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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 IN AND FOR THE COUNTY OF SAN DIEGO

14 ARTHUR PRICE; CHERRIE DOSIO;
15 CHRISTOPHER VOELP; PATRICK
16 QUINONES; KEITH REID; and FOOD
NOT BOMBS – SAN DIEGO,

17 Plaintiffs,

18 v.

19 CITY OF SAN DIEGO; COUNTY OF
20 SAN DIEGO; and DOES 1-20, inclusive,

21 Defendants.

Case No.: 37-2020-00019535-CU-MC-CTL

**THIRD AMENDED VERIFIED
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

Assigned to: Hon. Katherine A. Bacal
Dept.: C-69

Second Amended Complaint Filed: December
17, 2020

First Amended Complaint Filed: July 17, 2020

Complaint Filed: June 8, 2020

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1 INTRODUCTION

2 1. When COVID-19 spread in March 2020, the City of San Diego and the County of
3 San Diego, along with City and County contracted service providers, swiftly acted to *protect* the
4 general population. Yet, the City and County took countervailing efforts for unhoused
5 individuals, who are particularly susceptible to life-threatening complications from COVID-19
6 infection. By placing high risk unhoused individuals *at greater risk* of contracting the virus, the
7 City and County prevented unhoused individuals from being able to exercise the very public
8 health measures the City and County urged on the general population. These actions are similar
9 to actions the City and County took during the Hepatitis A epidemic in 2017 that particularly
10 endangered and proved fatal to unhoused individuals living in San Diego.

11 2. The City and County received millions of dollars in state and federal COVID-19
12 emergency funds to carry out public health directives to protect their residents. The City and
13 County jointly created, for unhoused residents, their COVID-19 Shelter Program, which included
14 pandemic-related services alongside existing homelessness services.

15 3. The City and County allocated these emergency funds to the new COVID-19
16 Shelter Program, in addition to allocating a portion to the region's existing homeless programs.
17 As part of the joint COVID-19 Shelter Program, "Operation Shelter to Home" incorporated the
18 City and County's policy to provide services to unhoused individuals following public health
19 guidelines. The COVID-19 Shelter Program was designed to provide both congregate and non-
20 congregate shelter to unhoused residents. The City and County knew that unhoused individuals,
21 especially many individuals with disabilities, were particularly vulnerable to contracting and
22 suffering from severe symptoms of the COVID-19 disease, especially if they did not have
23 appropriate shelter and care. The City and County adopted a policy that their unhoused residents
24 could access congregate shelter or non-congregate shelter depending on their medical or
25 disability conditions. Based on the Centers for Disease Control and Prevention (CDC) and state
26 guidelines, hotel and motel rooms were non-congregate shelter options provided to high risk
27 unhoused individuals, including Plaintiffs.

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1 4. By April 1, 2020, the County had secured approximately 2,000 hotel and motel
2 rooms to provide temporary lodging resources to persons experiencing homelessness from
3 COVID-19, including individuals who are at particularly high risk if contracting COVID-19.
4 But, instead of providing high risk unhoused individuals the required access to *available* hotel
5 and motel rooms, the City and County pushed all unhoused individuals into a *single*, congregate
6 setting, the San Diego Convention Center, before they could obtain appropriate shelter
7 assessments or be linked to health or social services. The City further deployed law enforcement
8 to threaten and cite unhoused individuals with quality of life ordinance violations against CDC
9 guidelines, and withheld available non-congregate housing options from high risk unhoused
10 individuals—contradicting the County and City’s own governing policies. The City also
11 conditioned access to existing and new homeless programs and services on unhoused residents
12 accepting shelter placements, however, the City primarily only placed residents at the
13 Convention Center. In addition, the County placed its Public Health Nurses with the City’s
14 Homeless Outreach Team to screen unhoused individuals for services; however, high risk
15 unhoused individuals were not screened for eligibility, referred to appropriate shelter options, or
16 connected to services.

17 5. While public health reports warned of the dangers that congregate settings pose to
18 high risk unhoused individuals with underlying health conditions and the outbreaks that occurred
19 in congregate living settings throughout the United States, the City and County continued to
20 deny high risk unhoused individuals’ requests for hotel and motel rooms and requests for
21 reasonable modifications to their COVID-19 Shelter Program, and kept pushing high risk
22 unhoused individuals to the Convention Center.

23 6. Meanwhile, upon information and belief, many hotel and motel rooms leased
24 under Operation Shelter to Home were left unoccupied.

25 7. The City touted its infusion of emergency homeless funds into its own
26 Convention Center. The City diverted state and federal COVID-19 funds to its Convention
27 Center despite the risk this congregate setting poses to the health and safety of unhoused
28 individuals.

8. However, based on information and belief, neither the City nor the County screened for individuals who qualified based on the needs of high risk individuals during the COVID-19 pandemic, leaving many rooms unoccupied.

9. The City and County intended to keep high risk unhoused residents from accessing their non-congregate housing options, and were motivated by the receipt of state and federal COVID-19 funds which it poured into its Convention Center. The City and County's financial motivation knowingly threatened the safety of high risk unhoused residents most susceptible to complications and death from COVID-19, who were individuals with disabilities. The City and County's actions systematically limited access for high risk unhoused individuals with disabilities to non-congregate shelter, and functionally denied their access to the COVID-19 Shelter Program. This harmful practice disproportionately impacted individuals with disabilities and racial minorities.

10. In administering homeless programs and services, the City and County also failed to accommodate the needs of individuals with disabilities, including their failure to respond to Plaintiffs' multiple requests for accommodation. Because of COVID-19's propensity for rapid community spread, the City and County's actions threaten public safety. Without court intervention, the City and County will not cease their harmful actions at any other time in the foreseeable future.

JURISDICTION AND VENUE

11. This Court has personal jurisdiction over the Defendants because the Defendants are located in and conduct business in San Diego.

12. This Court has subject matter jurisdiction over the claims asserted because relief is sought under Gov. Code §§ 11135, 12920, 12927, 12955, Civ. Code §§ 54 *et seq.*, and Code of Civ. Proc. §§ 1060 and 1085.

13. Venue is proper in this county as the acts upon which this action is based occurred in this county, and all parties are headquartered in this county.

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THE PARTIES

14. Plaintiff ARTHUR PRICE (Price) is a 31-year-old African American. Price is a person with a disability as defined in Government Code § 12926 and meets the definition of chronically homeless as defined by U.S. Department of Housing and Urban Development (HUD) regulations. Price was born with a limb deficiency and intellectual disabilities. He takes medication for his high blood pressure and thyroid removal surgery. His thyroid removal surgery places him at higher risk of infection. He also frequently suffers from migraines. Price receives Supplemental Security Income (SSI). His income is insufficient to afford rents in San Diego. Price has been living on and off the streets for over three years. He slept in various locations around the City of San Diego, including motel rooms, city streets, and at friends' homes.

15. Price is currently living out of a motel. But he can't afford to stay in the motel long term. He also cannot stay in a congregate setting because it would exacerbate his disability symptoms. He needs a hotel or motel room because his medical condition and immunocompromised state put him at high risk for complications and death from COVID-19.

16. Since the inception of COVID-19, Price has been trying to find long-term adequate housing. He has sought assistance from agencies and providers, including the regional center. He contacted 211 San Diego and the Regional Task Force on the Homeless to request a hotel or motel room. Despite his requests, he was not offered or assessed for placement with a hotel or motel room. The City's Homeless Outreach Team told Price that his only option was the San Diego Convention Center. The City's Homeless Outreach Team did not connect him with a Public Health Nurse and Price was not screened by a Public Health Nurse for being at high risk if contracting COVID-19 based on medical conditions. On June 2, 2020, Price submitted a written demand to the City Attorney. Price demanded a hotel or motel room under Operation Shelter to Home, or in the alternative, a request for reasonable modification. On June 3, 2020, Price sent a copy of the demand to the City Office of ADA Compliance and Accessibility. Price received no response.

17. Plaintiff CHERRIE DOSIO (Dosio) is a 34-year-old unhoused, single mother with disabilities. Dosio is a person with a disability as defined in Government Code § 12926 and

1 meets the definition of chronically homeless as defined by HUD regulations. Dosio has Crohn's
2 disease and epilepsy as well as a mental health condition. She also has active colon and ovarian
3 cancer. As a result of Crohn's disease and subsequent cancer, she uses a colostomy bag and takes
4 high doses of steroids. This leaves Dosio immunocompromised and requiring constant access to
5 sanitation facilities to care for her colostomy bag. Over the last few years, Dosio has been in over
6 30 comas and has undergone 19 abdominal surgeries. Dosio receives Supplemental Security
7 Income (SSI). Her income is insufficient to enable her to afford market-rate rents in San Diego.
8 On May 28, 2020, CalWORKs approved 16 days' worth of hotel vouchers. After the allotted
9 vouchers ran out, her family went back to living in vehicles as before.

10 18. Dosio's physical condition and immunocompromised state put her at high risk for
11 complications and death from COVID-19 infection. She cares for three minor children. Her son
12 has asthma, which puts him at a higher risk for complications from a COVID-19 infection. She
13 needs access to a hotel or motel room because her medical conditions make her more vulnerable
14 to contracting COVID-19, and suffering complications.

15 19. In May 2020, Dosio contacted 211 San Diego and the Regional Task Force on the
16 Homeless and multiple City and County contracted providers to request housing, including hotel
17 and motel rooms. During each call, Dosio identified as a person with high risk if contracting
18 COVID-19. Over 19 providers had already denied her housing, many due to the presence
19 of her emotional support animals. When Dosio called 211 San Diego, the automatic
20 recording stated that hotel or motel rooms and Convention Center shelter beds could not be
21 accessed through the hotline. Dosio contacted every shelter in the City and County of San Diego,
22 and was told all beds were full. When Dosio was referred to 211 San Diego by a service
23 provider, 211 gave her the same list of shelters and said that was the only way to get into a non-
24 congregate shelter room was if she was COVID positive or HIV positive. On June 2,
25 2020, Dosio submitted a written demand to the City Attorney. Dosio demanded a hotel or motel
26 room under Operation Shelter to Home, or in the alternative, a request for reasonable
27 modification. On June 3, 2020, Dosio sent a copy of the demand to the City Office of ADA
28 Compliance and Accessibility. Dosio did not receive a response from the City.

1 20. Plaintiff CHRISTOPHER VOELP is a 36-year-old living in a motorhome with
2 his fiancé and domestic partner, Plaintiff PATRICK QUINONES. Voelp is a person with a
3 disability as defined in Government Code § 12926 and meets the definition of chronically
4 homeless as defined by HUD regulations. Voelp has congestive heart failure and is
5 immunocompromised. Both make him physically weak and unable to fight infection. He needs
6 full-time caregiving from his fiancé. His physical conditions put him at high risk for
7 complications and death from COVID-19 infection. The motorhome that Voelp and his fiancé
8 share is old (1978) and dysfunctional. They purchased it for \$500 in April, 2020. They are
9 struggling to meet their needs in their motorhome. Because the police continue to enforce against
10 individuals living in their vehicles, they are at constant risk of losing their home.

11 21. Voelp contacted 211 San Diego, Regional Task Force on the Homeless, and the
12 City's Homeless Outreach Team for non-congregate shelter – hotel or motel – placement due to
13 the pandemic and his health condition that places him at a higher risk of severe illness if he
14 contracts COVID-19. When Voelp called 211 San Diego, he explained his disabilities and health
15 conditions and requested a hotel or motel room. Voelp was given phone numbers to San Diego
16 Housing Commission's contracted service providers – Father Joe's Villages and Alpha
17 Project. Father Joe's Villages did not answer when he called. Alpha Project only provided him a
18 referral to the Convention Center despite Voelp explaining he could not go to a mass congregate
19 shelter, and disclosing his disabilities and high risk conditions. Voelp called Regional Task Force
20 on the Homeless and left a message for a hotel or motel room to shelter in place, but did not
21 receive a response. He was not offered a hotel or motel room. He later spoke to Alpha Project,
22 explained his health condition, and was told the only option was the Convention Center or
23 Golden Hall. On June 2, 2020, Voelp submitted a written demand to the City
24 Attorney. Voelp demanded a hotel or motel room under Operation Shelter to Home, or in the
25 alternative, a request for reasonable modification. On June 3, 2020, Voelp sent a copy of the
26 demand to the City Office of ADA Compliance and Accessibility. Voelp did not receive a
27 response from the City.

28 22. Plaintiff PATRICK QUINONES (Quinones) is a 31-year-old living in a

1 motorhome with his fiancé and domestic partner, Voelp. Like Voelp, Quinones is a person with a
2 disability as defined in Government Code § 12926 and meets the definition of chronically
3 homeless as defined by HUD regulations. Quinones is a Medi-Cal and food stamp recipient. In
4 addition to looking after Voelp, Quinones manages his own disabilities – schizophrenia and
5 anxiety. The motorhome that Quinones and Voelp share is old (1978) and dysfunctional. They
6 are struggling to meet their needs in their motorhome. Because the police continue to enforce
7 against individuals living in their vehicles, they are at constant risk of losing their home. On July
8 14, 2020, the police took enforcement action, in the form of two vehicle citations and warning,
9 against Quinones.

10 23. When Quinones asked 211 San Diego for hotel or motel options, 211 explained
11 those options were reserved for people who tested positive for COVID-19. According to 211,
12 Quinones's only option is to move into the congregate shelter at the San Diego Convention
13 Center. Quinones also contacted the Regional Task Force on the Homeless and the City's
14 Homeless Outreach Team for hotel or motel options, and was referred back to 211 San Diego.
15 On June 2, 2020, Quinones submitted a written demand to the City Attorney. Quinones
16 demanded a hotel or motel room under Operation Shelter to Home, or in the alternative, a request
17 for reasonable modification. On June 3, 2020, Quinones sent a copy of the demand to the City
18 Office of ADA Compliance and Accessibility. Quinones did not receive a response from the
19 City.

