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CALIFORNIA



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JAMES A. GIBSON
EXECUTIVE OFFICER

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July 31, 2009

#1 SAN

City Council
Room 395
City Hall

Subject: MODIFICATION TO THE COLLECTION SYSTEM SETTLEMENT AGREEMENT (CSSA) WITH SANTA MONICA BAYKEEPER, UNITED STATES EPA (USEPA), STATE OF CALIFORNIA LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD (LARWQCB) AND COMMUNITY GROUPS IN SOUTH LOS ANGELES (CASE NOS. 98-9039 AND 01-191 RSWL) CF NOS. 98-2251; 03-0153

As recommended in the accompanying report of the Director of the Bureau of Sanitation, which this Board has adopted, the Board of Public Works requests authority for the Director of the Bureau of Sanitation, or his designee, and the City Attorney, to accept and sign the proposed Modification to the Collection System Settlement Agreement (CSSA).

FISCAL IMPACT

There will be no impact on the General Fund. The funds for the projects will be provided by the Sewer Construction and Maintenance Fund. Individual project funding information will be provided in the awarding Board reports. Funding for this amendment and for the remaining five years of the CSSA will require increases to the sewer service charge. The amount and schedule for these increases has not yet been determined and will be forwarded in a separate report.

Respectfully submitted,

James A. Gibson, Executive Officer
Board of Public Works

JAG:mp



DEPARTMENT OF PUBLIC WORKS

BUREAU OF SANITATION
BOARD REPORT NO. 1
JULY 31, 2009

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California
AND REFERRED TO THE CITY COUNCIL
JUL 31 2009


Secretary

CD Nos. All

MODIFICATION TO THE COLLECTION SYSTEM SETTLEMENT AGREEMENT (CSSA) WITH SANTA MONICA BAYKEEPER, UNITED STATES EPA (USEPA), STATE OF CALIFORNIA LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD (LARWQCB) AND COMMUNITY GROUPS IN SOUTH LOS ANGELES (CASE NOS. 98-9039 AND 01-191 RSWL) CF NOS. 98-2251; 03-0153

RECOMMENDATIONS

Approve and forward this report with transmittal to City Council and Mayor requesting authority for the Director of the Bureau of Sanitation or his designee and the City Attorney to accept and sign the proposed Modification to the CSSA.

TRANSMITTAL

Proposed Amendment to the Collection System Settlement Agreement (CSSA) and Final Order

DISCUSSION

Collection Systems Settlement Agreement (CSSA)

After February 1998, the wettest February in Los Angeles' history, sewer overflows occurred in a number of areas throughout the City. As a result, the Santa Monica Baykeeper (Baykeeper) filed a Federal lawsuit asking for injunctive relief and \$549 million in penalties due to sanitary sewer overflows (SSOs) from the City's wastewater collection system. In January 2001, the USEPA, the LARWQCB, and a number of community groups representing residents in South Los Angeles joined the Baykeeper in the lawsuit against the City.

Following lengthy legal discoveries and negotiations, the parties reached a Collection System Settlement Agreement (CSSA) on August 6, 2004. The City Council authorized the settlement on June 28, 2004 and the Court entered the CSSA and Final Order for case numbers 01-191-RSWL and 98-9039-RSWL on October 29, 2004, which is referred to herein as the "Collection System Settlement Agreement" or "CSSA".

The CSSA articulated specific requirements for the wastewater collection system with the objective to reduce sewer spill risk and the associate SSOs. These include sewer cleaning and CCTV inspection and attended repairs as needed, root control, new sewer construction and renewal of existing sewers in poor condition.

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The CSSA also included specific provisions intended to reduce sewer odors from the wastewater collection system including, but not limited to, installation of interim scrubbers at seven specific locations along the collection system and the construction of seven permanent Air Treatment Facilities (ATFs) at specific sites by specific dates. The City has met or exceeded most of the CSSA requirements including completion of most of the required sewer construction projects ahead of the scheduled. More importantly, these efforts have achieved a significant reduction in SSOs by nearly 77%.

The City has continued its efforts to control and mitigate sewer odors from its collection system through the implementation of its Odor Control Master Plan. A multitude of odor control and response measures are currently in place including: air pressure and odor monitoring; in sewer air flow studies; relief sewer construction, sewer repairs; extensive sewer cleaning and maintenance; sealing of sewer maintenance holes; trap maintenance holes inspection, cleaning, and repairs; chemical treatment in certain "hotspot" areas; air treatment at identified problem areas using carbon scrubbers; and odor complaint investigation and response through the sewer odor hotline, the Odor Advisory Board and all other means of receiving and responding to odor complaints.

Proposed CSSA Odor Provision Amendment

The ATFs were planned prior to the CSSA and during the design of two major interceptor sewers, the East Central Interceptor Sewer (ECIS) and Northeast Interceptor Sewer (NEIS). Some of the ATFs are located on the downstream end of ECIS and were conceived to address existing odor problems where several large sewers converged and created excessive sewer gas pressure. The remaining ATFs were planned to address future anticipated odor problems based on predictive modeling of the expected gas flow conditions within the sewer system after ECIS and NEIS were completed and were placed in service. The CSSA included all seven ATFs and also included seven interim carbon scrubbers to be installed before the construction of the ATFs in order to reduce sewer odor on an interim basis.

Since signing of the CSSA, constructions of ECIS and NEIS have been completed and are placed in service. All seven interim scrubbers are installed and are being successfully operated. Good results have been achieved for two locations, the La Cienega/Jefferson and the 6000 Jefferson locations. However, the results from operating the remaining interim scrubbers are mixed indicating that some of the underlying assumptions and predictions made during the design of ECIS and NEIS may need to be reexamined before proceeding. This is clearly demonstrated at one site in particular, the 23rd and San Pedro location where odor treatment with the interim scrubber appeared to be counterproductive.

The 23rd and San Pedro location is one of several sites required by the CSSA to receive an interim carbon scrubber followed by an ATF. This location was initially selected because the connection between the new ECIS sewer and an existing large sewer included a "drop structure" which drops wastewater from the old North Outfall Sewer to the new ECIS sewer.

