall be bound by all of the terms of this Agreement and the Final Order and the Final Judgment, regardless of whether they have otherwise attempted to request exclusion from the Settlement.

(b) Any Class Member who submits a timely request for exclusion or opt-out may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under this Agreement.

2.11 Excessive Opt-Out Rate. If the number of Class Members who opt out exceeds one and one-half (1.5) percent of the Full Class Notice forms mailed by the Settlement Administrator, the City shall have the option to declare the Settlement void and to rescind its agreement. The City shall notify Class Counsel and the Court in writing no later than twenty days (20) before the Fairness Hearing if it intends to invoke its option to rescind the Settlement under this Section.

2.12 Costs of Notice and Administration. The City shall bear all notice and Settlement administration expenses regardless of when they are incurred. All notice and Settlement administration expenses remain the sole responsibility of the City, regardless of whether the Court enters the Final Approval Order. However, if the Agreement is deemed void pursuant to Section 2.3 above and the City prevails at trial, it is entitled to seek to recover such costs upon noticed motion to the Court.

2.13 Final Approval Order. At least twenty court days before the Fairness Hearing, Plaintiffs shall move the Court for a Final Approval Order. At the same time, Plaintiffs' Counsel shall file with the Court a complete list of all Class Members who have submitted valid and timely requests for exclusion from the Settlement.

2.14 Action Status If Settlement Not Approved. This Agreement is being entered into for settlement purposes only. If the Court does not approve the Settlement or enter the Final Approval Order for any reason, or if the Effective Date does not occur for any reason, then this Agreement will be deemed null and void *ab initio*. In that event (a) the Preliminary Approval Order and all of its provisions will be vacated by its own terms, (b) the Lawsuit will revert to the status that existed before the Agreement's execution date, (c) no term or draft of this Agreement, or any part of the parties' settlement discussions, negotiations or documentation will have any effect or be admissible into evidence, for any purpose, in the Lawsuit or any other proceeding, other than a proceeding to enforce this Agreement or involving any other dispute arising out of or relating to this Agreement.

3. JUDGMENT AND RELEASES.

3.1 Judgment and Enforcement. Pursuant to California Rules of Court, Rule 3.769(h), the Parties agree that should the Court grant final approval of the proposed settlement and enter judgment, the judgment shall include a provision for the retention of the Court's jurisdiction over the Parties to enforce the terms of the judgment. In the event of a dispute arising out of or relating to this Agreement or its interpretation, breach or enforcement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs, as awarded by the Court.

3.2 Release of Claims by the Plaintiff and the Settlement Class. It is hereby agreed that, upon the Effective Date, Plaintiffs and all Class Members and their executors, estates, predecessors, successors, assigns, agents and representatives, shall be deemed to have jointly and severally released and forever discharged the City and the Related Parties from any and all Released Claims, whether known or unknown, arising from the facts alleged in the Complaint plus those arising from the thirty-five percent (35%) CIC differential charged to customers in Area B. Class Members provide this release conditioned upon the City's compliance with all provisions of this Agreement. The Court shall retain jurisdiction to enforce the terms of this Agreement by any and all means available. All Class Members shall be fully and forever barred from instituting or prosecuting in any court or tribunal, either directly or indirectly, individually or representatively, any and all Released Claims against the City or any of the Related Parties.

Named Plaintiffs, but not other Class Members, hereby acknowledge and waive the protections afforded by California Civil Code Section 1542, solely as they relate to the allegations contained in Plaintiff's Complaint and relating to the CIC differential, 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.

Upon entry of the Final Judgment, Plaintiffs shall have fully, finally and forever released, relinquished and discharged as against City and City's Released Persons, all claims arising out of, relating to or in connection with the institution, prosecution, assertion, defense, settlement or resolution of the Action.

This Release shall be void and of no force and effect if the water rates ultimately adopted by the City as set forth in Sections 2.1 and 2.2 do not comply with the conditions in those Sections.