20 24. Plaintiff KEITH REID (Reid) is a 58-year-old African American man living out
21 of his vehicle. Reid is a person with a disability as defined in Government Code §12926. Reid
22 has gout that attacks his feet and hinders his walking. Reid has heart conditions, high blood
23 pressure, and a sleeping disorder. His physical conditions put him at high risk for complications
24 and death from COVID-19 infection. The stress of living out of his vehicle exacerbates his
25 disability symptoms. He fears the vulnerable position of sleeping out in the open. In May 2020,
26 he sought a hotel or motel room from 211 San Diego and was told he must obtain a medical
27 evaluation or get tested for COVID-19. Reid was evaluated for COVID-19 only and not for his
28 high risk underlying medical condition. He also called Regional Task Force on the Homeless and

1 the City's Homeless Outreach Team for assistance in obtaining shelter and services. All three
2 agencies – 211, Regional Task Force on the Homeless, and the City's Homeless Outreach Team
3 – told him that his only option was the Convention Center, despite his disabilities. On June 2,
4 2020, Reid submitted a written demand to the City Attorney. Reid demanded a hotel or motel
5 room under Operation Shelter to Home, or in the alternative, a request for reasonable
6 modification. On June 3, 2020, Reid sent a copy of the demand to the City Office of ADA
7 Compliance and Accessibility. Reid did not receive a response from the City.

8 25. Plaintiff Food Not Bombs – San Diego (Food Not Bombs) is an association
9 dedicated to nonviolent direct action to assist individuals who experience food insecurities. Food
10 Not Bombs' mission is to share free vegan meals with the hungry as food is an essential need for
11 the wellbeing of individuals served. Food Not Bombs holds food sharing events at various
12 locations in the City of San Diego, including at parks in City Heights. The majority of the
13 individuals who participate in Food Not Bombs' food sharing events are unsheltered, unhoused
14 individuals with disabilities, including families with children. These constituents include
15 families, who are living in vehicles or tents. Food Not Bombs also provides hygiene materials,
16 clothing, and tents for unhoused individuals and unhoused families, and works to connect
17 individuals and families to appropriate service providers.

18 26. During the pandemic, Food Not Bombs has had to divert resources, including
19 volunteer time and money, to counteract the City's actions against unhoused individuals and the
20 failure of the City and County to provide shelter and services. Food Not Bombs constituents are
21 unhoused individuals, who are disproportionately people with disabilities and at high risk if
22 contracting COVID-19. The City has threatened unhoused individuals with arrest or removal to
23 the San Diego Convention Center resulting in the dispersal of unhoused individuals into canyons,
24 alleyways, and other more remote locations. Food Not Bombs learned many individuals are
25 unable to stay at the San Diego Convention Center, and the City's enforcement action increased
26 the needs of individuals and families the association serves. Food Not Bombs has had to spend
27 additional time and money preparing food that can be carried into these remote locations, and
28 expend additional time and effort to reach individuals and families in these locations.

1 27. Because unhoused individuals have not had access to public restroom facilities—
2 due to the City and County locking or rendering inaccessible at least some public restrooms
3 based on COVID-19 and protests—Food Not Bombs has had to divert volunteer time and money
4 to obtaining and delivering additional non-food items, like toilet paper and sanitizer to unhoused
5 individuals and families. Because of ongoing threats and harassment from law enforcement,
6 many unhoused individuals are fearful to move out of remote locations, and Food Not Bombs
7 has had to navigate difficult terrain, and spend time finding people. Food Not Bombs has
8 diverted time away from preparing and serving food to obtain masks for unhoused individuals to
9 allow them to enter places with restrooms, like stores and coffee shops. Food Not Bombs has a
10 beneficial interest in the City and County complying with state law and administering the
11 homeless programs, including Operation Shelter to Home, in a non-discriminatory manner.

12 28. Defendant CITY OF SAN DIEGO is now and, at all times mentioned in this
13 Complaint, a local government agency and subdivision of the State of California.

14 29. Defendant CITY OF SAN DIEGO, its employees and agents, participated
15 personally in the unlawful conduct challenged herein and, to the extent that they did not
16 personally participate, authorized, acquiesced, set in motion, or otherwise failed to take
17 necessary steps to prevent the acts that resulted in the unlawful conduct and the harm suffered by
18 Plaintiffs. The challenged acts caused the violation of Plaintiffs' rights.

19 30. Defendant COUNTY OF SAN DIEGO is now and, at all times mentioned in this
20 Complaint, a government agency and subdivision of the State of California.

21 31. Defendant COUNTY OF SAN DIEGO, its employees and agents, participated
22 personally in the unlawful conduct challenged herein and, to the extent that they did not
23 personally participate, authorized, acquiesced, set in motion, or otherwise failed to take
24 necessary steps to prevent the acts that resulted in the unlawful conduct and the harm suffered by
25 Plaintiffs. The challenged acts caused the violation of Plaintiffs' rights.

26 32. Plaintiffs are ignorant of the true names and capacities of the persons or entities
27 named herein as DOES 1-20, but are informed and believe, and on that basis allege, that each of
28 such defendants participated personally in the unlawful conduct challenged herein. Plaintiffs will

1 seek leave to amend this complaint when said defendants' true names and capacities have been
2 ascertained.

3 **FACTS**

4 **Homelessness and Disability**

5 33. San Diego's homelessness is the result of the lack of affordable housing. People
6 become unhoused because of poverty – they simply cannot afford to pay the high cost of rent.
7 The San Diego Housing Federation reports a shortfall of 135,749 homes affordable to low-
8 income San Diegans, with rents up 32% in the last decade.¹ The demand for affordable housing
9 units and housing subsidies far exceeds supply. The stock of affordable housing units is small
10 and has long waiting lists. Because the City has failed to implement affordable housing
11 preservation efforts, the stock will continue to shrink as units are lost in the coming years. The
12 demand for housing subsidies for use on the private housing market far exceeds supply. The
13 City's largest subsidy program, the Housing Choice Voucher (Section 8) program, helps more
14 than 35,000 people. The program has a 10- to 12-year waiting list, and there are over 60,000
15 persons on the waitlist.

16 34. In addition to causing homelessness, poverty links disability and homelessness.
17 People with disabilities are more than twice as likely to face poverty than people without
18 disabilities.² Many people with disabilities are unable to work due to their disabilities and must
19 rely on a rapidly shrinking social safety net to cover the cost of housing and other necessities.
20 The social safety net, including Supplemental Security Income and Social Security Disability
21 Insurance, of which many individuals with disabilities rely on as their only source of income,
22 have not kept pace with rising rents. This is especially true in a city like San Diego, which lacks
23 basic tenant protections such as rent control.

24 35. The lack of affordable housing has resulted in the ongoing rise of homelessness.
25

26 ¹ *The Affordable Housing Crisis in San Diego: How Do We Meet the Need?*, San Diego Housing
27 Federation (2017). Available online at: [http://docs.sandiego.gov/
councilcomm_agendas_attach/2017/sglu_170125_4c.pdf](http://docs.sandiego.gov/councilcomm_agendas_attach/2017/sglu_170125_4c.pdf).

28 ² W. Erickson, C. Lee, S. von Schrader, Disability Statistics from the American Community
Survey, Cornell University (2017). Available online at: www.disabilitystatistics.org.

1 The U.S. Department of Housing and Urban Development (HUD) defines “chronically
2 homeless” as an individual with a disability who has been homeless continuously for at least 12
3 months or on at least four separate occasions in the last three years. 24 C.F.R. § 91.5(1). A
4 person is homeless if he or she lacks a fixed, regular, and adequate nighttime residence. This
5 includes persons who use RVs or other vehicles for other than temporary living quarters for
6 recreational use. 42 U.S.C. § 11302(a); 24 C.F.R. § 3282.8(g).

7 36. In the City of San Diego, the prevalence of disabilities among those experiencing
8 homelessness is almost five times that of the general population. Within the City of San Diego,
9 9% of residents have disabilities.³ Of the unhoused population of San Diego, 39% reported
10 serious mental health disabilities, 43% reported chronic health conditions, and 40% reported a
11 physical disability.⁴ Some surveys have found even higher rates of disability. For example, of the
12 1,145 persons attending a one-day resource fair for the unhoused individuals in the City, 60.2%
13 reported a long-lasting medical condition and 49.5% reported having a mental illness.⁵

14 37. The applicable definition of chronic health condition is “a diagnosed condition
15 that is more than three (3) months in duration and is either not curable or has residual effects that
16 limit daily living and required adaptation in function or special assistance. Examples of chronic
17 health conditions include, but are not limited to: heart disease (including coronary heart disease,
18 angina, heart attack and any other kind of heart condition or disease); severe asthma; diabetes;
19 arthritis-related conditions (including arthritis, rheumatoid arthritis, gout, lupus, or
20

21 ³ *City of San Diego Fiscal Year 2020-2024 Consolidated Plan* at 13 (June 2019), City of San
22 Diego. Available online at: <https://www.sandiego.gov/sites/default/files/cosdfy2024conplan.pdf>.

23 ⁴ *2017 We All Count Annual Report* at 5, Regional Task Force on the Homeless. Available online
24 at: <https://www.rtfhsd.org/wp-content/uploads/2017/07/comp-report-final.pdf>. The methodology
25 for counting individuals experiencing homelessness in San Diego changed in 2019, which
26 artificially reduced the number of individuals counted. Moreover, individuals living in certain
vehicles were not counted at all in 2018. For these reasons, we believe that the 2017 data, which
is still generally considered an undercount of the actual homeless population, is the most
accurate data set available.

27 ⁵ See *Project Homeless Connect Report* (2015), San Diego Housing Commission. Available
28 online at: http://www.sdhc.org/uploadedFiles/Housing_Innovations/Project_Homeless_Connect/2015Project%20Homeless%20Connect%20Report_04.15.15.pdf.

1 fibromyalgia); adult onset cognitive impairments (including traumatic brain injury, post-
2 traumatic distress syndrome, dementia, and other cognitive related conditions); severe
3 headache/migraine; cancer; chronic bronchitis; liver condition; stroke; or emphysema.”⁶

4 38. On information and belief, the majority of unhoused people in San Diego who
5 reported a chronic health condition or long-lasting medical condition have a CDC-recognized
6 medical condition that place them at high risk of complications or death if infected with COVID-
7 19.

8 39. The CDC guidelines identified that continued homeless services during
9 community spread of COVID-19 is critical. The guidelines include that local governments
10 should put together a plan that provides non-congregate shelter for high risk unhoused
11 individuals alongside appropriate services, supplies, and staffing.⁷ The same plan should include
12 how individuals are connected to housing opportunities once their stay at the non-congregate
13 shelter is complete.

14 40. In following the CDC guidelines, the Federal Emergency Management Agency’s
15 (FEMA) Public Assistance Program entered into an agreement with the State of California to pay
16 for hotel and/or motel rooms as temporary non-congregate shelter where medical need is
17 indicated.

18 41. Because of their disabilities, many high risk unhoused individuals with disabilities
19 cannot access congregate shelters. Shelters are temporary, crowded, lack any semblance of
20 privacy, and aggravate mental health and/or physical conditions. They also pose a risk to those
21 with underlying health conditions and compromised immune systems, especially during the
22 COVID-19 pandemic. Placements in congregate shelters, including transitional shelters, also
23 result in re-traumatization for unhoused individuals with disabilities. Shelters are not meant for
24 long-term occupancy and perpetuate cycles of instability. Thus, unhoused individuals are forced
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26 ⁶ HUD HMIS (Homeless Management Information System) Data Standards. Available online at:
27 https://www.hudexchange.info/programs/hmis/hmis-data-standards/standards/HUD_CoC.htm.

28 ⁷ Interim Guidance on People Experiencing Unsheltered Homelessness, Centers for Disease
Control and Prevention. Available online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html#facility-layout>.

1 to move from shelter to shelter or between street and shelter, resulting in a constant upheaval that
2 aggravates their disabilities, re-traumatizes them, and deteriorates their physical and mental
3 health.

4 42. Being unhoused is dangerous, especially for women, seniors, and people with
5 disabilities. In the fiscal year ending September 30, 2017, 117 unhoused people died on San
6 Diego streets, double the figure from two years earlier. Adults who are unhoused and age 50 and
7 older have rates of chronic illness and geriatric conditions similar to or more than adults who are
8 age 65-70 and housed. The City and County's recent Hepatitis A epidemic highlights the public
9 health dangers, both to unhoused individuals and to others, associated with living on the streets
10 without access to affordable, accessible, and permanent housing or proper sanitation.

11 **Homelessness and Race**

12 43. In the City of San Diego, racial minorities, particularly African Americans,
13 experience homelessness at a higher rate than white individuals. Any policy or protocol that
14 adversely impacts unhoused individuals has a disproportionate adverse impact on racial
15 minorities, particularly African Americans.

16 44. Racial minorities are further disproportionately adversely impacted by COVID-
17 19. In San Diego County, the rate of infection for Latino or Hispanic individuals is four times the
18 rate of infection for white individuals.⁸ The rate of infection for Black or African American
19 individuals is almost twice the rate of infection for white individuals.⁹ The COVID-19 mortality
20 rate for Black individuals is 2.6 times higher than the rate for white individuals.¹⁰ As of April
21 22, 2020, the CDC reported on the disproportionate burden of COVID-19 illness and death
22 among racial and ethnic minorities, with recent data suggesting an "overrepresentation of blacks
23

24 ⁸ County of San Diego Daily 2019 Novel Coronavirus (COVID-19) Race/Ethnicity Summary
(June 5, 2020), County of San Diego. Available online at:

25 [https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/COVID-
19%20Race%20and%20Ethnicity%20Summary.pdf](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/COVID-19%20Race%20and%20Ethnicity%20Summary.pdf).