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The interim scrubber was installed and operated for a short period after which sewer odor problems appeared to increase in this area as odor complaints actually increased sharply when the interim scrubber was operated. Then the scrubber was removed from service and sewer odors and odor complaints declined. Based on this operational feedback, along with concerns expressed by the City Council office in this area this interim scrubber has remained off line.

The Bureau of Sanitation requested that the Bureau of Engineering to proceed with construction of two to the ATFs, the one La Cienega/Jefferson and the one at 6000 Jefferson. However, since each ATF is rather costly to constructing and maintaining, and given the mixed results in operating interim scrubbers at the remaining five locations where ATFs are planned for construction, Sanitation has asked Engineering to suspend work on the remaining locations. This will allow Sanitation and Engineering to conduct a study to review these five ATFs to conduct an ATF Study to review the underlying assumptions and recent operating experience at these locations, to determine if odor control measures are still warranted, and if so, if ATFs are the best approach or if other alternative measures might be more effective.

The City has communicated with the Government Plaintiffs throughout this evolving situation leading up to the decision to suspend work on five the ATFs. It has also advised the plaintiffs of several delays that have occurred to the construction work for the La Cienega/Jefferson and 6000 Jefferson ATFs due to problems with the vendor supplied material and related lawsuits. The City has met with the plaintiffs to request approval to modify the existing CSSA to: decommission the interim scrubber at 23rd & San Pedro, extend the construction schedule of the La Cienega/Jefferson and 6000 Jefferson ATFs, and suspend construction of the five remaining ATFs until the results of the ATF study is completed. The Plaintiffs have opined that the CSSA does not allow for such modifications without a formal, Court approved amendment to the Settlement Agreement. Therefore, the City has negotiated a proposed amendment, transmitted herein, to the CSSA and as measure of good faith has also proposed additional measures to assure the Plaintiffs that the City's sewer odor control efforts will continue during this interim period while the ATF Study is conducted.

The following is a summary of the proposed odor provision amendment to the CSSA:

Modify the construction end dates for the ATFs as follows:

<u>Project Title</u>	<u>Construction End Date</u>
ATF - Jefferson Siphon (Jefferson and La Cienega)	September 30, 2010
ATF - NCOS Jefferson & Rodeo (6000 Jefferson)	May 6, 2011
ATF - Mission & Jesse	pending ATF Study
ATF - 23 rd and San Pedro	pending ATF Study
ATF - At NORS Connection in Culver City	pending ATF Study
ATF - Humboldt and San Fernando	pending ATF Study
ATF - Richmond and Mission	pending ATF Study

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- Decommission the 23rd and San Pedro from the list of locations requiring installation and operation of an interim carbon odor scrubber.
- Complete an ATF Evaluation Study no later than June 30, 2010.
- Develop a scope of work to improve the sewer gas conveyance at the undersized airline for the NORS siphon crossing at the 405 Freeway and submit to the Plaintiffs for consideration, a scoping report for this project no later than December 30, 2009.
- Complete 300 citywide sewer gas trap replacements by June 30, 2013.
- Expand the frequency of communication and participation in the Odor Advisory Board to include interested community representatives from the Plaintiffs in Intervention in South Los Angeles.
- Provide for an Independent Odor Control Expert to oversee the implementation of the odor control activities and studies until June 30, 2011.
- Provide for a Community Liaison to assist the Plaintiffs in intervention and other members of the Community in communicating odor conditions, comments, issues and suggestions to the City with a focus on odor control activities and the ATF study until June 30, 2014 at a cost not to exceed \$50,000 a year.
- The City shall not be required to spend more than \$95,000 a year for the Independent Odor Control Expert and Community Liaison together for FY 2009/10 and 2010/11 and not more than \$340,000 for the duration of the Settlement Agreement.
- Work with the Community Liaison and the Odor Advisory Board in developing and implementing landscaping and other community enhancement elements at each location where an ATF is to be constructed. The total cost for these enhancements shall not exceed 1% of the total costs for the ATFs.
- In the event it is determined that any of the ATFs will not be constructed, the City, the Community Liaison and the Odor Advisory Board shall consider whether the locations reserved for such ATFs can be converted into multi-benefit public green space and parkland. No funding from the City's Sewer Construction & Maintenance Fund shall be used for such purposes.

Proposed CSSA Supplemental Environmental Projects (SEPs) Amendment:

As part of the CSSA, the City was required to design and implement five (5) SEPs throughout the City of Los Angeles to treat stormwater runoff before it reaches the City's receiving water bodies. The City agreed to spend not less than \$8.5 million in eligible costs on the SEPs. The SEPs listed originally in the CSSA were:

1. North Atwater Creek Restoration and Water Quality Enhancement Project
2. South Los Angeles Storm Water Treatment Project at 54th and Avalon Streets
3. Hazard Creek and Wetlands Restoration Project
4. Inner Cabrillo Beach Pollution Control and Water Circulation Enhancement Project
5. Downtown Los Angeles Storm Drain Low-Flow Diversion Project

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Three of the five project workplans, North Atwater Creek Restoration, South LA Storm Water Treatment Project and the Downtown Low Flow Diversions, have been submitted and approved by the plaintiffs. North Atwater is in the design stage, South LA is in the construction phase and the Downtown Low Flow Diversions project is in the pre-design stage. After the workplan was developed, however, Inner Cabrillo Beach and Hazard Creek were deemed to be unfeasible by the City. Hazard Park encountered numerous ownership issues with the stream bed, which was an integral portion of the project. The City re-designed the project, but the plaintiffs requested that the City replace the project with another in the same area of the City. After a pilot circulation test failed to produce the desired bacteria reduction results at Inner Cabrillo Beach, the City determined that the project would not adequately improve the water quality and the plaintiffs asked the City to replace this project also. The City chose to replace the projects with a water quality enhancement project in the same area of the City as the Hazard Park project. The following is a description of the project:

Projects	Description & Scope	Suggested Commitment
Garvanza Park Water Quality Enhancement BMP Project (CD 14)	The Garvanza Park BMP Project involves diverting runoff from a storm drain that passes directly underneath Garvanza Park and treating and infiltrating the runoff through a series of BMPs. The BMPs involve the installation of a pretreatment device for sediment and trash, followed by a large infiltration gallery that will infiltrate at least $\frac{3}{4}$ " of rainfall from the 80-acre drainage area that is upstream of the park. Upon completing construction, the park area above the devices will be returned to existing conditions or better. Garvanza Park is located northeast of downtown Los Angeles at the southwest corner of the Meridian St and Avenue 63 intersection in a community known as Highland Park. This area is low-income, minority community. The Garvanza Park Best Management Practices (BMP) Project (Project) was identified and developed as part of the Arroyo Seco Watershed Management Plan. The goal of this Project is to enhance the water quality of Los Angeles River and improve the quality of urban runoff which carries pollutants such as trash, bacteria, metals, oil and grease.	\$1,750,000

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The plaintiffs have agreed that this project will replace both the Hazard Park and the Inner Cabrillo Beach projects. Once workplan is approved, the project is scheduled for completion by late 2010.

STATUS OF FINANCING

There will be no impact on the General Fund. The funds for the project s will be provided by the Sewer Construction and Maintenance Fund. Individual project funding information will be provided in the awarding Board reports. Funding for this amendment and for the remaining five years of the CSSA will require increases to the sewer service charge. The amount and schedule for these increases has not yet been determined and will be forwarded in a separate report.

Review by:
City Attorney

Respectfully Submitted



ENRIQUE C. ZALDIVAR, Director
Bureau of Sanitation

Prepared By:
Ali Poosti/Debbie Pham
Phone: (323) 342-6228

DEPARTMENT OF PUBLIC WORKS

BUREAU OF SANITATION

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STATUS OF FINANCING

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Review by:
City Attorney

Respectfully Submitted



ENRIQUE C. ZALDIVAR, Director
Bureau of Sanitation

Prepared By:
Ali Poosti/Debbie Pham
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7 Attorneys for Plaintiff United States of America
 [Additional attorneys Listed on Following Pages]

8 UNITED STATES DISTRICT COURT FOR THE
 9 CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA and)
 11 PEOPLE OF THE STATE OF)
 CALIFORNIA ex rel. CALIFORNIA)
 12 REGIONAL WATER QUALITY CONTROL)
 BOARD, LOS ANGELES REGION,)

13 Plaintiffs,)

14 v.)

15 CITY OF LOS ANGELES,)

16 Defendant.)

Civil Action No. 01-191-RSWL

17 SANTA MONICA BAYKEEPER, a)
 18 non-profit corporation;)
 TERRY TAMMINEN, an individual)

19 Plaintiffs,)

20 v.)

21 THE CITY OF LOS ANGELES,)

22 Defendant.)

Civil No. 98-9039- RSWL

CONSOLIDATED

MODIFICATION TO SETTLEMENT
 AGREEMENT AND FINAL ORDER

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6 California Regional Water Quality Control Board, Los Angeles
Region

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Attorneys for Defendant City of Los Angeles

1 The United States, the State of California ex rel.

2 California Regional Water Quality Control Board, Los Angeles
3 Region (the "Regional Board"), Baykeeper, Intervenor and the
4 City of Los Angeles agree, and this Court hereby ORDERS the
5 following amendments to the Settlement Agreement and Final Order
6 entered by this Court on October 28, 2004:

7 I. Section V.G. shall be amended as follows:

8 A. Paragraph 32 shall be amended to read:

9 32. The City will continue to investigate, resolve and
10 mitigate sewer odors to the maximum extent practicable. While to
11 varying degrees, sewer odors are a concern throughout the City,
12 the Parties recognize that this problem has been and continues to
13 be particularly significant in the area of South Los Angeles.
14 The Parties specifically intend to provide protection against
15 adverse impacts of sewer odors for all residents of and visitors
16 to South Los Angeles through actions targeted at the sources of
17 sewer odor and the areas where sewer odors affect the public.
18 For purposes of the subsection, "South Los Angeles" is defined as
19 the area within the City of Los Angeles bordered by Alameda
20 Street to the east, Culver City to the west, the Santa Monica
21 Freeway to the north and the Century Freeway to the south. Small
22 unincorporated pockets of Los Angeles County within these
23 boundaries will not be considered part of South Los Angeles for
24 purposes of this subsection except to the extent that sewer lines
25 operated by the City affect these areas. The neighborhoods
26 within South Los Angeles include, without limitation: Arlington

1 Park, Baldwin Hills, Crenshaw, Exposition Park, Jefferson Park,
2 Leimert Park, Manchester Square, Vermont Square, Village Green,
3 Watts, West Adams, and West Alameda.

4 B. Paragraph 41 shall be amended to read:

5 41. The City will continue to support the Odor Advisory
6 Board for the length of this Settlement Agreement, unless sooner
7 terminated by the mutual assent of the Parties. The City shall
8 work closely with the Odor Advisory Board to expand participation
9 as follows:

10 a. Within ten calendar days of the entry of this
11 Modification, Intervenor shall provide the City with a list of
12 names of persons that the City shall add to the Odor Advisory
13 Board.

14 b. The City shall host meetings, on at least a
15 quarterly basis, with the Odor Advisory Board. The meetings
16 shall be facilitated by the Community Liaison provided for in
17 Subparagraph 56(c). The City shall schedule and host the first
18 meeting of the expanded Odor Advisory Board no later than thirty
19 calendar days after the entry of this Modification. To the best
20 of its ability, the City shall, through the Community Liaison,
21 notify interested participants, including all members of the Odor
22 Advisory Board, of upcoming meetings.

23 c. Beginning with the first meeting after the entry of
24 this Modification, the City, in consultation with the expanded
25 Odor Advisory Board, shall schedule meetings one year in advance.