4. ADDITIONAL PROVISIONS.

4.1 Confidentiality. To protect the private information of the City's utility customers, any data regarding the names and addresses of Pasadena Water and Power's current or former customers is subject to the protective order entered in this case on September 25, 2015, which is attached hereto as **Exhibit D**. The Settlement Administrator shall treat as confidential the names, addresses, and other information about the specific Class Members supplied by the City or City's Counsel and shall use this information only as required by this Agreement.

4.2 Notices. Any notice, request, or instruction or other document to be given by any party to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid to:

City's Counsel:

Holly O. Whatley
Shareholder
Colantuono, Highsmith & Whatley, P.C.
790 East Colorado Boulevard, Suite 850
Pasadena, California 91101

With Copy To:

Michele Beal Bagneris
City Attorney
City of Pasadena
100 North Garfield Avenue, Suite N210
Pasadena, California 91109

Class Counsel:

Jonathan M. Coupal
Timothy Bittle
Howard Jarvis Taxpayers Association
921 Eleventh Street, Suite 1201
Sacramento, California 95814

4.3 No Admission of Liability. This Agreement reflects the compromise and settlement of disputed claims among the parties. Its constituent provisions, and any and all drafts, communications and discussions relating thereto, shall not be construed as or deemed to be evidence of an admission or concession of any point of fact or law (including, but not limited to, any allegations of wrongdoing or any matters regarding class certification) by any person, including the City, and shall not be offered or received in evidence or requested in discovery in this Lawsuit or any other action or proceeding as evidence of an admission or concession.

4.4 Change of Time Periods. All time periods and dates described in this Agreement are subject to the Court's approval. These time periods and dates may be changed by the Court or by the parties' written agreement without notice to the Class Members.

4.5 Real Parties in Interest. In executing this Agreement, the parties warrant and represent that neither the claims asserted in this Lawsuit, nor any part of these claims, have been assigned, granted or transferred in any way to any other person, firm or entity.

4.6 Voluntary Agreement. The parties executed this Agreement voluntarily and without duress or undue influence.

4.7 Binding on Successors. This Agreement binds and benefits the parties' respective successors, assigns, legatees, heirs, executors, administrators, and personal representatives.

4.8 Parties Represented by Counsel. The parties acknowledge that (a) they have been represented by independent counsel of their own choosing during the negotiation of this Settlement and the preparation of this Agreement, (b) they have read this Agreement and are fully aware of its contents, and (c) their respective counsel fully explained to them the Agreement and its legal effect.

4.9 Authorization. Each party warrants and represents that there are no liens or claims of lien or assignments, in law or equity, against any of the claims or causes of action released by this Agreement and, further, that each party is fully entitled and duly authorized to give this complete and final release and discharge.

4.10 Entire Agreement. This Agreement and attached exhibits contain the entire agreement between the parties and constitute the complete, final and exclusive embodiment of their agreement with respect to the Action and supersede all prior proposals, negotiations, agreements and understandings concerning the subject matter of this Agreement. This Agreement is executed without reliance on any promise, representation or warranty by any party or any party's representative other than those expressly set forth in this Agreement.

4.11 Construction and Interpretation. Neither party nor any of the parties' respective attorneys will be deemed the drafter of this Agreement for purposes of interpreting any provision in this Agreement in any judicial or other proceeding that may arise between them. This Agreement has been, and must be construed to have been, drafted by all the parties to it, so that any rule that construes ambiguities against the drafter will have no force or effect.

4.12 Headings. The various headings used in this Agreement are solely for the parties' convenience and may not be used to interpret this Agreement. The headings do not define, limit, extend or describe the parties' intent or the scope of this Agreement.

4.13 Exhibits. The exhibits to this Agreement are integral parts of the Agreement and Settlement and are incorporated into this Agreement.

4.14 Modifications and Amendments. No amendment, change or modification to this Agreement will be valid unless in writing signed by the parties or their counsel.

4.15 Governing Law. This Settlement Agreement shall be governed by, interpreted under, and enforced in accordance with the internal, substantive laws of the State of California, without giving effect to that State's choice of law principles.