26 ⁹ *Id*

27 ¹⁰ *The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U.S.* (May 27,
2020), APM Research Lab. Available online at: [https://www.apmresearchlab.org/covid/deaths-
by-race#reporting](https://www.apmresearchlab.org/covid/deaths-by-race#reporting).

1 among hospitalized patients”, and “death rates among black/African American persons (92.3
2 deaths per 100,000 population) and Hispanic/Latino persons (74.3) that were substantially higher
3 than that of white (45.2) or Asian (34.5) persons.”¹¹

4 45. The City and County knows this disparity exists. The City’s 2019 Community
5 Action Plan on Homelessness states “Black/African American and American Indian/Alaskan
6 Natives are over-represented in San Diego’s unhoused population, with Black/African
7 Americans representing 6% of the general population in the City of San Diego, but 29% of the
8 Emergency Shelter population (2018 [Point in Time Count]).” The 2017 We All Count annual
9 report released by the Regional Task Force on the Homeless states: “Compared to the general
10 population of San Diego, a much higher population of the unsheltered homeless identified as
11 Black or African-American (21 percent compared to 5 percent).”

12 46. Based on United States Census Bureau American Community Survey data, the
13 City of San Diego is between 6 and 7% African American and between 60 and 70% white. The
14 City relied on data from the HUD-required “Point-In-Time” conducted and published by the San
15 Diego Regional Task Force on the Homeless. In that report, 21% of unsheltered unhoused
16 individuals in San Diego County are African American and 60% are white. Yet, African
17 Americans are three times as likely to be impacted by the City’s homeless programs, and policies
18 that impact unhoused individuals, as white individuals.

19 **The City and County’s COVID-19 Shelter Program Provided Pandemic Related**
20 **Care and Homeless Services and Programs**

21 47. The City and County are responsible for providing programs and services,
22 particularly shelter, to unhoused individuals and families in San Diego.

23 48. During COVID-19, the City and County created their COVID-19 Shelter Program
24 specifically to address COVID-19. This COVID-19 Shelter Program included both congregate
25 and non-congregate opportunities leased by the City and County. The shelter sites also included
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28 ¹¹ *Coronavirus Disease 2019 (COVID-19) Racial & Ethnic Minority Groups* (June 4, 2020),
CDC. Available online at: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>.

1 essential homeless services and programs to assist unhoused individuals during the pandemic,
2 and to provide linkage to services that would help with permanent housing placement.

3 49. The City and County contracted with City agencies and outside entities,
4 including San Diego Housing Commission and the Regional Task Force on the Homeless, to
5 manage and administer the COVID-19 Shelter Program in addition to other homeless programs.
6 For example, before COVID-19, through contracts with the City, San Diego Housing
7 Commission operated the City's four emergency shelters and three bridge shelters that provided
8 1,297 beds on a nightly basis.

9 50. The County of San Diego provides homeless services through a variety of its
10 programs, including Public Health Services, Project One For All, the Continuum of Care, and the
11 Emergency Solutions Grant program. Public Health Services works to prevent epidemics and the
12 spread of disease, assist communities in recovery and assure quality and accessibility of health
13 services throughout the County. Project One for All provides intensive wraparound services,
14 including mental health counseling and housing, to unhoused individuals with serious mental
15 illness. The Continuum of Care, run by Regional Task Force on the Homeless and made up of
16 representatives of the County and other partners, works to end homelessness, address the
17 underlying causes of homelessness and lessen the negative impact of homelessness on
18 individuals and the community.

19 51. As stated in the City's 2019 Community Action Plan on Homelessness, the
20 City drives housing policy for the region:¹²

21 The City of San Diego is a geographic subset of a larger regional Continuum of Care
22 (CoC), which includes 18 jurisdictions within the County of San Diego. While the City of
23 San Diego contains 46% of the total population of the County, it contains the majority of
24 people experiencing homelessness (63%) as well as the majority of the resources. In
25 many ways, the City of San Diego drives homeless policy, funding and outcomes for the
26 region because of the large share of programs, resources and people located within the
27 City limits. Although the Continuum of Care controls systems like Homeless
28 Management Information System (HMIS) and Coordinated Entry (CES) that underpin the

¹² *City of San Diego Community Action Plan on Homelessness* at 15 (2019), San Diego Housing Commission. Available online at: https://www.sdhc.org/wpcontent/uploads/2019/10/SD_Homeless_CSH_report_final_10-2019.pdf.

1 region's approach, when the City takes action and makes positive change it will impact
2 not just the City itself but the region.

3 52. The City's fiscal year 2020 budget for homeless programs exceeded
4 \$116 million.¹³ The City's funding includes federal, state, and local sources. The City touted its
5 2020 budget for homeless programs as including increased funding for homelessness
6 coordination staff, rapid rehousing efforts, safe parking, storage facilities, and the creation of a
7 flexible funding pool for housing solutions.¹⁴

8 53. Through its Homeless programs, the City administers millions in funding from
9 HUD's Continuum of Care, a program designed to end homelessness by quickly rehousing
10 unhoused individuals and families while minimizing trauma and dislocation.

11 54. The City identified the goals of the homeless programs to: (1) "[a]ssist individuals
12 and families to gain stable housing after experiencing homelessness or a housing crisis by
13 providing appropriate housing and service solutions grounded in best practices"; (2) identify
14 health care and mental health resources as vital services for homeless families to achieve
15 stability; and, (3) include as homelessness programs and services – shelters, transitional housing,
16 permanent supportive housing options, outreach and engagement, housing location assistance,
17 medical services, substance abuse recovery, mental health care, veteran services, and storage.¹⁵

18 55. A portion of the City's Community Development Block Grants (CDBG) funds are
19 allocated to the Housing Navigation Center that the City launched in December 2019.

20 56. The City designated its Emergency Solutions Grant funds to unhoused shelter and
21 service programs, including an integrated program to serve unhoused by providing
22 "[v]irtually every resource an individual would need to break the cycle of homelessness,"
23 including individual assessments, primary health care, and permanent supportive housing.
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26 ¹³ *City of San Diego Fiscal Year 2020-2024 Consolidated Plan* (June 2019), City of San Diego.
Available online at: <https://www.sandiego.gov/sites/default/files/cosdfy2024conplan.pdf>.

27 ¹⁴ Adopted Budget Fiscal Year 2020 (March 2019), City of San Diego. Available online at:
28 https://www.sandiego.gov/sites/default/files/fy20ab_full.pdf.

¹⁵ *City of San Diego Fiscal Year 2020-2024 Consolidated Plan* (June 2019), City of San Diego.
Available online at: <https://www.sandiego.gov/sites/default/files/cosdfy2024conplan.pdf>.

1 57. In addition to federal funding, the City and County’s Continuum of Care (headed
2 by the Regional Task Force on the Homeless) and the City are recipients of state Homeless
3 Emergency Aid Program (HEAP) funds for homeless programs to connect unhoused individuals
4 to services through the jurisdiction’s Continuum of Care program. The state awarded them a total
5 of \$32,932,066.43. This HEAP funding required a crisis shelter declaration and included street
6 outreach, health and safety education, improvements to emergency shelters, and improvements to
7 current structures that serve unhoused individuals and families. Since July 2019, the City has
8 also received \$22.5 million in state Homeless Housing, Assistant, and Prevention Program
9 (HHAP) funds and the state notified recipients that these funds could be used to address needs
10 created by the COVID-19 outbreak.¹⁶

11 58. The City and County’s COVID-19 Shelter Program utilized emergency funds in
12 addition to the existing homeless programs and services from both government entities, and the
13 City and County created a comprehensive plan for pandemic care and linkage intervention for
14 the long term care and needs of unhoused individuals who reside in the City and County.

15 **Regional Task Force on the Homeless and San Diego Housing Commission**

16 59. The Regional Task Force on the Homeless is the San Diego region’s Continuum
17 of Care, which is responsible for coordinating housing activities and policies within the 18
18 jurisdictions in the region, acting as the lead agency in applying for and administering federal
19 housing funding, administering the Homeless Management Information System and the
20 Coordinated Entry System, and conducting the point-in-time count. The City and County play
21 key leading roles within the Regional Task Force on the Homeless. A City Councilmember
22 serves as its Governance Board chair.¹⁷ A member of the County Board of Supervisors serves as
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24

25 ¹⁶ *County to fund more hotel rooms, storage for homeless*, San Diego Union-Tribune (May 19,
26 2020). Available online at:

27 [https://www.sandiegouniontribune.com/news/homelessness/story/2020-05-19/county-to-fund-](https://www.sandiegouniontribune.com/news/homelessness/story/2020-05-19/county-to-fund-more-hotel-rooms-storage-for-homeless?fbclid=IwAR0f%E2%80%A6)
28 [more-hotel-rooms-storage-for-homeless?fbclid=IwAR0f%E2%80%A6](https://www.sandiegouniontribune.com/news/homelessness/story/2020-05-19/county-to-fund-more-hotel-rooms-storage-for-homeless?fbclid=IwAR0f%E2%80%A6).

¹⁷ *City of San Diego Fiscal Year 2020-2024 Consolidated Plan* at 13 (June 2019), City of San
Diego. Available online at: <https://www.sandiego.gov/sites/default/files/cosdfy2024conplan.pdf>.

1 vice-chair¹⁸ on the Board of Directors, which decides on the overall strategic planning and
2 involvement of the Regional Task Force on the Homeless.

3 60. The San Diego Housing Commission is a City agency that works at the direction
4 of the City to administer contracts with homeless service providers funded by the City. There are
5 approximately 45 contracts, including the three bridge shelter contracts with the San Diego
6 Housing Commission is a City agency that works at the direction of the City to administer
7 contracts with homeless service providers funded by the City. There are approximately 45
8 contracts, including the three bridge shelter contracts with Alpha Project, Veterans Village of
9 San Diego, and Father Joe's Village working out of the Convention Center during times relevant
10 to this complaint, as well as PATH (People Assisting the Homeless) Interim Shelter and Father
11 Joe Village's Paul Mirabel Center Interim Shelter. San Diego Housing Commission is
12 responsible for ensuring the most recent information on resources, including current shelter
13 options, are being provided to all its homeless service provider contractors who in turn share
14 these choices with people who are unhoused, including people who are unsheltered.

15 **City and County's Record of Mishandling Infectious Disease Among Unhoused**
16 **Individuals**

17 61. In 2017, the City and County witnessed the devastation a public health outbreak
18 can wreak on a unhoused population. Of the 589 Hepatitis A outbreak-associated cases reported,
19 49% occurred among people experiencing homelessness, who were at higher risk for infection
20 than housed individuals.¹⁹ The outbreak resulted in at least twenty deaths in San Diego. The City
21 and County's failure to provide adequate resources, including housing and sanitation services, to
22 its growing unhoused population was both the cause of the City's 2017 Hepatitis A epidemic and
23 the reason why the epidemic became a national crisis.

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26 ¹⁸ *Board of Directors*, Regional Task Force on the Homeless. Available online at:
<https://www.rtfhsd.org/who-we-are/board-of-directors/>.

27 ¹⁹ Wooten, Darcy A., *Forgotten but Not Gone: Learning From the Hepatitis A Outbreak and*
28 *Public Health Response in San Diego, Topics in antiviral medicine* (2019),
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6372360/pdf/tam-26-117.pdf>.

62. Cases genetically and epidemiologically linked to the San Diego strain included 76 in Santa Cruz, 12 in Los Angeles, 12 in Monterey, and 17 in other areas in California. Linked cases were also identified in Arizona, Colorado, Kentucky, Indiana, Rhode Island, West Virginia, and Utah.²⁰

63. Because of the lack of preventative measures, the outbreak cost the region millions of dollars.²¹ After the fact, the County of San Diego cast the outbreak as “exceptional in scale and transmission characteristics”.²² The County stated in its After Action Report:

Contracting HAV is not usually life-threatening and the great majority of those infected with the virus fully recover. However, those affected in the San Diego HAV outbreak had high rates of hospitalization and death due to age and the presence of underlying health conditions, particularly chronic liver disease.

...

This report addresses actions taken during the HAV outbreak and does not directly relate to the broader issues of homelessness or illegal drug use or poverty; however, those issues have consequences beyond the obvious impact of affected individuals, families and the larger community, as witnessed by this HAV event.²³

64. Homelessness in and of itself posed the risk of a Hepatitis A outbreak and continues to pose a risk of other infectious diseases.²⁴ This is especially the case for infectious diseases like Hepatitis A when there is a lack of a sufficient number of public toilets for unhoused people to use. The San Diego Region’s response to the Hepatitis A outbreak was a public health strategy of vaccination, sanitation, and education and temporary shelters (three industrial tents costing \$6.5 million). Since the Hepatitis A outbreak, the City and County has failed to take steps to provide adequate housing, an adequate number of restroom facilities with functional water taps, and hygiene materials including soap and bath tissue for those on the

²⁰ *Id.*

²¹ *Hepatitis A Outbreak After Action Report* at 6 (May 2018), County of San Diego. Available online at: <https://www.sandiegocounty.gov/content/dam/sdc/cosd/SanDiegoHepatitisAOutbreak-2017-18-AfterActionReport.pdf>.

²² *Id.*

²³ *Id.*

²⁴ Wooten, *supra* at note 18.

1 streets.