1 d. The City, working in consultation with the
2 Community Liaison, shall solicit discussion on the following
3 matters at each meeting of the Odor Advisory Board:

4 (i) The previous quarter's sewer odor complaints in
5 South Los Angeles along with the disposition of each
6 complaint and actions taken by the City. The City shall
7 present a summary of all such complaints, then discuss each
8 South Los Angeles odor complaint individually. Although the
9 Parties recognize that all odor complaints should be
10 reported through the City's Sewer Odor Hotline, the City
11 shall also invite Odor Advisory Board members to raise any
12 recent odor complaints that were not reported through the
13 Sewer Odor Hotline. With regard to each complaint or cluster
14 of complaints, the City shall discuss mitigation measures it
15 has taken or plans to take to address the complaint(s),
16 including whether and to what extent temporary odor
17 scrubbers or permanent ATFs (See § 46) will be used to
18 address the complaint(s).

19 (ii) The status of ongoing sewer odor control activities
20 including, but not limited to: construction of odor control
21 facilities; replacement of trap maintenance holes;
22 replacement of carbon in scrubbers; odor and pressure
23 testing; chemical addition; and sewer cleaning.

24 (iii) Planned and upcoming sewer odor control activities in
25 South Los Angeles.

1 (iv) Status of ongoing sewer construction activities in
2 South Los Angeles.

3 (v) Upcoming sewer construction activities in South Los
4 Angeles. The City shall work with the Odor Advisory Board
5 on the need for and the extent of prior notification to any
6 South Los Angeles community affected by sewer construction
7 activities and on efforts to mitigate and control sewer
8 odors that may occur from sewer construction activities to
9 the maximum extent feasible.

10 (vi) Other sewer odor issues put forth by the Odor Advisory
11 Board or members of the community.

12 (vii) Specific actions taken to address unresolved sewer
13 odor issues raised in the Odor Advisory Board's previous
14 meetings.

15 (viii) Activities conducted under the Odor Outreach Plan (§
16 35), including the community feedback system.

17 (ix) Status reports on the ATF Evaluation Study provided for
18 in § 46. This shall include a discussion of the most recent
19 interim status report, progress towards completion of the
20 Study, progress towards the selection of odor control
21 options discussed in the study, and any identified
22 implementation issues associated with the options under
23 consideration.

24 (x) Feedback from the Independent Odor Control Expert
25 provided for in § 56(b).
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1 e. The City shall provide the Plaintiffs with copies
2 of all communications with the Odor Advisory Board, such as
3 meeting minutes, by electronic mail.

4 f. The City shall coordinate with the Odor Advisory
5 Board and the Independent Odor Control Expert in conducting the
6 ATF Evaluation Study (§ 46). This coordination shall include
7 providing reports generated by the City or the Independent Odor
8 Control Expert, to the Odor Advisory Board, and considering
9 recommendations from the Odor Advisory Board or the Independent
10 Odor Control Expert regarding the scope or methodology of the ATF
11 Evaluation Study.

12 g. The City shall work with the Community Liaison and
13 the Odor Advisory Board in developing and implementing
14 landscaping and other community enhancements at each location
15 where an ATF is to be constructed, including a process and a
16 timetable for the development and implementation of such
17 community enhancements. In no event shall the timetable for the
18 implementation of these enhancements extend past July 1, 2014.
19 The total cost for these enhancements shall not exceed one
20 percent of the total design and construction costs for the ATFs.

21 h. In the event it is determined that any of the seven
22 ATFs identified in § 46 will not be constructed, the City, the
23 Community Liaison and the Odor Advisory Board shall consider
24 whether the locations reserved for such ATFs ("Former ATF Sites")
25 can be converted into multi-benefit public green space and
26 parkland. The City shall use its best efforts, working in
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1 conjunction with the Community Liaison and the Odor Advisory
2 Board, to facilitate the development of a public green space for
3 these Former ATF Sites. No funding from the City's Sewer
4 Construction & Maintenance Fund shall be used for such
5 conversions. In undertaking this effort, the City, working in
6 conjunction with the Community Liaison and the Odor Advisory
7 Board, shall evaluate what funds are available from other
8 sources, both within and outside the City of Los Angeles,
9 including, but not limited to the Department of Recreation and
10 Parks, to assist in the conversion and/or maintenance of the
11 Former ATF Sites as public green space. In the event the City
12 determines to sell one or more of the Former ATF Sites to a
13 non-City entity, the City, working in conjunction with the
14 Community Liaison and the Odor Advisory Board, shall use its best
15 efforts to identify potential purchasers who would be interested
16 in converting such sites to public green space and shall give
17 such purchasers right of first refusal for the purchasing of the
18 Former ATF Sites.

19 C. Paragraph 45 shall be amended to read:

20 45. The City will complete the preparation of its Odor
21 Master Plan within 2 years from the entry into this Settlement
22 Agreement. This will include the assessment of known odor
23 hotspots, additional testing and monitoring, and recommended
24 actions. The City will develop the Odor Master Plan in
25 consultation with the Odor Advisory Board or its designees. The
26 Odor Advisory Board will be updated quarterly on the progress of
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1 the Master Plan preparation. The City shall update the Odor
2 Master Plan by September 30, 2009 and annually thereafter by June
3 30th of every year until termination of the Settlement Agreement.
4 The Odor Master Plan shall be updated to include results of new
5 investigations, new odor hot spot areas, changes in odor control
6 activities, progress towards completion of odor control
7 activities, completed odor control projects and results. Each
8 updated Odor Master Plan shall be submitted to the Plaintiffs as
9 provided for by Section XVI and to all members of the Odor
10 Advisory Board.

11 D. Paragraph 46 shall be amended to read:

12 46. ATF Construction Schedules and ATF Evaluation Study

13 a. ATF Construction Schedules. The City shall install
14 and operate Air Treatment Facilities ("ATFs") for the following
15 locations by the corresponding dates:

<u>Project Title</u>	<u>Construction End Date</u>
ATF - Jefferson Siphon (Jefferson and La Cienaga)	September 30, 2010
ATF - NCOS Jefferson and Rodeo(6000 Jefferson)	May 6, 2011

20 The following ATFs ("Pending ATFs") are the subject of the ATF
21 Evaluation Study (described in Subparagraph (b), below);
22 therefore the decision whether to proceed with each of these ATFs
23 (and the final location and applicable construction schedule, if
24 any) shall be determined by the ATF Evaluation Study as approved
25 by Government Plaintiffs.

