Memorandum of Understanding for the Formation of the Santa Monica Basin Groundwater Sustainability Agency

This Memorandum of Understanding for the formation of the Santa Monica Basin Groundwater Sustainability Agency (MOU) is made and entered by and among the City of Santa Monica (Santa Monica), a municipal corporation, the City of Los Angeles, by and through its Department of Water and Power (LADWP), the City of Beverly Hills (Beverly Hills), the City of Culver City (Culver City), and the County of Los Angeles (County), each a "Party" and, collectively, the "Parties."

WHEREAS, the Sustainable Groundwater Management Act (SGMA), as enacted on September 16, 2014, and codified in California Water Code Section 10720 et seq., is intended to enhance local and sustainable management of groundwater; and

WHEREAS, SGMA authorizes local public agencies that have water supply, water management, or land use responsibilities within a groundwater basin to form a Groundwater Sustainability Agency (GSA) to implement SGMA's provisions within that basin; and

WHEREAS, each Party is a local public agency that has water supply, water management, or land use responsibilities within the Santa Monica Basin (Basin Number 4-11.01 DWR Bulletin 118) (Santa Monica Basin); and

WHEREAS, the Parties desire to collectively manage the Santa Monica Basin within their jurisdictional boundaries; and

WHEREAS, the Parties intend to work collaboratively with each other and other interested parties to develop and implement a single Groundwater Sustainability Plan (GSP) to sustainably and cost-effectively manage groundwater in the Santa Monica Basin pursuant to the requirements of SGMA.

NOW, THEREFORE, incorporating the above recitals herein and exhibit attached, it is mutually understood and agreed by the Parties as follows:

1. **PURPOSE.** This MOU is entered into by and among the Parties to facilitate a cooperative and ongoing working relationship to comply with SGMA in the Santa Monica Basin by, among other things, forming a GSA and developing and implementing a single GSP. This MOU is not intended to form a new legal entity.

2. **SANTA MONICA BASIN GROUNDWATER SUSTAINABILITY AGENCY**

   2.1 The Parties hereby establish the Santa Monica Basin Groundwater Sustainability Agency (SMBGSA) to sustainably and cost-effectively manage groundwater in the Santa Monica Basin.

2.2 The SMBGSA shall only operate within the collective jurisdictions of the Parties within the boundaries of Santa Monica Basin, as depicted on the map incorporated herein as Exhibit "A."

2.3 The SMBGSA shall be governed in accordance with this MOU and any bylaws hereinafter adopted by the Parties. If any conflict arises between this MOU and the bylaws, the terms of this MOU shall govern

3 ROLES AND RESPONSIBILITIES OF THE PARTIES

3.1 Each Party covenants that it has the authority to perform the activities required to accomplish the purposes of this MOU, and will cooperate to implement the following activities and other activities consistent with SGMA in the Santa Monica Basin:

a. Preparing and maintaining a list of interested parties.

b. Conducting public outreach and engagement.

c. Submitting notification of the formation of the SMBGSA to the California Department of Water Resources (DWR).

d. Consulting and contracting with the United States, State of California, and adjacent water agencies and individual landowners.

e. Entering into coordination agreements with other GSAs and watermasters.

f. Conducting investigations and analyzing data.

g. Developing, adopting, and implementing a GSP.

h. Approving and collecting groundwater management fees.

i. Pursuing financial assistance through grants or similar opportunities.

j. Obtaining third-party services for groundwater modeling, data collection, reports, and other related tasks.

3.2 Santa Monica shall serve as the coordinating agency on behalf of the SMBGSA to provide a single point of contact with DWR.

3.3 Santa Monica shall assume primary responsibility for coordinating the administrative functions of the SMBGSA, subject to the terms of this MOU and the unanimous consent of the Parties.

4 MEETINGS AND DECISION MAKING PROCESS

4.1 Each Party shall appoint one representative (Party Representative) to participate in the SMBGSA on its behalf. Each Party may appoint an alternate representative (Alternate Representative) in case of the Party Representative's absence or inability to act. A Party may replace its Party Representative or Alternate Representative at any time upon providing notice to the other Parties.

4.2 The Party Representatives shall meet as necessary to fulfill the obligations under this MOU and SGMA, including but not limited to considering the interests of groundwater beneficial users located in the Santa Monica Basin pursuant to California Water Code Section 10723.2. Meetings shall be conducted in accordance with SGMA and any bylaws hereinafter adopted by the Parties.

4.3 All actions undertaken by the SMBGSA shall be by unanimous consent of the Parties. The Parties understand and agree that such consent may require further action by the Parties' respective governing bodies.

5. **FUNDING.** Each Party shall bear its own costs until the SMBGSA becomes the exclusive GSA in the Parties' collective jurisdictions pursuant to California Water Code Section 10723.8. No further costs will be undertaken by or allocated to any of the Parties until a principle for cost distribution is agreed upon and reflected in an amendment to this MOU, bylaws, or another binding document.

6. **TERM.** This MOU shall become effective upon each Party's execution and shall terminate on January 31, 2042. The Parties may terminate this MOU sooner by unanimous written consent.