2 65. While vaccinations and a public health response was the most important strategy
3 to stop the outbreak, homelessness was the “root cause of the outbreak”:²⁵

4 Homelessness and its association with poor sanitation constituted a root cause of the
5 outbreak. Homelessness was also associated with many challenges in trying to stop the
6 outbreak that differ markedly from those encountered in food-borne outbreaks. Although
7 measures to address homelessness were employed in combating the outbreak (eg, the
8 temporary housing with industrial tents), it is clear that much more needs to be done in
9 addressing the homelessness crisis in San Diego and in many areas throughout the United
10 States. Homelessness and associated poor sanitation threaten to make outbreaks of HAV
and other infectious illnesses more common in the future. Attention to this threat and the
political will to address the crisis need to be heightened if we are to make any substantial
progress in preventing such outbreaks.²⁶

11 66. Before the City’s Hepatitis A outbreak, the CDC and the World Health
12 Organization did not recognize homelessness as an independent risk for the disease.²⁷ However,
13 after the San Diego Region’s outbreak was studied, the Advisory Committee on Immunization
14 Practices voted to recommend adding homelessness as an indication for Hepatitis A
15 vaccination.²⁸

16 67. Researchers identified the high number of homeless individuals as possibly
17 contributing to the size and severity of the outbreak.²⁹ The number of individuals dying from
18 Hepatitis A (the case-fatality ratio) was higher than historical outbreaks which was thought
19 possibly due to the population infected, disproportionately unhoused individuals, being older
20 than the general population.

21 [People experiencing homelessness], especially those who are unsheltered, may
22 be at increased risk of HAV infection because of high population density and

23 ²⁵ *Id*

24 ²⁶ *Id.*

25 ²⁷ Corey M Peak, Sarah S Stous, Jessica M Healy, Megan G Hofmeister, Yulin Lin, Sumathi
26 Ramachandran, Monique A Foster, Annie Kao, Eric C McDonald, Homelessness and Hepatitis
27 A—San Diego County, 2016–2018, Clinical Infectious Diseases (August 2019),
<https://doi.org/10.1093/cid/ciz788>.

28 ²⁸ *Id.*

²⁹ *Id*

1 inadequate facilities for sanitation and hygiene and at increased risk of severe
2 outcomes because of a high prevalence of associated comorbidities, malnutrition,
and alcohol-related liver disease.³⁰

3 68. During the outbreak, unhoused individuals were at 3.3 times higher odds of
4 infection, 2.5 times higher odds of hospitalization, and 3.9 times higher odds of death associated
5 with hepatitis A.

6 69. Just as homelessness was a risk factor for Hepatitis A, homelessness is a risk
7 factor for COVID-19 (as discussed below). This City and County's response to COVID-19 is
8 reminiscent of its actions and omissions during the Hepatitis A outbreak. And just like Hepatitis
9 A, unhoused individuals have a higher likelihood of contracting, transmitting, and dying from
10 COVID-19 than the general population.

11 **State and CDC Guidance for Assisting Unhoused During COVID-19**

12 70. The state and federal government each released COVID-19 guidance for local
13 authorities to prevent and mitigate the spread of COVID-19 among unhoused individuals.

14 71. The State of California set forth its recommendations in its "Recommended
15 Strategic Approaches for COVID-19 Response for Individuals Experiencing Homelessness." The
16 Centers for Disease Control and Prevention (CDC) set forth its recommendations in its "People
17 Experiencing Homelessness and COVID-19 Interim Guidance." Both the State of California and
18 the CDC prioritize infection protection.

19 72. As set forth by the State of California guidance, authorities were to focus on
20 infection prevention efforts, with the primary strategy being the provision of non-congregate
21 housing: "The primary strategy for intensive infection prevention efforts is providing single
22 occupancy housing."³¹

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³⁰ *Id.*

26 ³¹ State of California Recommended Strategic Approaches for COVID-19 Response for
27 Individuals Experiencing Homelessness (March 2020), State of California. Available online at:
28 <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Protocols-Homeless-Pop.pdf>.

73. As demonstrated in the flow chart below,³² the State of California recommended that low-risk individuals experiencing homelessness: (a) remain in current status (either sheltered or unsheltered) or (b) move into motels, hotels, or trailers where they will not be forced to congregate. The State recommended that high risk individuals experiencing homelessness either (a) move into motels, hotels, or trailers where they will not be forced to congregate, or (b) move into an alternative care center, if they need help performing activities of daily living.

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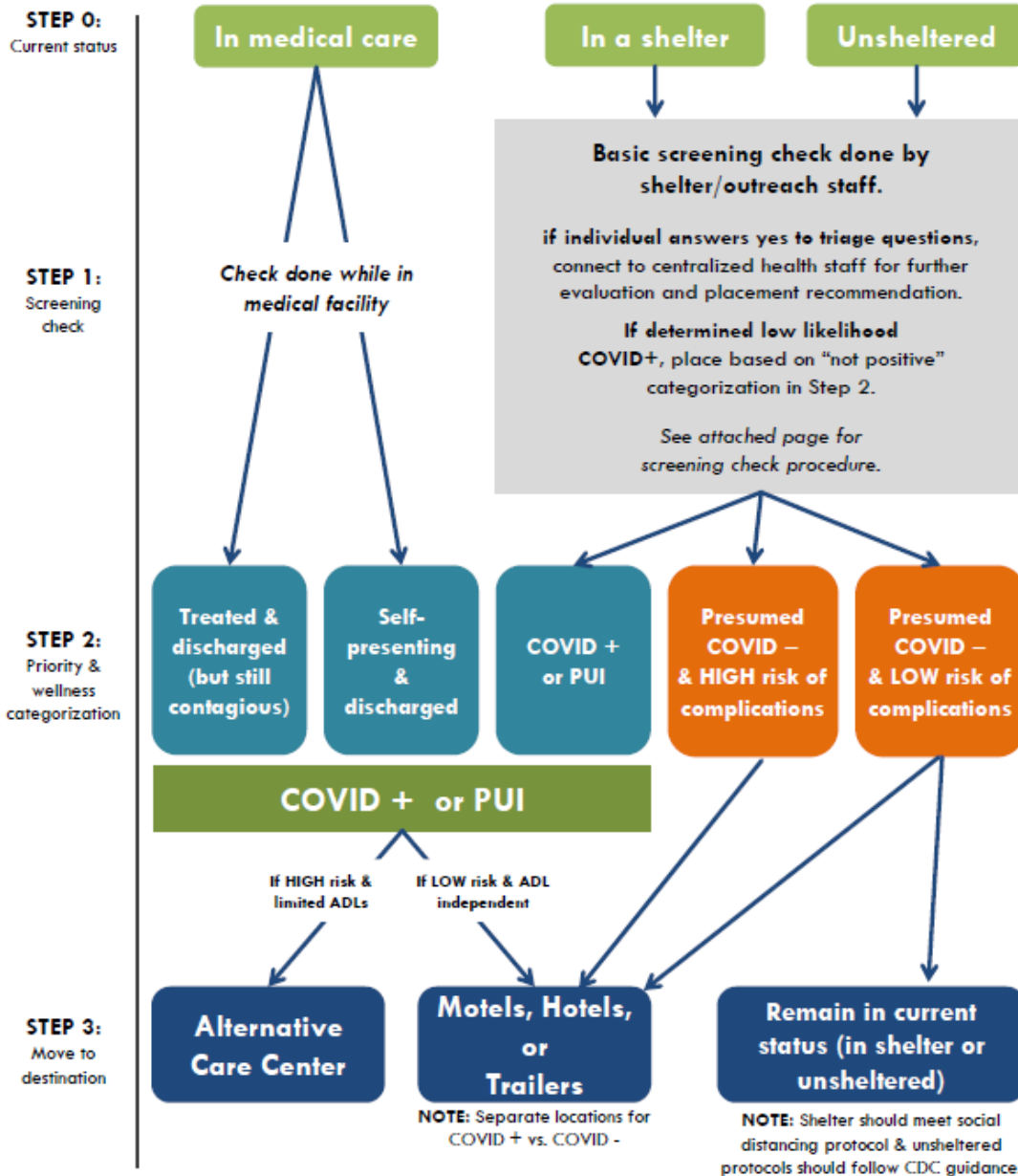
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³² State of California COVID-19 Recommended Protocol for People Experiencing Homelessness, State of California. Available online at: <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/flowchart-COVID19-homelessness.pdf>.

State of California COVID-19 Recommended Protocol for People Experiencing Homelessness



Developed in partnership with Margot Kushel, MD and the UCSF Benioff Homelessness and Housing Initiative

74. The State defined individuals at high risk of medical complications as individuals “with high risk of POOR OUTCOMES if they were to become COVID +. Specific populations include individuals who are 60 years of age or older and people of any age with preexisting lung

disease, heart disease, cancer, diabetes, HIV, or other major medical conditions (if further health screening is possible).”³³

75. The State set forth recommendations for coordinated system decision-making processes. The recommendations state:³⁴

Potential Pathways for Coordinated System Decision-maker

1. Client is given option of staying where they are or of entering an appropriate shelter environment, if available (presumed COVID-19 negative, and not at high risk of medical complications)
2. Client is at high risk of medical complications, is assessed and is likely COVID-19 negative → transport to a hotel/motel/trailer for population at high risk of medical complications.
3. Client considered a PUI → client should be given a mask, separated from the general population, and transported to a quarantine hotel/motel/trailer, or alternative care center if necessary.

76. In its guidance, the CDC sets forth key actions for local entities, including health departments, homeless service systems, housing authorities, and homeless outreach services, to take “to protect people experiencing homelessness from the spread of COVID-19.”³⁵ Acknowledging the unhoused individuals’ risk of COVID-19 infection from community spread, the CDC guidance stated:

In the context of COVID-19, the risks associated with sleeping outdoors in an encampment setting are different than with staying indoors in a congregate setting such as an emergency shelter or other congregate living facility. Outdoor settings may allow people to increase distance between themselves and others. However, sleeping outdoors does not provide protection from the environment, quick access to hygiene and sanitation facilities, or connection to healthcare. The balance of risks should be considered for each

³³ State of California Recommended Strategic Approaches for COVID-19 Response for Individuals Experiencing Homelessness (March 2020), State of California. Available online at: <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Protocols-Homeless-Pop.pdf>.

³⁴ *Id*

³⁵ Interim Guidance for Responding to Coronavirus Disease 2019 (COVID-19) Among People Experiencing Unsheltered Homelessness, CDC. Available online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>.

individual experiencing unsheltered homelessness.

77. The CDC guidance emphasized the need to clearly communicate plans to partners and stakeholders, including law enforcement and unhoused individuals:³⁶

Law enforcement should be apprised of plans related to protecting people experiencing unsheltered homelessness from COVID-19 in order to best work in coordination with homelessness service systems and state and local health departments.

People experiencing homelessness themselves are an important resource to help navigate their communities and keep their friends and family members safe. Consider developing an advisory board with representation from people experiencing homelessness to ensure plans are implementable in the community.

78. The CDC guidance set forth prevention measures for encampments as summarized above. The State of California repeated this guidance verbatim in its “Recommended Strategic Approaches for COVID-19 Response for Individuals Experiencing Homelessness,” summarized above. The CDC also set forth prevention measures for communications which include providing unhoused individuals with “the most recent information about COVID-19 spread in their area” and “[a]dvice to avoid crowded areas if COVID-19 is circulating in their community.”

79. The CDC states: “Some people who are experiencing unsheltered homelessness may be at higher risk of severe illness from COVID-19 due to older age or certain underlying medical conditions, such as chronic lung disease or serious heart conditions. Reach out to these clients regularly to ensure they are linked to care as necessary. Prioritize providing individual rooms for these clients, where available.”³⁷ The guidance links to CDC’s definition of people who are at higher risk for severe illness from COVID-19, which incorporates “[p]eople of all ages with underlying medical conditions, particularly if not well controlled, including:³⁸

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³⁶ *Id.*

³⁷ *Id.*

³⁸ Coronavirus Disease 2019 (COVID-19) At Risk for Severe Illness (May 14, 2020), CDC. Available online at: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>.

- People with chronic lung disease or moderate to severe asthma
- People who have serious heart conditions
- People who are immunocompromised
 - Many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications
- People with severe obesity (body mass index [BMI] of 40 or higher)
- People with diabetes
- People with chronic kidney disease undergoing dialysis
- People with liver disease”

80. The CDC explains why people who live in a nursing home or long-term care facility are at higher risk of COVID-19: “The communal nature of nursing homes and long-term care facilities, and the population served (generally older adults often with underlying medical conditions), put those living in nursing homes at higher risk of infection and severe illness from COVID-19.”³⁹

81. Upon information and belief, the City and County have not followed CDC guidance for individuals experiencing homelessness, including for those who live in encampments. The City has enforced City ordinances against individuals living in encampments, and has either forced them to move into the 1,500-person San Diego Convention Center or dispersed them from their encamped location. Upon information and belief, the County has not provided access points to any of its non-congregate shelter and services for the high risk if contracting COVID-19 category.

COVID-19 Reports on Assisting Unhoused During COVID-19

82. Recent reports from the CDC and UC Berkeley School of Public Health illustrate the threat homeless shelters pose to not only unhoused individuals, especially people with disabilities with medical conditions that leave them more vulnerable to the virus, but to entire communities’ efforts to prevent rapid community spread. Congregate settings, even those that comply with CDC guidelines, pose significant risks of rapid transmission for unhoused individuals and staff. Even in shelters designed to meet CDC guidelines, unhoused individuals

³⁹ *Id.*

1 test positive for COVID-19.