26 Project Title

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1 ATF - Mission and Jesse

2 ATF - 23rd and San Pedro

3 ATF - At NORS Connection in Culver City

4 ATF - Humboldt and San Fernando

5 ATF - Richmond and Mission

6 b. ATF Evaluation Study. As set forth in
7 Subparagraphs 46(c) to 46(g) and 46(i) to 46(j), the City shall
8 undertake an ATF Evaluation Study and implement the options
9 chosen in the Study. The City shall conduct the ATF Evaluation
10 Study in coordination with the Odor Advisory Board and the
11 Independent Odor Control Expert, as required by ¶ 41(f).

12 c. The City shall submit to Plaintiffs interim status
13 reports by September 30, 2009, December 30, 2009, and March 30,
14 2010. The interim status reports shall include the current
15 status of the ATF Evaluation Study, interim findings and
16 completion schedule.

17 d. The ATF Evaluation Study shall:

18 (i) describe the problem the ATFs are intended to address.
19 This shall include discussion of the root causes of odors
20 associated with the location of major components of the sewer
21 system (including interceptors and siphons) and how these issues
22 arose as a result of the facility planning choices within the
23 City.

24 (ii) include an air flow modeling study of interceptor
25 sewers in South Los Angeles and nearby Culver City, including
26 NOS, NORS, NCOS, ECIS, LCIS, and LCSFVRS interceptors. The air

1 flow modeling study shall focus on known odor hot spots, which
2 shall be determined with input from the Odor Advisory Board, the
3 Community Liaison, and the Independent Odor Control Expert.

4 (iii) study the anticipated effectiveness of the five
5 Pending ATFs, including whether the ATFs are needed, and whether
6 they should be constructed in other locations that would make
7 them more effective.

8 (iv) study the anticipated effectiveness of the two ATFs
9 that are under construction.

10 (v) study sewer configuration in addition to sewer drop
11 structures as they relate to odor generation and control.

12 (vi) study the following existing siphons, including
13 solutions for each siphon's impact on odor ventilation: NORS
14 Siphon at 405 Freeway; ECIS Siphon on Jefferson near La Cienega;
15 NCOS Siphon on Jefferson near Rodeo; NOS Siphon under Tujunga
16 Wash, Studio City; and any additional siphons proposed by the
17 Independent Odor Control Expert following consultation with the
18 Odor Advisory Board.

19 (vii) study the effect of changes in sewage flow rates on
20 odor generation in the areas of known odor hot spots in South Los
21 Angeles, including, optimizing flows in ECIS to reduce sewer
22 odors.

23 (viii) study the impact of the presence of non-methane
24 hydrocarbons, mercaptans, and other organosulphur compounds on
25 odor control and AQMD permit compliance.

1 (ix) study the possibility of diverting sewer gas from NORS
2 to NCOS, in light of the fact that NCOS has ample airspace with
3 negative pressure while NORS has little air space with positive
4 pressure. The study shall examine the feasibility of connecting
5 these two sewers to equalize the pressure.

6 (x) outline alternatives to the ATFs that will need to be
7 evaluated in the event that the ATFs (those under construction or
8 recommended as a result of the ATF Evaluation Study) do not
9 successfully address odor issues. This analysis shall discuss
10 the benefits that might result from the implementation of such
11 alternatives as well as barriers to their implementation. This
12 analysis shall discuss alternatives ranging from supplemental
13 activities to enhance the effectiveness of the ATFs (e.g.,
14 enhanced chemical dosing) to alternatives independent of the
15 ATFs, such as treating and discharging sewage upstream of South
16 Los Angeles.

17 e. As part of completing the ATF Evaluation Study, the
18 City shall, no later than May 1, 2010, conduct a public workshop
19 on the results of the Study and shall invite the Plaintiffs, the
20 Odor Advisory Board, the Community Liaison, and the Independent
21 Odor Control Expert to attend.

22 f. The City shall submit no later than June 30, 2010,
23 a Final Report along with the Final ATF Evaluation Study, all
24 comments from the Odor Advisory Board and the Independent Odor
25 Control Expert and the City's response to these comments, to the
26 Government Plaintiffs for their review and approval.

1 g. The Final Report shall describe the ATF Evaluation
2 Study's findings, discuss all options considered for controlling
3 odors, set forth the options to be implemented and discuss
4 reasons why other options were rejected. The Report shall
5 include:

6 • a description of actions proposed to be adopted,
7 including any of the following: establishing new construction
8 deadlines for the five Pending ATFs; proposing new locations for
9 some or all of the five Pending ATFs; eliminating some or all of
10 the five Pending ATFs; or proposing alternative odor control
11 strategies;

12 • a discussion of potential strategies that need to be
13 evaluated in the event that ATFs do not successfully address odor
14 issues;

15 • a description of the criteria for selecting the
16 preferred option(s) (short-term and long-term factors, cost,
17 effectiveness, etc); and

18 • a schedule for implementing the selected option(s).

19 The schedule shall provide for the most expeditious
20 implementation of odor control measures consistent with sound
21 engineering practices and coordination with the Odor Advisory
22 Board. In no event shall the schedule establish construction
23 deadlines later than March 1, 2014. For purposes of this Section
24 V.G., a construction deadline is achieved for an odor control
25 measure if the odor control measure is functioning consistent
26 with its design specifications.

1 h. Government Plaintiffs, following consultation with
2 Citizen Plaintiffs, shall, in writing within 30 days of
3 submission of the Final Report: approve the submission; approve
4 the submission subject to specified conditions; approve the
5 submission in part and disapprove the remainder; or disapprove
6 the submission. If, during the 30 day review period, the
7 Government Plaintiffs request in writing additional information
8 they believe to be necessary to make a decision with regard to
9 the Final Report, the review period will be extended by the time
10 the request for information is pending. The Government
11 Plaintiffs' decision with regard to the Final Report is subject
12 to the provisions of Section XI (Dispute Resolution).

13 i. Any new ATFs selected for construction by the ATF
14 Evaluation Study shall be subject to all the requirements of
15 Section V.G.