7. **WITHDRAWAL.** Any Party may unilaterally withdraw from this MOU without causing or requiring termination of the MOU upon providing 30 days prior written notice to the other Parties. Any withdrawing Party shall pay its share of any expenses incurred or accrued in accordance with section 5 of this MOU up to the date of withdrawal. The non-withdrawing Parties may elect to continue implementation of SGMA jointly under this MOU for the governance of the lands lying within the jurisdiction of the non-withdrawing Parties.

8. **AMENDMENTS AND WAIVER.** No amendment or waiver of any provision of this MOU, nor consent to any departure, shall be effective unless in writing and signed by each Party, and then such waiver or consent shall be effective only in the specific instances and for the specific purpose given.

9. **NO LIABILITY.** No Party, nor any board, director, officer, or representative of a Party, shall be responsible for any damage or liability occurring by reason of any other Party's performance or non-performance of its obligations under this MOU.

10. **NOTICES.** All notices and other communications given under the terms of this MOU must be in writing and served personally or by certified U.S. mail. Any such notice shall be addressed to the Parties as set forth as follows or to such other address as the Parties may hereafter designate by written notice. The date of receipt of the notice shall be the date of actual personal service or three days after the postmark on certified mail.

Santa Monica

Gil Borboa
Water Resources Manager
City of Santa Monica
1212 5th Street, 3rd Floor
Santa Monica, CA 90401
(310) 458-8230
Gil.Borboa@smgov.net

LADWP

David R. Pettijohn
Director of Water Resources Division
111 North Hope Street, Rm 1460
Los Angeles, CA 90012
(213) 923-4806
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Beverly Hills

Shana Epstein
Public Works Director
455 North Rexford Drive
Beverly Hills, CA 90210
(310) 285-1000
sepstein@beverlyhills.org

Culver City

Charles D. Herbertson
9770 Culver Boulevard
Culver City, CA 90232
(310) 253-5630
Charles.Herbertson@culvercity.org

County

County of Los Angeles
Mitch Glaser, Assistant Administrator
320 West Temple Street
Los Angeles, CA 90012
Phone: (213) 974-4971
Fax: (213) 626-0434

11. **WATER RIGHTS.** Nothing herein shall be construed or interpreted as authorizing the SMBGSA to make a binding determination regarding the water rights of any person or entity, including, without limitation, any Party.

12. **LAND USE AUTHORITY.** Nothing herein shall be interpreted as superseding the land use authority of cities and counties, including the city or county general plans, within the Santa Monica Basin.

13. **RELATIONSHIP OF PARTIES**. The Parties shall remain at all times as to each other, wholly independent entities. No Party shall have the authority to incur any debt, obligation, or liability on behalf of another Party unless expressly provided by written agreement of the Parties. No employee, agent, or officer of a Party shall be deemed for any purpose whatsoever to be an agent, employee or officer of another Party.

14. **GOVERNING LAW**. This MOU shall be interpreted, construed, and governed according to the laws of the State of California without regard to conflict of law principles.

15. **VENUE.** Any suit, action, or proceeding brought under the scope of this MOU shall be filed in the County of Los Angeles, State of California. The foregoing, however, shall not limit any Party's right to seek a change of venue under applicable law.

16. **NO ATTORNEYS' FEES.** The Parties agree that, in any action to enforce the terms of this MOU, each Party shall bear its own attorneys' fees and costs.

17. **JOINTLY DRAFTED.** Each Party acknowledges that it was represented by its legal counsel during the negotiation and execution of this MOU, and that it has had a full and fair opportunity to review and revise the terms of this MOU. Each Party further agrees that this MOU has been jointly drafted, and that no term contained herein shall be construed against or in favor of another Party.

18. **SEVERABILITY.** If one or more of the provisions contained in this MOU are invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired in any manner.

19. **HEADINGS.** Section headings in this MOU are included for convenience of reference only and shall not be given any substantive effect.

20. **ENTIRE AGREEMENT.** This MOU constitutes the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, whether written or oral, with respect thereto.

21. **COUNTERPART EXECUTION.** This Agreement may be executed in counterparts and each executed counterpart shall be effective as the original.

22. **NO THIRD PARTY BENEFICIARIES.** This MOU is not intended, and will not be construed, to confer a benefit or create any right on a third party or the power or right to bring an action to enforce any of its terms.