2 83. People experiencing homelessness frequently have disabilities that cause them to
3 have a higher vulnerability to COVID-19, and evidence-based recommendations stressed the
4 importance of providing non-congregate settings for those who are not infected or sick: ⁴⁰

5 **Most people who are not infected or sick should be offered a hotel or single-**
6 **occupancy unit with a private bathroom** so that they can shelter in place in the same
7 way the general population has been instructed. This will minimize their exposure to
8 people who are infected, decrease their likelihood of being infected if exposed through
9 individual access to hygiene, and increase the speed with which they are referred to care
10 if they fall ill. These individuals should be provided face masks to wear if they leave their
11 room. However, we have made more detailed recommendations for individuals by
12 subgroup. (Emphasis in original.)

13 84. UC Berkeley School of Public Health provides evidence-based housing guidelines
14 for demographic groups, urging the placement of all unhoused individuals in non-congregate
15 settings and explicitly stating that providing shelter to the non-medically vulnerable should not
16 be conditional on sheltering those who are vulnerable.⁴¹

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27 ⁴⁰ *For the Good of Us All: Addressing the Needs of Our Unhoused Neighbors During the*
28 *COVID-19 Pandemic* at 37 (April 2020), UC Berkeley School of Public Health,
<https://publichealth.berkeley.edu/wp-content/uploads/2020/04/For-the-Good-of-Us-All-Report.pdf>.

⁴¹ *Id.* at 38.

TABLE III-1 | RECOMMENDATIONS BY INFECTION STATUS

	OVERALL RECOMMENDATIONS	ADDITIONAL CONSIDERATIONS
THOSE NOT INFECTED OR SICK	Shelter in place in hotel rooms or similar single-occupancy units with private bathrooms, preferably in a separate hotel from those who have been exposed or are showing symptoms.* Individuals should wear face masks if they leave their room. Specific recommendations apply to demographic subgroups as outlined.	Individuals who choose to stay in tents or cars should receive basic needs, masks, and outreach so they can shelter safely.
THOSE EXPOSED TO PEOPLE WHO ARE INFECTED	Quarantine in hotel rooms or similar single-occupancy units with private bathrooms, preferably in a separate hotel from other groups.* Individuals should wear face masks if they leave their room.	
THOSE WHO ARE SYMPTOMATIC AND PRESUMED INFECTED	Isolation in hotel rooms or similar single-occupancy units with private bathrooms, preferably in a separate hotel from other groups, or transfer to a hospital if necessary.* Individuals should wear face masks if they leave their room.	
THOSE WHO ARE KNOWN CASES	Isolation in a field hospital or COVID-19 ward where they can be monitored for symptoms and receive on-site care.	
THOSE WHO HAVE RECOVERED	Shelter in place in their current housing while having access to supports and resources for meeting basic needs.	Individuals can presumably live safely in congregate settings, but this recommendation may need to be revisited as new research arises.

* The hotels and single-occupancy units should also provide for basic needs, including three meals per a day delivered to each room, daily temperature checks and symptom screening, and ongoing supportive services.

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1 85. The Berkeley report states that “it is likely that a significant percentage of the
2 homeless population is already infected and that the number of cases among [people
3 experiencing homelessness] will continue to soar.”⁴² Homeless individuals are more likely than
4 the general population to fall into one of the medically vulnerable categories which render them
5 more likely to have poor outcomes.⁴³ Data and models on COVID-19 illustrate that homeless
6 people are not only more likely to become infected, but to require hospitalization (two to three
7 times more likely), to require ICU care (two to four times more likely), and to die (twice as
8 likely).⁴⁴

9 86. Unlike the general population, unhoused individuals, including those in
10 congregate living settings like homeless shelters, cannot comply with the CDC
11 recommendations: ⁴⁵

12 Unhoused individuals living in congregate settings, encampments, and on the streets do
13 not have the option to follow these recommendations. Rapid measures need to be taken to
14 isolate unhoused individuals who are uninfected or asymptomatic, quarantine and
15 monitor large numbers of individuals with minor or early symptoms to prevent severe
16 illness, and hospitalize those in need of immediate medical attention. For most [people
17 experiencing homelessness], the implementation of this plan will require for most the
provision of single-occupancy units with private bathrooms, in hotels or dormitories, with
basic needs and with basic needs and appropriate staffing and harm reduction strategies.

18 87. The reports stress how ensuring unhoused individuals are protected from COVID-
19 19 is vital to the long-term effectiveness of shelter in place orders. If unhoused individuals are
20 not protected, it “could become a reservoir for the virus that would enable the virus to spread
21 amongst the entire population after the shelter-in-place order has concluded, which has been
22 previously demonstrated with bacterial infections in unhoused communities.”⁴⁶

23 88. The Berkeley report emphasizes how even homeless shelters that comply with
24

25 ⁴² *Id.* at 9.

26 ⁴³ *Id.* at 18.

27 ⁴⁴ *Id.* at 19.

28 ⁴⁵ *Id.* at 10.

⁴⁶ *Id.* at 14.

1 CDC guidelines present serious COVID-19 transmission risks.⁴⁷ The report references San
2 Diego's shelter.⁴⁸

3 89. A CDC report released April 22, 2020, provided an assessment of COVID-19
4 infection prevalence in homeless shelters in March and April 2020. The report, which analyzed
5 testing results for residents and staff members of 19 homeless shelters in Seattle, Atlanta, San
6 Francisco, and Boston, illustrated how dangerous the virus is for residents in homeless shelters,
7 with infection identified even among shelters where no cases had been reported.⁴⁹

8 When testing followed identification of a cluster, high proportions of residents and staff
9 members had positive test results for SARS-CoV-2 in Seattle (17% of residents; 17% of
10 staff members), Boston (36%; 30%), and San Francisco (66%; 16%). Testing in Seattle
11 shelters where only one previous case had been identified in each shelter found a low
12 prevalence of infection (5% of residents; 1% of staff members). Among shelters in
Atlanta where no cases had been reported, a low prevalence of infection was also
identified (4% of residents; 2% of staff members).

13 ...

14 Homelessness poses multiple challenges that can exacerbate and amplify the spread of
15 COVID-19. Homeless shelters are often crowded, making social distancing difficult.
16 Many persons experiencing homelessness are older or have underlying medical
conditions, placing them at higher risk for severe COVID-19-associated illness.

17 90. Another CDC report, released April 22, 2020, assessed COVID-19 spread in
18 Seattle homeless shelters.⁵⁰ First addressing what is already known about the topic, the report
19 stated: "COVID-19 can spread rapidly within and between congregate housing facilities, such as
20 homeless shelters. COVID-19 in homeless shelters, however, has not been well described." The
21 report identified conditions that might have contributed to COVID-19 transmission in homeless
22 shelters. These conditions included "crowding and use of congregate sleeping arrangements" and

23 _____
24 ⁴⁷ *Id.* at 20.

25 ⁴⁸ *Id.*

26 ⁴⁹ Mosites E, Parker EM, Clarke KE, et al. Assessment of SARS-CoV-2 Infection Prevalence in
Homeless Shelters — Four U.S. Cities, March 27–April 15, 2020, Morbidity and Mortality
Weekly Report (April 22, 2020), <http://dx.doi.org/10.15585/mmwr.mm6917e1>.

27 ⁵⁰ Tobolowsky FA, Gonzales E, Self JL, et al. *COVID-19* Outbreak Among Three Affiliated
Homeless Service Sites — King County, Washington, 2020, Morbidity and Mortality Weekly
28 Report (April 22, 2020), <http://dx.doi.org/10.15585/mmwr.mm6917e2>.

“possible asymptomatic transmission.”

Increased COVID-19 Exposure in Congregate Settings: Homeless Shelters

91. In early April, a COVID-19 outbreak at a homeless shelter in San Francisco endangered the lives of residents and shelter staff. Over 100 people, 95 homeless individuals and 10 staff members, tested positive for the coronavirus.⁵¹ The infection rate was rapid among the 141 residents with five positive cases, followed two days later by 70 positive cases, followed five days later with 92 positive resident cases.⁵² 56 percent of the 181 tested guests and staff were positive.⁵³ San Francisco scrapped the plans it had in place to turn part of its convention center into a shelter with nearly 400 beds for homeless people.⁵⁴

92. In March 2020, COVID-19 rapidly spread throughout a homeless shelter in Boston with 147 of the 408 homeless individuals testing positive for COVID-19:⁵⁵

Universal testing of an adult homeless shelter population in Boston shortly after the identification of a COVID-19 case cluster yielded an alarming 36% positivity rate. The vast majority of newly identified cases had no symptoms and no fever on a single point-in-time assessment. Our findings illustrate the rapidity with which COVID-19 can be widely transmitted within a homeless shelter setting, even when infection control vigilance is high. Although recommended by the Centers for Disease Control and Prevention and widely implemented in Boston and elsewhere, front-door symptom screening in homeless shelter settings will likely miss a substantial number of COVID-19 cases in this high-risk population.

...
The circumstances of homelessness create the potential for rapid transmission of SARS-CoV-2 in this vulnerable population.... COVID-positive individuals were more likely to be male ($p < 0.001$) but did not differ significantly from COVID-negative individuals with

⁵¹ *Advocates furious after outbreak at San Francisco shelter*, San Diego Union-Tribune (April 10, 2020). Available online at: <https://www.sandiegouniontribune.com/news/california/story/2020-04-10/advocates-furious-after-outbreak-at-san-francisco-shelter>; *A look inside site of San Francisco's largest coronavirus outbreak*, ABC 7 News (April 22, 2020). Available online at: <https://abc7news.com/bay-area-coronavirus-update-california-shelter-in-place-lockdown/6123826/>

⁵² UC Berkeley School of Public Health, *supra* note 39, at 19.

⁵³ *Id.*

⁵⁴ *Advocates furious after outbreak at San Francisco shelter*, *supra* note 50.

⁵⁵ Travis P. Baggett, Harrison Keyes, Nora Sporn, Jessie M. Gaeta, COVID-19 outbreak at a large homeless shelter in Boston: Implications for universal testing, medRxiv (April 12, 2020), <https://doi.org/10.1101/2020.04.12.20059618>.

1 respect to other demographic and clinical characteristics. Cough (7.5%), shortness of
2 breath (1.4%), and fever (0.7%) were all uncommon among COVID-positive individuals.
3 Our findings illustrate the rapidity with which COVID-19 can be widely transmitted in a
4 homeless shelter setting and suggest that universal PCR testing, rather than a symptom
5 triggered approach, may be a better strategy for identifying and mitigating COVID-19
6 among people experiencing homelessness.⁵⁶

7 93. Since the outbreak in Boston, local authorities have made a concerted effort to
8 distance people and have transported all those who tested negative at the shelter with the
9 outbreak to local university dorms to prevent further exposure.⁵⁷

10 94. In New York City, where nearly all unhoused individuals are sheltered due to the
11 state's right to shelter, 537 unhoused individuals tested positive for COVID-19 and 33 had died
12 as of April 16.⁵⁸ The hospitalization rates for unhoused individuals with COVID-19 were
13 between 30 and 40 percent.⁵⁹

14 95. At all times relevant to this complaint, the City knew of the outbreaks in homeless
15 shelters in San Francisco, Boston, and New York City.

16 96. Based on information and belief, the City and County were forced to address
17 COVID-19 outbreaks at its congregate shelters.

18 **Increased COVID-19 Exposure in Congregate Settings: Nursing Homes**

19 97. According to a CDC report released April 22, 2020, "[h]omeless service sites are
20 densely populated environments, similar to long-term care facilities, which can amplify
21 infectious disease outbreaks, including COVID-19."⁶⁰

22 98. The California Department of Public Health released data on COVID-19
23 infections in a skilled nursing facility.⁶¹ As of April 17, 2020, 258 of the 1224 skilled nursing

24 ⁵⁶ *Id.*

25 ⁵⁷ 'We need to fix it quickly.' *Asymptomatic coronavirus cases at Boston homeless shelter raise*
26 *red flag*, CNN (April 17, 2020). Available online at:

27 <https://www.cnn.com/2020/04/17/us/boston-homeless-coronavirus-outbreak/index.html>.

28 ⁵⁸ UC Berkeley School of Public Health, *supra* note 39, at 18.

⁵⁹ *Id.*

⁶⁰ Travis, *supra* note 54.

⁶¹ California Department of Public Health Skilled Nursing Facilities: COVID-19, California
Department of Public Health. Available online at:

https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/SNFsCOVID_19.aspx.

1 facilities reported having one or more COVID-19 case by either a resident or a health care
2 worker. Those who tested positive included 1290 staff and 1740 residents. Of the eleven San
3 Diego based nursing facilities that had reported, each reported COVID-19 positive staff,
4 residents, or both.

5 99. The skilled nursing facility data understates the extent to which COVID-19 has
6 spread through these congregate living settings. As of April 19, 2020, roughly 10% of the state's
7 close to 32,000 confirmed cases were found among staff and patients at care centers for the
8 elderly. The data released by the California Department of Public Health included only 86% of
9 the state's skilled nursing facilities and does not show the number of residents who have died
10 from COVID-19.⁶² In late April and May, the number of confirmed cases rose significantly.

11 100. At all times relevant to this complaint, the City and County knew of the outbreaks
12 in nursing homes and increasing numbers of confirmed cases.

13 **The Region's Memorandum of Agreement for Assisting Unhoused Individuals**
14 **During COVID-19**

15 101. On March 11, 2020, the City and County presented, with the San Diego Housing
16 Commission, the City and County's Homelessness COVID-19 Coordinated Response.

17 102. On March 17, 2020, Governor Gavin Newsom signed Senate Bill 89 which
18 allocated emergency homelessness grant funding to protect the health and safety of individuals
19 experiencing homelessness during the COVID-19 pandemic.