16 j. If, during the implementation of the work required
17 to implement the approved option(s), the City determines that it
18 needs to modify its approved implementation schedule, the City
19 may submit an amendment to its Final Report for review and
20 approval pursuant to the provisions of Subparagraph 46(h). The
21 Government Plaintiffs' decision with regard to an amendment to
22 the Final Report is subject to the provisions of Section XI
23 (Dispute Resolution). Any such amendment shall explain the
24 reasons for the proposed amendment, provide a substitute
25 implementation schedule, and propose any additional feasible
26 interim odor control measures that are appropriate in light of
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1 the resulting delay. Should the City seek to extend any
2 implementation schedule beyond July 1, 2014, the proposed
3 amendment shall constitute a proposed modification to the
4 Settlement Agreement and shall be subject to the requirements of
5 Section XIX (Modification).

6 E. Paragraph 47 shall be amended by deleting the line
7 "23rd and San Pedro" from the list entitled Interim Carbon
8 scrubber - ECIS/NORS (4 Sites).

9 F. The Heading preceding Paragraph 55 shall be amended
10 to read:

11 ECIS Odor Monitoring and Other Interim Measures

12 G. Paragraph 55 shall be amended to read:

13 55. The City shall implement the following interim measures
14 to address sewer odor problems. The City shall report progress
15 on these activities as part of the Odor Advisory Board meetings
16 and as part of the Annual Progress Report, required by VI.G.

17 a. Within two months after ECIS becomes operational,
18 the City shall conduct monitoring of hydrogen sulfide gas levels,
19 air pressure, and other necessary parameters in ECIS as necessary
20 to evaluate the effectiveness of the odor control efforts.

21 Within three months after the operation of ECIS, the City shall
22 share the results of the monitoring with the Odor Advisory Board
23 or its designees.

24 b. The City shall develop a scope of work to improve
25 the conveyance of sewer gas at the undersized airline for the
26 NORS siphon crossing at the 405 Freeway. The City shall complete

1 and submit to the Government Plaintiffs for approval a scoping
2 report no later than December 31, 2009. The scoping report shall
3 evaluate the feasibility of constructing the improved sewer gas
4 conveyance, recognizing that access and right-of-way to construct
5 the necessary improvements will be extremely limited. The report
6 shall assess the possibility that condemnation may be needed to
7 acquire right-of-way. If feasible, the City shall develop an
8 expedited schedule for design and construction of an improved
9 sewer gas conveyance as part of a pre-design report which shall
10 be submitted to the Government Plaintiffs for approval no later
11 than July 1, 2010. The City shall comply with the construction
12 schedule set forth in the approved pre-design report.

13 c. The City shall undertake the following measures to
14 replace poorly performing trap maintenance holes:

15 • Identify and map all known poorly performing trap
16 maintenance holes in South Los Angeles no later than 14 days
17 after entry of this Modification and designate no less than 73 of
18 these trap maintenance holes as high priority;

19 • Replace all high priority South Los Angeles trap
20 maintenance holes no later than June 30, 2011;

21 • Replace all identified and known poorly performing trap
22 maintenance holes in South Los Angeles no later than June 30,
23 2012; and

24 • Replace no less than 300 poorly performing trap
25 maintenance holes Citywide no later than June 30, 2013.

1 d. The City shall monitor all carbon scrubbers used to
2 control sewer odors on a weekly basis. This shall include
3 monitoring influent and effluent hydrogen sulfide concentration.

4 e. The City shall develop and submit to Government
5 Plaintiffs for approval no later than December 31, 2009 a
6 maintenance and repair program to ensure proper treatment of air
7 flow through all active carbon scrubbers used to control sewer
8 odors. The program shall include prevention and repair of
9 corrosion of the carbon scrubber and associated vent piping and
10 fittings and a carbon replacement schedule. The maintenance and
11 repair program shall ensure that air flow from the sewers does
12 not exit the scrubber prior to treatment. The schedule for
13 carbon replacement shall ensure that the scrubber operates within
14 permit limits and that the carbon is replaced prior to any
15 hydrogen sulfide breakthrough. The City shall comply with the
16 program as approved. The City may make modifications to the
17 carbon replacement schedule with notice to the Government
18 Plaintiffs.

19 f. The City shall continue its chemical addition
20 program as required by § 43, to control hydrogen sulfide
21 generation and may modify the program as necessary to address
22 odor complaints.

23 g. The City shall work to identify specific odor hot
24 spot areas that require additional interim odor control measures.
25 The City shall identify these areas by reviewing complaints,
26 conducting monitoring or obtaining input from the Odor Advisory
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1 Board. The City will work with the Odor Advisory Board and the
2 Independent Odor Control Expert to identify and implement
3 specific odor control measures to any known hot spot area or new
4 area identified.

5 H. Paragraph 56 shall be amended to read:

6 56. Initial and Subsequent Independent Review of Sewer Odor
7 Control Program

8 a. Initial Independent Review: Within six months from
9 entry into this Settlement Agreement, the City will prepare an
10 implementation plan for implementing the recommendations made as
11 part of the Independent Review of the Sewer Odor Control Program
12 for the City of Los Angeles. The implementation plan will
13 include an implementation schedule and reasons for deviating from
14 the recommendations in the Independent Review, if any.