4.16 Further Assurances. The parties must execute and deliver any additional papers, documents and other assurances, and must do any other acts reasonably necessary to perform their obligations under this Agreement and to carry out this Agreement's expressed intent.

4.17 Agreement Constitutes a Complete Defense. To the extent permitted by law, this Agreement may be pled as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceedings that may be instituted, prosecuted or attempted in breach of or contrary to this Agreement.

4.18 Counterparts. This Agreement may be executed in counterparts, each of which constitutes an original, but all of which together constitutes one and the same instrument. Several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies of executed copies of this Agreement may be treated as originals.

4.19 Recitals. The Recitals are incorporated by this reference and are part of the Agreement.

4.20 Severability. Should any section, paragraph, sentence, clause or provision of this Agreement be held invalid or unenforceable, the remaining Agreement will remain valid and enforceable.

4.21 Inadmissibility. This Agreement (whether approved or not approved, revoked, or made ineffective for any reason) and any proceedings or discussions related to this Agreement are inadmissible as evidence of any liability or wrongdoing whatsoever in any court or tribunal in any state, territory, or jurisdiction. Notwithstanding the foregoing, however, this Agreement shall be admissible in any court, tribunal or proceeding arising out of or relating to any dispute arising out of or relating to this Agreement or its interpretation, breach or enforcement.

4.22 No Conflict Intended. Any inconsistency between this Agreement and any exhibits will be resolved in favor of this Agreement.

IN WITNESS WHEREOF, the parties hereto have so AGREED.

Dated: 5-23-18

HOWARD JARVIS TAXPAYERS
ASSOCIATION

Tim Bittle

By: Timothy A. Bittle

Its: Director of Legal Affairs

Dated: _____

LINNEA WARREN

LINNEA WARREN, Plaintiff

Dated: _____

THOMAS WOLFE

THOMAS WOLFE, Plaintiff

Approved as to form:
TIMOTHY A. BITTLE
HOWARD JARVIS TAXPAYERS FOUNDATION

Tim Bittle
ATTORNEYS FOR PLAINTIFFS

Date: 5-23-18

IN WITNESS WHEREOF, the parties hereto have so AGREED.

Dated: _____

**HOWARD JARVIS TAXPAYERS
ASSOCIATION**

By: _____

Its: _____

Dated: 5/23/2018

LINNEA WARREN


LINNEA WARREN, Plaintiff

Dated: _____

THOMAS WOLFE

THOMAS WOLFE, Plaintiff

Approved as to form:
TIMOTHY A. BITTLE
HOWARD JARVIS TAXPAYERS FOUNDATION

ATTORNEYS FOR PLAINTIFFS

Date: _____

IN WITNESS WHEREOF, the parties hereto have so AGREED.

Dated: _____

**HOWARD JARVIS TAXPAYERS
ASSOCIATION**

By: _____

Its: _____

Dated: _____

LINNEA WARREN

LINNEA WARREN, Plaintiff

Dated: 5/23/2018

THOMAS WOLFE



THOMAS WOLFE, Plaintiff

Dated: _____

EDWARD HENRY

EDWARD HENRY, Plaintiff

Approved as to form:
TIMOTHY A. BITTLE
HOWARD JARVIS TAXPAYERS FOUNDATION

ATTORNEYS FOR PLAINTIFFS

Date: _____

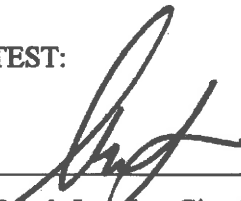
Dated: 5/29/18

CITY OF PASADENA



By: Steven Mermell, City Manager

ATTEST:



By: Mark Jonasky, City Clerk

Date: 5/29/18

Approved as to form:
HOLLY O. WHATLEY
COLANTUONO, HIGHSMITH & WHATLEY, PC


ATTORNEYS FOR DEFENDANT

Date: 5/28/2018

APPROVED AS TO FORM:
This 29 day of 5, 2018
By 
Chief Assistant City Attorney