20 103. On or around March 23, 2020, the State awarded the City a grant of
21 \$3,699,315.81. As stated in the Award Announcement issued to the City by the California
22 Homeless Coordinating and Financing Council within the State Business, Consumer Services
23 and Housing Agency, the purpose of the funding is to "protect the health and safety of people
24 experiencing homelessness and reduce the spread of the COVID-19 outbreak." The State
25 awarded the County a grant of \$1,642,354.84.

26
27
28 ⁶² *California names nursing homes with coronavirus outbreaks, number of cases*, Los Angeles
Times (April 18, 2020). Available online at: <https://www.latimes.com/california/story/2020-04-18/california-health-officials-publicly-name-nursing-homes-with-coronavirus-outbreaks>.

1 104. On or around March 27, 2020, the City requested authorization from its Chief
2 Financial Officer to accept, appropriate, and expend these funds. The City reported that it had
3 leveraged an additional \$3.4 million from allocations made to the County of San Diego and the
4 Regional Task Force on the Homeless, and the agencies had “agreed to pool this money to fund
5 the operations at the Convention Center.” The City did not propose a timeline for the expenditure
6 of the approximately \$7 million in funds: “Depending on the number of clients served a month,
7 these dollars will be able to be stretched over several months of the emergency response to
8 COVID-19.”⁶³

9 105. On March 27, 2020, the City Council approved the actions. As outlined in City of
10 San Diego Resolution Number R-2020-443, the funds were to be used for “efforts to protect the
11 health and safety of people experiencing homelessness from the COVID-19 outbreak and to
12 reduce the spread of the COVID-19 virus”, and to “provide the necessary resources and support
13 for emergency efforts in protecting individuals in shelters and preventing the spread of the
14 virus”.

15 106. On or around April 1, 2020, the City of San Diego, County of San Diego,
16 Regional Task Force on the Homeless, and San Diego Housing Commission created COVID-19
17 homelessness programs and services called “Operation Shelter to Home” designed to use the
18 Convention Center as part of the regional plan to slow the spread of COVID-19. The City
19 entered into a Memorandum of Agreement (MOA) with the County of San Diego, the San Diego
20 Housing Commission, and the Regional Task Force on the Homeless. The recitals state that the
21 partnering agencies “desire to support the City’s efforts to shelter persons experiencing
22 homelessness at the Premises (Project)”. Under the MOA, the City acts as the fiscal agent.

23 107. Operation Shelter to Home included plans to place high risk unhoused individuals
24 into non-congregate housing options, including hotels and motels. Under the MOA, the non-
25 congregate housing options were designated for persons who “tested positive or demonstrate
26

27 ⁶³ City of San Diego Staff Report, COVID-19 Emergency Homelessness Grant Funding (March
28 27, 2020), City of San Diego. Available online at:
[https://onbase.sandiego.gov/OnBaseAgendaOnline/Meetings/ViewMeeting?id=3965&doctype=1](https://onbase.sandiego.gov/OnBaseAgendaOnline/Meetings/ViewMeeting?id=3965&doctype=1#)
#.

1 symptoms of COVID-19 or are at particularly high risk of contracting COVID-19”. Under the
2 MOA, “high risk shelter residents” were to be transitioned to hotel rooms.

3 108. At all relevant times mentioned in this complaint, the City and County had access
4 to non-congregate housing options (hotel rooms and motel rooms). These non-congregate
5 housing options were secured by the County as part of Operation Shelter to Home, and 222 of
6 the rooms were operated by Regional Task Force on the Homeless and its partnering entities,
7 including San Diego Housing Commission. Through the City and County’s Operation Shelter to
8 Home, homeless individuals met the eligibility requirements if they were:

- 9 i. Experiencing symptoms of COVID-19,
- 10 ii. Had contracted COVID-19, or
- 11 iii. At increased risk due to their age and presence of underlying health
12 conditions (defined as 65 years of age or older, and/or with chronic
13 medical conditions, or immunocompromised).⁶⁴

14 109. The section of the City of San Diego’s COVID-19 webpage on homeless services
15 directs visitors to the Regional Task Force on the Homeless which states under Operation Shelter
16 to Home: “Any individual exhibiting symptoms that is identified for isolation, , [sic] or part of a
17 vulnerable population who is at greater risk of exposure, will continue to be placed in various
18 hotel and motel rooms for temporary lodging per San Diego County’s guidance.”⁶⁵ (Emphasis
19 added.)

20 110. On the City’s Operation Shelter to Home webpage, the Mayor describes the non-
21 congregate housing options, explaining “[t]he San Diego Convention Center may not be the
22 appropriate option for all individuals. Coordinated outreach teams are engaging with people on
23

24 ⁶⁴ Three Temporary Lodging Processes for COVID-19 (March 20, 2020), County of San Diego.
25 Available online at:
26 https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/covid19/Community_Sector_Support/Homeless/COVID-19_Temporary_Lodging_Process.pdf.

27 ⁶⁵ Operation Shelter to Home: Regional Approach to Helping Our Homeless Neighbors,
28 Regional Task Force on the Homeless: <https://www.rtfhsd.org/convention-center-golden-hall-shelter-information/>.

the streets to offer them shelter best fit for their condition, whether it be at the convention center, a motel room or another option.”⁶⁶ The Operation included access to showers, laundry, work opportunities, case management to help individuals access resources and income, and housing assistance to help individuals obtain long term housing.

111. Under the MOA, the City shall “admit persons to the [Convention Center] as follows:

In Phase 1, to relocate approximately 399 persons from the Alpha Project bridge shelter, and then approximately 150 persons from Veterans Village of San Diego's shelter, and then relocate approximately 280 persons from Father Joe's Village shelter and unsheltered homeless to serve a total of approximately 829 individuals in this phase. Future phases shall be subject to approval of the parties, availability of funding, and determination of financial arrangements among the parties necessary to implement these phases.

In Phase 2, to provide additional opportunities to unsheltered individuals to serve a total of another approximately 750 individuals in this phase.

In Phase 3, to provide additional opportunities to unsheltered individuals to serve a total of another approximately 750 individuals in this phase.”

112. Under the MOA, the County’s responsibilities are as follows:

County staff shall provide the following related to slowing the spread of COVID-19:

- Inspect the Premises prior to any person being admitted to the Premises as a shelter, and advise on an ongoing basis as the County deems necessary or appropriate to provide adequate public health, sanitation, and hygiene at the Premises.
- Provide public health services, of the specific type that the County in its discretion deems necessary or appropriate , for up to approximately 829 occupants of the Premises at a time, not including transportation or other services that can be more properly conducted at a hospital, both specific to COVID-19 and to general medical needs.
- Provide additional services, of the specific type that the County in its discretion deems appropriate, which may include, but is not limited to, a mobile public health clinic, assisting with applications and providing eligibility certifications with regard to public benefits such as Medi-Cal, CalWORKs, CalFresh, and behavioral health services, both acute and routine.

⁶⁶ Operation Shelter to Home, City of San Diego Mayor Kevin F. Faulconer: <https://www.sandiego.gov/coronavirus/shelkertohome>.

- 1 ▪ The services and level of services provided to the community before and
2 after the term of this agreement will approximate those services and level of
3 services currently provided to the community and will be provided to the
4 community at the termination of this agreement.
 - 5 • The County may perform these services using its own personnel or
6 using contractors that it selects in its own discretion. All such
7 personnel shall be supervised by or have their contracts managed by
8 County.
- 9 ▪ The County shall provide equipment and supplies to County staff to carry
10 out these activities, or shall require County contractors to provide the
11 following equipment to their staff, including the following:
 - 12 • Cell phone, laptop with wireless capability, clinical equipment, and
13 office supplies.
 - 14 • Protective gear and other clothing articles, as deemed necessary.

15 The County will provide the aforementioned services at its sole cost.

16 The County will provide funding in the amount of \$1,642,354 to the Project subject to
17 section 2.4.5 below.

18 113. Under the MOA, the Regional Task Force on the Homeless' responsibilities are as
19 follows:

- 20 • RTFH shall assist the County, the SDHC, and the City in coordination of
21 the Project.
- 22 • RTFH shall assist the City and the SDHC with discharge planning for
23 persons at the Premises.
- 24 • RTFH shall provide funding in the amount of \$1,785,116 to the Project
25 subject to section 2.5.5 below.

26 114. Under the MOA, the San Diego Housing Commission's responsibilities are as
27 follows:

- 28 • SDHC shall assist the County, the RTFH, and the City in coordination of
29 the Project.
- 30 • SDHC shall administer contracts with the City's homeless service
31 providers.
- 32 • SDHC shall assist the City and RTFH with discharge planning for
33 persons at the Premises.

34 SDHC staff will be providing coordination support between shelter
35 providers onsite, and operations agencies such as San Diego
36 Convention Center Corporation staff, City staff, County staff, and
37 other service providers as needed. SDHC staff will be the contract
38 administrator and technical assistance provider onsite for our
39 contracted shelter providers. Staff from SDHC's Housing First- San
40 Diego programs such as the Landlord Engagement and Assistance
41 Program and the Diversion program will be providing support for

shelter operators and sheltered residents on housing navigation and connections to longer term and permanent housing for existing housing interventions as well as being versed on new interventions that get implemented and how to access those resources. SDHC will also coordinate communication and logistics between the transition of high risk shelter residents from shelter operator programs into hotel rooms supported by the RTFH and County. (SDHC staff will not be part of the ongoing case management or wellness checks for those in hotel rooms). SDHC policy staff will work with staff from the RTFH, City and County on identifying and supporting the development of an array of exit strategies to meet shelter resident's needs including seeking regulatory waivers and advocating for and identifying new funding sources from the Federal and State governments in response to the COVID-19 pandemic.

115. The Operation also included service supports: 24-hour security, meals, showers, bathrooms, laundry services, case managers, housing navigation, mental and behavioral health services, healthcare, health screenings, and Wi-Fi access for work or school. Anyone unable to access the Operation would not only be denied access to the shelters but also the services that the City and County provided.

116. In addition to the use of the Convention Center to house 1,500 sheltered homeless and unsheltered homeless, the City and County listed “other steps being taken” through the Operation as:

Installation of 257 handwashing stations throughout the region.

Procurement of hotel and motel rooms by the County to temporarily isolate individuals who may have symptoms.

County Public health nurses are deployed to shelters across the region including: San Diego Convention Center, Golden Hall, Haven House, La Posada, Operation Hope North County, Rachel’s Women’s Shelter, San Diego Rescue Mission and Veterans Village of San Diego.

County Public Health [sic] nurses have been assigned to Homeless Outreach Teams to educate individuals living on the streets, in the canyons and in the riverbed about COVID-19.

Assessing supply needs with homeless service providers on a regular basis and assisting when possible to distribute items based on need.

117. On April 30, 2020, the County entered into a separate memorandum of agreement

1 with the Regional Task Force on the Homeless regarding 222 of the 2,000 County-procured hotel
2 and motel rooms. The County allocated these rooms to the Regional Task Force on the
3 Homeless. Under this agreement, the County’s responsibilities included the County agreeing to
4 “[i]dentify and secure Rooms, and related support services for the temporary lodging program on
5 behalf of COVID-19 at risk individuals,” and the Regional Task Force on the Homeless’
6 responsibilities included it agreeing to “Screen individuals/families for FEMA eligibility.” The
7 recitals state “RTFH has the ability to identify individuals needing temporary lodging and
8 contract for case management support for with service providers for these at-risk individuals
9 experiencing homelessness.” The agreement defines “eligible guest” as “Individuals who are
10 asymptomatic, but are at “high-risk,” such as people over 65 or who have certain underlying
11 health conditions (respiratory, compromised immunities, chronic disease), and who require
12 Emergency Non-congregate Sheltering as a social distancing measure and placed by RTFH in
13 temporary lodging pursuant to this MOA.” Under this separate agreement with the County, the
14 Regional Task Force on the Homeless also agreed to:

- 15 • Screen for appropriate lodging needs, including but not limited to, identification of
- 16 medication/medical supplies, ADA accessibility needs, and pet accommodations
- 17 • Provide reports to support FEMA reimbursement
- 18 • With the County, regularly reassess the need for the number of rooms being made
- 19 available and additional services that may be required
- 20 • Act as a proactive liaison between Lodging Facility, placement or case management
- 21 specialists, contracted providers, and law enforcement, and assist with meal
- 22 coordination and Guest check-in/check-out
- 23 • Arrange and contract for case management
- 24 • Arrange and/or contract for housing navigation
- 25 • Provide daily written update to County
- 26 • Respond to community concerns and notify the County of them
- 27 • Notify the County of serious incidents on lodging property
- 28 • Provide the County with any media releases or public-facing communications for
County review
- Notify the County within two hours of media requests
- Work with service providers to draft plans for ramp down and close out of lodging
programs and receive County approval
- Provide staff responsible for adding necessary Homeless Management System fields
and provide access for service providers for data entry to align with State and federal
tracking requirements for reimbursement.

1 118. San Diego Housing Commission also had responsibilities at both the Convention
2 Center and the County-procured hotel rooms. San Diego Housing Commission provided on-site
3 services at County-procured hotel and motel rooms through two of San Diego Housing
4 Commission-contracted providers, Father Joe's and Alpha Project. The County had designated
5 these hotel rooms for high risk unhoused individuals. San Diego Housing Commission
6 communicated with City staff to coordinate transportation for 53 families to move to these hotel
7 rooms from the Golden Hall Shelter, ensured there were enough containers for their belongings,
8 and helped facilitate the timing of the moves. San Diego Housing Commission communicated
9 with the Regional Task Force on the Homeless about these families, reconfigured their statuses
10 in the HMIS system, and coordinated communication between the Regional Task Force on the
11 Homeless and the service providers. San Diego Housing Commission also worked with the City
12 of San Diego to set up the sites so they were ready receive the families.