15 b. Independent Odor Control Expert: The City shall
16 bear the cost of an Independent Odor Control Expert to provide
17 independent review of the implementation of the odor control
18 activities and studies. The City shall expedite the hiring of
19 the Independent Odor Control Expert to the maximum extent
20 feasible consistent with the provisions of this Paragraph and the
21 City's procurement requirements. No later than 60 days after
22 entry of this Modification, the City shall submit to the
23 Community Liaison for review the City's request for services for
24 the Independent Odor Control Expert. The City shall permit the
25 Community Liaison to review applications for the Independent Odor
26 Control Expert position, and shall permit the Community Liaison
27 to sit on the Selection Panel for the Independent Odor Control

1 Expert. The City shall inform Plaintiffs of the Expert it
2 proposes to hire and all Parties must consent to the hiring. The
3 City shall hire the Independent Odor Control Expert no later than
4 180 days after entry of this Modification unless the hiring has
5 been unavoidably delayed by the City's procurement process. If
6 the hiring has been delayed, within 180 days after entry of this
7 Modification, the City shall provide notice to Plaintiffs of the
8 reasons for the delay and the City's schedule for completing the
9 hiring which shall be subject to the Government Plaintiffs'
10 review and approval. The Independent Odor Control Expert shall
11 report to the Citizen Plaintiffs. At a minimum, the Independent
12 Odor Control Expert shall review and comment on: (1) the scope
13 and design of the ATF Evaluation Study and NORS Siphon project;
14 (2) the interim status reports; and (3) the Final Report findings
15 and recommendations. No later than 30 days after entry of this
16 Modification, the City shall develop an overall scope of work for
17 the Independent Odor Control Expert and provide it to Plaintiffs
18 for review and comment. The Independent Odor Control Expert
19 shall have access to City staff and consultants involved in odor
20 control activities and studies, including the ATF Evaluation
21 Study. The Independent Odor Control Expert may personally
22 observe or participate in any part of the ATF Evaluation Study or
23 other odor control activities that he or she deems necessary to
24 evaluate. The Independent Odor Control Expert shall serve until
25 June 30, 2011. This period shall be extended if deadlines for
26 any activity in this Section are extended. The City shall

1 consider and, if appropriate, implement recommendations of the
2 Independent Odor Control Expert in its odor control studies and
3 implementation activities.

4 c. Community Liaison: The City shall bear the cost of
5 a Community Liaison to serve the Citizen Plaintiffs and other
6 members of the South Los Angeles community in communicating sewer
7 odor conditions, comments, issues and suggestions to the City
8 with a focus on sewer odor control activities and ATF Evaluation
9 Study. The Community Liaison shall be named by the Plaintiffs in
10 Intervention. The Community Liaison shall serve until June 30,
11 2014. The Community Liaison shall work with the City in the Odor
12 Advisory Board meetings and shall assist the Independent Odor
13 Control Expert in providing information on the odor control
14 activities to the Plaintiffs in Intervention.

15 d. Funding: The City shall not be required to spend
16 more than \$95,000 a year for the Independent Odor Control Expert
17 and Community Liaison together for FY 2009/10 and 2010/11. For
18 FY 2011/12, 2012/13 and 2013/14, the cost shall be limited to the
19 Community Liaison only, and the City shall not be required to
20 spend more than \$50,000 a year, unless the term of the
21 Independent Odor Control Expert is extended pursuant to
22 subparagraph (b), in which case the City shall be required to
23 spend no more than \$45,000 per year for the Independent Odor
24 Control Expert. The City shall not be required to spend more
25 than \$340,000 for the duration of the Settlement Agreement for
26 the Independent Odor Control Expert and the Community Liaison
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1 together, unless the term of the Independent Odor Control Expert
2 is extended pursuant to subparagraph (b). All activities by the
3 Independent Odor Control Expert and the Community Liaison shall
4 be approved by the City through annual work plans with
5 activities, schedule and budget. The annual work plans approved
6 by the City shall authorize the Independent Odor Control Expert
7 and the Community Liaison to perform all tasks designated for
8 each of them pursuant to the Settlement Agreement. The City
9 shall use its best efforts to require that the Independent Odor
10 Control Expert and the Community Liaison submit the initial
11 annual work plans to the City no later than 30 days after entry
12 of this Modification or, for the Independent Odor Control Expert,
13 30 days after the hiring of the Independent Odor Control Expert,
14 whichever is later. In subsequent years, the work plans shall be
15 submitted to the City by May 30th of each year. The annual work
16 plan shall provide for the work during the period of the
17 following July 1st through June 30th. The approved work plan
18 shall be submitted to Plaintiffs for review but not approval.

19 II. Section XX, Paragraph 170, shall be amended by the
20 addition of a new subparagraph f:

21 f. That the City has replaced all the trap maintenance
22 holes required by the Interim Odor Control Measures, and
23 completed construction and commenced operation of all facilities
24 required by the ATF Evaluation Study and the NORS Siphon pre-
25 design report.

1 III. Section VIII, Paragraph 86, shall be amended by
2 replacing the "Hazard Creek and Wetlands Restoration Project" and
3 the "Inner Cabrillo Beach Pollution Control and Water Circulation
4 Enhancement Project" with the following: "Garvanza Park Water
5 Quality Enhancement BMP Project."

6 IV. Appendix C shall be amended by replacing the "Hazard
7 Creek and Wetlands Restoration Project" and the "Inner Cabrillo
8 Beach Pollution Control and Water Circulation Enhancement
9 Project" with the following:

Projects	Description & Scope	Suggested Commitment
Garvanza Park Water Quality Enhancement BMP Project (CD 14)	The Garvanza Park BMP Project involves diverting runoff from a storm drain that passes directly underneath Garvanza Park and treating and infiltrating the runoff through a series of BMPs. The BMPs involve the installation of a pretreatment device for sediment and trash, followed by a large infiltration gallery that will infiltrate at least $\frac{3}{4}$ " of rainfall from the 80-acre drainage area that is upstream of the park. Upon completing construction, the park area above the devices will be returned to existing conditions or better. Garvanza Park is located northeast of downtown Los Angeles at the southwest corner of the Meridian St and Avenue 63 intersection in a community known as Highland Park. This area is a low-income, minority community. The Garvanza Park Best Management Practices (BMP) Project (Project) was identified and developed as part of the Arroyo Seco Watershed Management Plan. The goal of this Project is to enhance the water quality of the Los Angeles River and improve the quality of urban runoff which carries pollutants such as trash, bacteria, metals, oil and grease.	\$1,750,000

1 V. All other provisions of the Settlement Agreement shall
2 remain in effect.

3 VI. None of the Plaintiffs shall be eligible for, nor shall
4 the City be liable for, attorneys fees or any other penalties or
5 liquidated damages as a result of this Modification.