[signature pages follow]

IN WITNESS WHEREOF, each Party hereby has caused this MOU to be executed as of the date and year written below:

DEPARTMENT OF WATER AND POWER
OF THE CITY OF LOS ANGELES BY
BOARD OF WATER AND POWER COMMISSIONERS

By: _____
DAVID H. WRIGHT
General Manager

Date: 5.23.2017

And: _____
BARBARA E. MOSCHOS
Secretary

AUTHORIZED BY RES. 017723.1
MAY 02 2017

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

APR 18 2017
BY _____
MELANIE A. TORY
DEPUTY CITY ATTORNEY

IN WITNESS WHEREOF, each Party hereby has caused this MOU to be executed as of the date and year written below:

CITY OF SANTA MONICA
a municipal corporation

By: _____
RICK COLE
City Manager 10.17.17

ATTEST:

_____
DENISE ANDERSON-WARREN
City Clerk

APPROVED AS TO FORM:

_____
JOSEPH LAWRENCE
Interim City Attorney

IN WITNESS WHEREOF, each Party hereby has caused this MOU to be executed as of the date and year written below:

CITY OF BEVERLY HILLS

By: _____
SHANA EPSTEIN
Director of Public Works

APPROVED AS TO FORM:

(JM)

_____
LARRY WIENER
City Attorney

IN WITNESS WHEREOF, each Party hereby has caused this MOU to be executed as of the date and year written below:

ATTEST:

6/1/17

JEREMY GREEN
City Clerk

APPROVED AS TO FORM:

CAROL SCHWAB
City Attorney

CITY OF CULVER CITY

By: _____

JOHN M. NACHBAR
City Manager

IN WITNESS WHEREOF, each Party hereby has caused this MOU to be executed as of the date and year written below:

COUNTY OF LOS ANGELES

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By: _____
RICHARD J. BRUCKNER
Director of Regional Planning
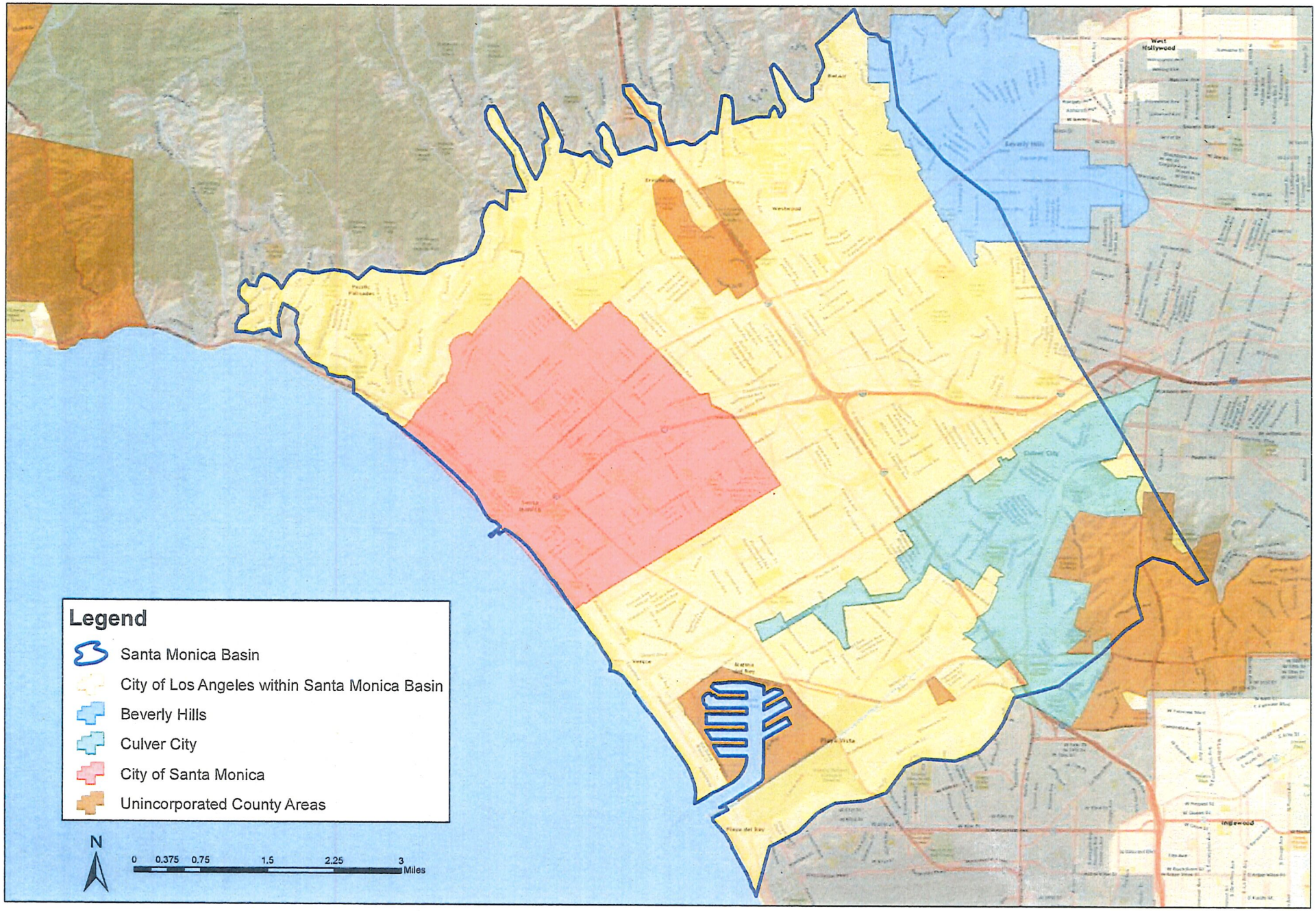
Exhibit A: Santa Monica Basin