13 119. The San Diego Housing Commission also engaged in coordinated outreach
14 outside of the Convention Center for the open beds available at the Convention Center. San
15 Diego Housing Commission's intake coordinators at the Convention Center worked with the
16 City's Homeless Outreach Team and other outreach workers from various programs to help
17 facilitate intake into the Convention Center site. San Diego Housing Commission outreach
18 subject matter specialists coordinated with representatives from the Regional Task Force on the
19 Homeless, Downtown San Diego Partnership, the City's Homeless Outreach Team, and PATH
20 to identify areas of high concentrations of unsheltered homeless for coordinated outreach events
21 encompassing a large number of outreach staff from various programs, including the County.

22 120. On April 22, 2020, the City received \$248 million in CARES Act funds for
23 COVID-19 related costs incurred between March 1st and December 30th. The City's Office of
24 the Independent Budget Analyst informed the City that eligible expenses include mitigating
25 COVID-19's effects on the homeless population.⁶⁷

26
27
28 ⁶⁷ Review of the Fiscal Year 2021 Proposed Budget at 50 (April 29, 2020), City of San Diego
Office of the Independent Budget Analyst. Available online at:

1 121. On May 19, 2020, the Mayor announced plans to apply \$50 million in state and
2 federal relief funds to Operation Shelter to Home at the Convention Center.⁶⁸ On May 21, 2020,
3 the City's Department of Finance released its fiscal year 2020 Third Quarter Budget Monitoring
4 Report allocating \$10.3 million during fiscal year 2020 and \$39.7 million for fiscal year 2021 in
5 COVID-19 state and federal relief funds for Operation Shelter to Home.

6 122. The City directs millions in COVID-19 funding to use the Convention Center as a
7 congregate shelter, despite the risks congregate settings pose to the health and safety of unhoused
8 individuals and the feasibility of providing hotel and motel rooms.

9 123. The City and County's homeless programs include all services and programs
10 associated with the Operation, and all homelessness services and programs provided in response
11 to COVID-19.

12 **The City and County's Knowledge of Public Health Directives on Homelessness and**
13 **Congregate Settings**

14 124. The City and County cited the CDC guidance for assisting people experiencing
15 homelessness during COVID-19 in news releases, press releases, resolutions, and press
16 conferences in March, April, and May.

17 125. The Memorandum of Agreement that the City of San Diego, County of San
18 Diego, Regional Task Force on the Homeless, and San Diego Housing Commission entered into
19 on April 1, 2020 to effectuate a regional plan to assist persons experiencing homelessness cites to
20 CDC guidance.

21 126. In early April, the City announced its response to homelessness during the
22 COVID-19 pandemic. The City's statement cited to the CDC's guidance for assisting homeless
23 during COVID-19. The statement repeated CDC's directive to not clear encampments to prevent
24

25 [https://www.sandiego.gov/sites/default/files/iba_report_2006_review_of_fy21_proposed_budget](https://www.sandiego.gov/sites/default/files/iba_report_2006_review_of_fy21_proposed_budget.pdf)
26 [.pdf](https://www.sandiego.gov/sites/default/files/iba_report_2006_review_of_fy21_proposed_budget.pdf).

27 ⁶⁸ Mayor Kevin L. Faulconer. Press Release: Mayor Faulconer Boosts Childcare, Housing for
28 Homeless and Small Businesses in Budget Update. Dated May 19, 2020. Available online at:
[https://www.sandiego.gov/mayor/news/releases/Mayor-Faulconer-Boosts-Childcare-Housing-](https://www.sandiego.gov/mayor/news/releases/Mayor-Faulconer-Boosts-Childcare-Housing-for-Homeless-and-Small-Businesses-in-Budget-Update)
[for-Homeless-and-Small-Businesses-in-Budget-Update](https://www.sandiego.gov/mayor/news/releases/Mayor-Faulconer-Boosts-Childcare-Housing-for-Homeless-and-Small-Businesses-in-Budget-Update).

1 spreading the illness, but then went on to distinguish San Diego's encampments from the type of
2 encampments in the CDC guidance, stating "San Diego has few of this type of encampment".

3 127. On April 14, 2020, the San Diego City Council passed Resolution Number R-
4 312946 which explicitly acknowledged and cited to the CDC's guidance. The City Council
5 passed another resolution in May again explicitly citing to the CDC guidance.

6 128. The section of the City of San Diego's COVID-19 webpage on homeless services
7 directs visitors to the Regional Task Force on the Homeless which lists and links to both the
8 CDC guidelines and information from the National Law Center on Homelessness & Poverty
9 condemning the use of congregate facilities, including large-scale shelters, during COVID-19.

10 129. On May 10, 2020, the County of San Diego issued its Order of the Health Officer
11 and Emergency Regulations and directed all governmental entities, including the City, to comply
12 with it and disseminate it in venues where gatherings may occur. The Order referenced
13 substantial guidance released from the California Department of Public Health, the CDC, and
14 other public health officials throughout the United States and the world. The Order was
15 superseded by at least two subsequent orders, the latest issued on June 3, 2020. The Orders
16 prevented mass gatherings in one location for extended periods: ⁶⁹

17 This Order is issued to prevent circumstances often present in gatherings that may
18 exacerbate the spread of COVID-19, such as: 1) the increased likelihood that gatherings
19 will attract people from a broad geographic area; 2) the prolonged time period in which
20 large numbers of people are in close proximity; 3) the difficulty in tracing exposure when
21 large numbers of people attend a single event or are at a single location; and 4) the
22 inability to ensure that such persons follow adequate hygienic practices.

23 130. On May 19, 2020, the County of San Diego issued its Congregate Facilities
24 Guidance for COVID-19 directed at long-term care facilities, correctional facilities, and
25 homeless shelters. Recognizing how residents of the facilities may be at higher risk given the

26 ⁶⁹ Order of the Health Officer and Emergency Regulations (June 3, 2020), County of San Diego
27 Health and Human Services Agency. Available online at:
28 <https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/HealthOfficerOrderCOVID19.pdf>.

1 congregate settings and the vulnerability of the residents, the letter provided the link for the CDC
2 Interim Guidance for Homeless Service Providers and stated:⁷⁰

3 Given the congregate nature and population served, the populations of long-term care
4 facilities (e.g., skilled nursing facilities, intermediate care facilities, residential care
5 facilities for the elderly, adult residential facilities), correctional, and homeless shelters
6 (Facilities) may be at higher risk of being affected by COVID-19 and at increased risk for
7 serious illness and complications.

8 131. Since May 19, 2020, the City has continued to push unsheltered unhoused
9 individuals into the Convention Center and condition access to homeless programs on
10 residing in the Convention Center. At the same time, the hotel and motel rooms originally
11 made available for high risk unhoused individuals under the homeless programs were, and
12 continue to be, under-utilized. As of May 19, 2020, there was capacity to house 1,351
13 persons in County-procured hotel rooms.⁷¹ This capacity was in addition to the 222 hotel
14 rooms administered by the Regional Task Force on the Homeless. As of May 19, 2020, the
15 County had procured more than 1,700 hotel rooms “for the homeless and other unique case
16 individuals that enhance public health and safety while simultaneously meeting the sheltering
17 and physical separation needs of our region’s homeless population and others who need
18 temporary lodging.”⁷² The County provided information on the availability of hotel rooms to
19 the State in the County’s May 19, 2020 proposal to accelerate reopening:⁷³

20 Early in the outbreak, the County aggressively acquired hundreds of hotel units to house
21 individuals experiencing homelessness and prevent exposure to COVID-19.

22 ⁷⁰ Congregate Facilities Guidance for COVID-19 (May 19, 2020), County of San Diego Health
23 and Human Services Agency. Available online at:
24 [https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/covid19/Community_Sector_Support/LTC_and_Older_Adults/County%20Letter%20re_COVID-](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/covid19/Community_Sector_Support/LTC_and_Older_Adults/County%20Letter%20re_COVID-19%20Congregate%20Facilities%2005%2019%202020.pdf)
25 [19%20Congregate%20Facilities%2005%2019%202020.pdf](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/covid19/Community_Sector_Support/LTC_and_Older_Adults/County%20Letter%20re_COVID-19%20Congregate%20Facilities%2005%2019%202020.pdf).

26 ⁷¹ County of San Diego Attestation & Containment Plan at 21 (May 19, 2020), County of San
27 Diego. Available online at:
28 [https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-](https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/San%20Diego%20County%20Attestation.pdf)
29 [19/San%20Diego%20County%20Attestation.pdf](https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/San%20Diego%20County%20Attestation.pdf).

30 ⁷² *Id.* at 167.

31 ⁷³ *Id.* at 21.

1 Based on the 2020 Regional Homeless Point in Time Count, there are 7,619 homeless
2 individuals living in the County. Of the 7,619 individuals, 15% of this number is 1,143
3 individuals.

4 There is present capacity to house **1,351 persons** at the public health hotel rooms secured
5 by the County. In addition, there are **222 additional hotel rooms** for those who are at
6 risk that are being managed through a contract with the Regional Task Force on the
7 Homeless...

8 132. On June 2, 2020, at a County Board of Supervisors meeting, the County reported
9 “As of June 1, there is temporary shelter available for 42% of the homeless population (3,176
10 beds): Convention Center: 1,579 beds, Public Health Hotels: 1,375 beds, Vulnerable Population
11 Hotels: 222 beds.”⁷⁴ (Emphasis added.)

12 133. Based on information and belief, asymptomatic unhoused individuals (residing in
13 the City of San Diego) at high risk if contracting COVID-19 can only access County and City
14 social and health services if they accept congregate placements since the social and health
15 services were centralized through the City and County’s homeless programs at the Convention
16 Center. The services through the program included a wide range, including: mental and public
17 health clinic, behavioral health services, healthcare, daily health screenings, and assistance with
18 applications and providing eligibility certifications with regard to public health benefits such as
19 Medi-Cal, CalWORKs, and CalFresh. At the non-congregate shelter hotel and motel rooms, the
20 County provided rooms that were comfortable, clean and secure. Participants are provided three
21 daily meals, laundry, trash service, and hospitality amenities. The health services include
22 wellness checks provided by registered nurses and participants have access to behavioral health
23 services.

24 **Funds to the Convention Center and Existing Shelter Contracts**

25 134. As stated in the MOA and as proposed by the Mayor in his May 19, 2020, press
26 release regarding the use of federal and state emergency funds, the City is directing millions of
27 dollars in COVID-19 funds to the Convention Center.

28 ⁷⁴ County Staff Report, Coronavirus Disease 2019 (COVID-19) Item #4: County of San Diego
COVID-19 Update (June 2, 2020), County Board of Supervisors Meeting June 2, 2020.

1 135. A City Council staff report dated March 27, 2020 stated that uses of the COVID-
2 19 funds include “Convention Center operations and maintenance costs.”⁷⁵ Even after the City
3 moved sheltered unhoused individuals from existing homeless shelters to the Convention Center,
4 the City continued to direct funds towards its existing shelter contracts although services were no
5 longer being provided under these contracts. Initially, the shelters were used for the limited
6 purposes of intake and screening of unsheltered homeless, and the temporary isolation of
7 individuals.⁷⁶ However, as of May 7, 2020, the shelters were vacant.⁷⁷

8 136. Upon information or belief, one of the motivating factors in directing funds to the
9 Convention Center was to recoup losses the City would have otherwise experienced due to the
10 cancellation of events at the Convention Center.

11 137. Beginning in March 2020, the City announced the financial impact COVID-19
12 would have on the City due to the cancellation of events at the Convention Center. The City
13 reported its estimated economic loss as significant. As stated in the preamble to Ordinance
14 Number 0-21177, passed by City Council on March 25, 2020, “the cancellation of conferences
15 and other large events will likely cause a significant loss of business opportunities locally,
16 including an estimated \$220,000,000 in forecasted regional impact losses attributed to canceled
17 events at the San Diego Convention Center”.⁷⁸

19 ⁷⁵ City of San Diego Staff Report, COVID-19 Emergency Homelessness Grant Funding (March
20 27, 2020), City of San Diego. Available online at:
21 [https://onbase.sandiego.gov/OnBaseAgendaOnline/Meetings/ViewMeeting?id=3965&doctype=1](https://onbase.sandiego.gov/OnBaseAgendaOnline/Meetings/ViewMeeting?id=3965&doctype=1#)
22 #.

23 ⁷⁶ *Convention Center homeless shelter expands to 800+*, San Diego Union-Tribune (April 7,
24 2020). Available online at: [https://www.sandiegouniontribune.com/news/health/story/2020-04-](https://www.sandiegouniontribune.com/news/health/story/2020-04-07/convention-center-homeless-shelter-reaches-800)
25 [07/convention-center-homeless-shelter-reaches-800](https://www.sandiegouniontribune.com/news/health/story/2020-04-07/convention-center-homeless-shelter-reaches-800).

26 ⁷⁷ Mayor Kevin L. Faulconer. Press Release: San Diego, Chula Vista to Partner to Replicate
27 Bridge Shelter Program Regionally. Dated May 7, 2020. Available online at:
28 [https://www.sandiego.gov/mayor/news/releases/san-diego-chula-vista-partner-replicate-bridge-](https://www.sandiego.gov/mayor/news/releases/san-diego-chula-vista-partner-replicate-bridge-shelter-program-regionally)
[shelter-program-regionally](https://www.sandiego.gov/mayor/news/releases/san-diego-chula-vista-partner-replicate-bridge-shelter-program-regionally).