6 VII. Each undersigned representative of the City, the
7 Regional Board, Baykeeper, the Intervenor, and the Assistant
8 Attorney General for the Environment and Natural Resources
9 Division of the Department of Justice certifies that he or she is
10 fully authorized to enter into the terms and conditions of this
11 Modification to the Settlement Agreement and to execute and
12 legally bind the Party he or she represents to this document.

13 VIII. This Modification may be signed in counterparts, and
14 its validity shall not be challenged on that basis.

15 IX. This Modification shall be lodged with this Court for
16 a period of not less than 30 days for public notice and comment
17 in accordance with 28 C.F.R. § 50.7. The United States and the
18 Regional Board reserve the right to withdraw or withhold their
19 consent if the comments regarding the Modification disclose facts
20 or considerations indicating that the Modification is
21 inappropriate, improper, or inadequate. The City consents to
22 entry of this Modification without further notice and agrees not
23 to withdraw from or oppose entry of this Modification by this
24 Court or to challenge any provision of the Modification, unless
25 the United States and the Regional Board have notified the City
26 in writing that they no longer support entry of the Modification.

1 X. This Modification to the Settlement Agreement
2 constitutes the final, complete and exclusive agreement and
3 understanding among the Parties with respect to the Modification
4 of the Settlement Agreement, and this Modification to the
5 Settlement Agreement supercedes all prior agreements and
6 understandings, whether oral or written concerning the
7 Modification embodied herein. Other than Deliverables that are
8 to be subsequently submitted pursuant to this Modification to the
9 Settlement Agreement, no other document and no other
10 representation, inducement, agreement, understanding, or promise
11 constitutes any part of this Modification to the Settlement
12 Agreement or the settlement it represents, nor shall they be used
13 in construing the terms of this Modification to the Settlement
14 Agreement.

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17 Dated and entered this _____ day of _____, 2009.

18
19
20 RONALD S.W. LEW
21 UNITED STATES DISTRICT JUDGE
22 Central District of California
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1 WE HEREBY CONSENT to the entry of this Modification to Settlement
2 Agreement, subject to the public notice and comment provisions of
3 28 C.F.R. § 50.7:

4 For Plaintiff the United States of America:

5 Dated: _____

6 _____
7 JOHN C. CRUDEN
8 Acting Assistant Attorney General
9 Environment & Natural Resources
10 Division
11 U.S. Department of Justice

12 _____
13 LORI JONAS (Bar. No. 158268)
14 U.S. Department of Justice
15 P.O. Box 7611
16 Ben Franklin Station
17 Washington, D.C. 20044-7611

18 Attorneys for Plaintiff
19 United States of America
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1 WE HEREBY CONSENT to the entry of this Modification to Settlement
2 Agreement, subject to the public notice and comment provisions of
3 28 C.F.R. § 50.7:

4
5 For Plaintiff the United States of America (con't):

6 Dated: _____

7 CYNTHIA GILES
8 Assistant Administrator for
9 Enforcement and Compliance
10 Assurance
11 U.S. Environmental Protection
12 Agency
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1 WE HEREBY CONSENT to the entry of this Settlement Agreement,
2 subject to the public notice and comment provisions of 28 C.F.R.
3 § 50.7:

4 For Plaintiff the United States of America (con't):

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Dated: _____

Regional Administrator

U.S. Environmental Protection
Agency Region 9

Of Counsel:

HUGH BARROLL

Assistant Regional Counsel

U.S. Environmental Protection Agency

Region 9

1 WE HEREBY CONSENT to the entry of this Settlement Agreement
2 subject to the provisions of paragraph IX:

3 For Plaintiff People of the State of California ex rel.
4 California Regional Water Quality Control Board, Los Angeles
5 Region:

6 EDMUND G. BROWN, JR.
7 Attorney General of the State of
8 California

9 Dated: _____

10 MARILYN H. LEVIN (Bar. No. 92800)
11 Deputy Attorney General
12 300 South Spring Street
13 11th Floor, North Tower
14 Los Angeles, CA 90013

15 Attorneys for Plaintiff People of
16 the State of California ex rel.
17 California Regional Water Quality
18 Control Board, Los Angeles Region

19 Dated: _____

20 SAMUEL UNGER
21 Assistant Executive Officer
22 California Regional Water Quality
23 Control Board, Los Angeles Region

1 WE HEREBY CONSENT to the entry of this Settlement Agreement:

2 For Plaintiff Santa Monica Baykeeper:

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5 Dated: _____

TOM FORD
Baykeeper
Santa Monica Baykeeper
120 Broadway
Suite 105
Santa Monica, CA 90401

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1 WE HEREBY CONSENT to the entry of this Settlement Agreement:

2 For Plaintiffs in Intervention Baldwin Hills Estates Homeowners'
3 Association, Inc., Baldwin Hills Village Garden Homes
4 Association, United Homeowners Association, Village Green Owners
5 Association, and Concerned Citizens of South Central Los Angeles
6 (collectively the "Intervenors"):

7 Dated: _____

KATHLEEN SALVATY
English, Munger & Rice
1541 Wilshire Blvd., Suite. 508
Los Angeles, CA 90017

11 Dated: _____

ROBERT GARCÍA
President and Counsel
The City Project
1055 Wilshire Blvd.
Suite 1660
Los Angeles, CA 90017

Attorneys for Intervenors

1 WE HEREBY CONSENT to the entry of this Settlement Agreement:

2 For Defendant City of Los Angeles:

3

4 Dated: _____

CARMEN A. TRUTANICH
City Attorney (Bar No. 86629)

6

7 Dated: _____

CHRISTOPHER M. WESTHOFF
(Bar No. 63176)
Assistant City Attorney
Los Angeles City Attorney's Office
800 City Hall East
200 N. Spring Street
Los Angeles, CA 90012

11

12 Attorneys for Defendant, City of
13 Los Angeles

14 Dated: _____

CYNTHIA M. RUIZ
President
Board of Public Works
City of Los Angeles
200 N. Main Street
Los Angeles, CA 90012

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19 Dated: _____

ENRIQUE C. ZALDIVAR
Director
Bureau of Sanitation
City of Los Angeles
1149 S. Broadway, 9th Floor
Los Angeles, CA 90015

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