⁷⁸ *See also Canceled conventions due to coronavirus costing San Diego \$203M—so far*, San
Diego Union-Tribune (April 10, 2020). Available online at:
[https://www.sandiegouniontribune.com/business/tourism/story/2020-04-10/canceled-](https://www.sandiegouniontribune.com/business/tourism/story/2020-04-10/canceled-conventions-costing-san-diego-203m-so-far)
[conventions-costing-san-diego-203m-so-far](https://www.sandiegouniontribune.com/business/tourism/story/2020-04-10/canceled-conventions-costing-san-diego-203m-so-far).

1 138. The City touted its infusion of emergency homeless funds into the Convention
2 Center as helpful in addressing the decimation of the local tourism economy.⁷⁹

3 139. On May 19, 2020, the Mayor announced plans to apply \$50 million in state and
4 federal relief funds to Operation Shelter to Home at the Convention Center.⁸⁰

5 140. On May 21, 2020, the City's Department of Finance released its fiscal year 2020
6 Third Quarter Budget Monitoring Report (budget report) allocating \$10.3 million during fiscal
7 year 2020 and \$39.7 million for fiscal year 2021 in COVID-19 state and federal relief funds for
8 Operation Shelter to Home. In April, the City spent \$730,000 on Convention Center operations
9 and maintenance expenses including utilities. The report listed total monthly expenditures for
10 1,500 individuals at the Convention Center as \$4.97 million per month. Fiscal year 2020 year-
11 end projections for expenditures at the Convention Center and funding sources for Convention
12 Center expenditures were still to be determined.

13 141. The budget report listed the various ways in which the City had experienced a
14 decrease in revenue followed by a statement regarding the use of COVID-19 relief funds: "These
15 decreases are offset with an increase of \$3.4 million in Neighborhood Services Department
16 [funds] primarily associated with reimbursements for the homeless shelter at the Convention
17 Center supported by CRF funding."

18 142. The budget report states: "The monthly Convention Center shelter expenditures
19 include discounted rent for the space at the Convention Center of \$1.6 million and operational
20 costs being incurred by the San Diego Convention Center Corporation (SDCCC) as a result of
21 the shelter of \$0.7 million. These costs will cover SDCCC share of operational costs,
22 maintenance, supplies, utilities, and general overhead, as well as funding for essential
23

24 ⁷⁹ Mayor Kevin L. Faulconer. Press Release: San Diego Region Secure \$7.1M in State Funds for
25 COVID-19 Homeless Response. Dated April 7, 2020. Available online at:
26 [https://www.sandiego.gov/mayor/news/releases/san-diego-region-secures-71m-state-funds-](https://www.sandiego.gov/mayor/news/releases/san-diego-region-secures-71m-state-funds-covid-19-homeless-response)
27 [covid-19-homeless-response.](https://www.sandiego.gov/mayor/news/releases/san-diego-region-secures-71m-state-funds-covid-19-homeless-response)

28 ⁸⁰ Mayor Kevin L. Faulconer. Press Release: Mayor Faulconer Boosts Childcare, Housing for
Homeless and Small Businesses in Budget Update. Dated May 19, 2020. Available online at:
[https://www.sandiego.gov/mayor/news/releases/Mayor-Faulconer-Boosts-Childcare-Housing-](https://www.sandiego.gov/mayor/news/releases/Mayor-Faulconer-Boosts-Childcare-Housing-for-Homeless-and-Small-Businesses-in-Budget-Update)
[for-Homeless-and-Small-Businesses-in-Budget-Update.](https://www.sandiego.gov/mayor/news/releases/Mayor-Faulconer-Boosts-Childcare-Housing-for-Homeless-and-Small-Businesses-in-Budget-Update)

1 management and sales efforts while the Convention Center operates as a shelter. These funds
2 will allow SDCCC to remain solvent and maintain operations necessary for the Corporation to
3 quickly transition back to normal operations and start to benefit the local economy.”

4 143. The Convention Center is managed by the San Diego Convention Center
5 Corporation, a non-profit public benefit corporation created by the City of San Diego. The City
6 leases the Convention Center site from the Unified Port of San Diego for \$1 per year.

7 **Funding of County-Procured Hotel and Motel Rooms**

8 144. On March 27, 2020, FEMA approved California’s request for FEMA’s
9 reimbursement of costs related to emergency, non-congregate sheltering.⁸¹ The approval states:
10 “FEMA will reimburse Emergency NCS costs incurred for:

- 11 i. Individuals who test positive for COVID-19 that do not require
12 hospitalization, but need isolation or quarantine (including those exiting
13 from hospitals);
14 ii. Individuals who have been exposed to COVID-19 (as documented by a
15 state or local public health official, or medical health professional) that do
16 not require hospitalization, but need isolation or quarantine; and
17 iii. Individuals who are asymptomatic, but are at “high-risk,” such as people
18 over 65 or who have certain underlying health conditions (respiratory,
19 compromised immunities, chronic disease), and who require Emergency
20 NCS as a social distancing measure.”⁸²

21 145. The County was aware of the FEMA’s eligibility criteria for reimbursement.

22 146. The County’s memorandum of agreement with the Regional Task Force on the
23 Homeless, through which the County allocated the Regional Task Force 222 of the County-
24 procured hotel rooms, includes requirements regarding the “screening” of individuals and
25

26 ⁸¹ *Re: Request for Approval of Non-Congregate Sheltering – FEMA-4482-DR-CA (COVID-19)*,
27 U.S. Department of Homeland Security (Mar. 27, 2020). Available online at:
28 <https://www.cdss.ca.gov/Portals/9/FEMA/202005-DR-4482-CA-Non-Congregate-Sheltering-Request-Response-Letter-03272020.pdf>

⁸² *Id.*

1 families for FEMA eligibility, and the FEMA reimbursement process. The memorandum of
2 agreement states that the Regional Task Force on the Homeless will at “the end of each month
3 through the end of this agreement, provide all required documentation regarding status of
4 eligibility and supporting documentation to enable the County in pursuing reimbursement from
5 FEMA.”

6 147. By April 2020, the County had secured approximately 2,000 hotel and motel
7 rooms to provide temporary lodging resources to persons experiencing homelessness from
8 COVID-19, including individuals who are at particularly high risk if contracting COVID-19.

9 148. As part of the COVID-19 Shelter Program, the City and County provided high
10 risk unhoused individuals in the hotels linkage to economic benefits, including housing resources
11 such as permanent housing, and health services. During the pandemic, homeless services and
12 programs were primarily only available through the shelter sites. Therefore, the City and County
13 obstructed access to high risk unhoused individuals who could not access the COVID-19 Shelter
14 Program during the pandemic.

15 149. The County, through its contracted agents at Regional Task Force on the
16 Homeless, referred to the high risk unhoused individuals staying in the commercial hotels
17 including the Travelodge and Pacific Inn as “guests”, the same terminology used for commercial
18 hotel guests. Similarly, a “Hotel Guest Roster” was used for both unhoused individuals and
19 commercial guests.

20 150. On information and belief, private paying hotel guests resided at hotels that were
21 part of the COVID-19 Shelter Program, in hotels with rooms already designated for high risk
22 unhoused individuals.

23 151. The County paid hotel room rates reflective of the private market at the time. For
24 example, the County paid \$145 per night for the Days Inn in the City of San Diego and \$84 for
25 the Pacific Inn in the City of San Diego.

26 152. When the County began seeking hotels for the COVID-19 Shelter Program, the
27 County advertised through multiple media outlets to private hotel owners that this shelter
28 program would also assist the economic hardship hotel or motels faced because of the pandemic.

1 Hotel representatives responded seeking business and were able to charge market rates for the
2 rooms allocated to the COVID-19 Shelter Program. The County's procurement process involved
3 entering into purchase agreements with more than two dozen hotels. During the first 30 days of
4 each agreement, the County paid for all of the procured rooms. Subsequently, the County paid
5 for only the procured rooms that were occupied.

6 153. On information and belief, the hotel owners wanted contracts with the County to
7 offset the economic losses the hotel owners were incurring due to low-occupancy during the
8 pandemic and the resulting stay-at-home order.

9 154. Hotel representatives sought the County's business and once obtained, were
10 openly appreciative that the County was paying for hotel rooms in an amount equivalent to a
11 guest's fee.

12 155. On information and belief, the County and City also profited by collecting
13 Transient Occupancy Tax (TOT) from the hotels that participated and filled rooms through the
14 COVID-19 Shelter Program. The County and the City would not have received the TOT if the
15 hotel did not participate in the COVID-19 Shelter Program and was unable to fill its hotel rooms
16 with guests from the general public.

17 156. Based on information and belief, neither the City nor the County screened for
18 individuals who qualified under the high risk category for non-congregate shelter, leaving many
19 rooms unoccupied.

20 **The City and County's Implementation of Homeless Programs, including the**
21 **COVID-19 Shelter Program, during COVID-19**

22 157. As of March 18, 2020, San Diego had already experienced two COVID-19
23 outbreak scares at two of the region's largest homeless shelters.⁸³

24 158. In early April 2020, the City moved 800 unhoused individuals into the mega-
25 shelter, the Convention Center.

26 _____
27 ⁸³ *Homeless shelter tenants tested for COVID-19*, San Diego Union-Tribune (March 18, 2020).
28 Available online at: <https://www.sandiegouniontribune.com/news/health/story/2020-03-18/homeless-shelter-tenants-tested-for-virus>.

1 159. As of April 13, 2020, 15 unhoused individuals had tested positive for COVID-
2 19.⁸⁴

3 160. By April 15, 2020, the City completed the first phase of its Operation. It had
4 relocated approximately 800 sheltered unhoused persons from three homeless shelters (the Alpha
5 Project bridge shelter, Veterans Village of San Diego's shelter, and Father Joe's Village shelter)
6 to the Convention Center.⁸⁵

7 161. On or around April 16, 2020, the City started implementing on-site testing at the
8 Convention Center on a voluntary basis.⁸⁶ Testing was limited to less than 150 tests per day.⁸⁷

9 162. In mid-April, the City started carrying out phase two of the Operation through
10 which it planned to relocate unsheltered, unhoused people to the Convention Center. The City
11 planned to relocate approximately 750 unsheltered-unhoused during this phase. Upon
12 information or belief, the City relocated approximately 30 unsheltered-unhoused individuals into
13 the Convention Center each day during phase two.

14 163. As of April 20, 2020, the City had moved 85 unsheltered, unhoused individuals to
15 the Convention Center.⁸⁸

16 164. On April 21, 2020, San Diego experienced its largest number of fatalities in one
17
18

19 ⁸⁴ *County Reports 75 New Cases, Three Deaths as Homeless Testing Increases*, KPBS (April 16,
20 2020). Available online at: <https://www.kpbs.org/news/2020/apr/16/county-reports-75-new-cases-three-deaths-homeless-/>.

21 ⁸⁵ Mayor Kevin L. Faulconer. Press Release: Over 800 Moved to San Diego Convention Center
22 as More Homeless Individuals Relocate. Dated April 7, 2020. Available online at:
23 [https://www.sandiego.gov/mayor/news/releases/over-800-moved-san-diego-convention-center-](https://www.sandiego.gov/mayor/news/releases/over-800-moved-san-diego-convention-center-more-homeless-individuals-relocate)
24 [more-homeless-individuals-relocate: https://www.sandiego.gov/mayor/news/releases/after-](https://www.sandiego.gov/mayor/news/releases/after-moving-hundreds-shelters-convention-center-outreach-teams-bring-homeless)
25 [moving-hundreds-shelters-convention-center-outreach-teams-bring-homeless\)](https://www.sandiego.gov/mayor/news/releases/after-moving-hundreds-shelters-convention-center-outreach-teams-bring-homeless)

26 ⁸⁶ Mayor Kevin L. Faulconer. Press Release: Proactive COVID-19 Testing Begins for Shelter
27 Residents at Convention Center. Dated April 16, 2020. Available online at:
28 [https://www.sandiego.gov/mayor/news/releases/proactive-covid-19-testing-begins-shelter-](https://www.sandiego.gov/mayor/news/releases/proactive-covid-19-testing-begins-shelter-residents-convention-center)
[residents-convention-center.](https://www.sandiego.gov/mayor/news/releases/proactive-covid-19-testing-begins-shelter-residents-convention-center)

⁸⁷ *Id.*

⁸⁸ *Daily Briefing*, San Diego Community Newspaper Group (April 22, 2020). Available online
at: http://www.sdnews.com/view/full_story/27727051/article-DAILY-BRIEFING.

day, and largest one-day increase in new cases.⁸⁹ The region's total deaths from COVID-19 numbered 87 and the number of individuals testing positive daily for COVID-19 was 2,434.

165. As of April 23, 2020, the total deaths from COVID-19 numbered 96 with 2,491 individuals testing positive.⁹⁰ As of April 23, 2020, the number of cases in San Diego had not yet peaked, and according to Eric McDonald, Medical Director with the County Epidemiology Immunization Branch, the number of people actually infected is likely ten times the reported total.⁹¹

166. As of April 24, 2020, the City announced that it would continue directing unsheltered unhoused to the Convention Center and that sleeping on the sidewalks was not allowed.⁹²

167. As of April 24, 2020, the City had moved 200 unsheltered, unhoused individuals to the Convention Center.⁹³

168. On April 26, 2020, two unhoused individuals at the Convention Center tested positive for COVID-19.⁹⁴

169. By April 29, 2020, the City had moved nearly 1,100 unhoused individuals into the Convention Center.⁹⁵

⁸⁹ *Escondido issues 'COVID-19 Action Plan'* (April 23, 2020), The Escondido Grapevine. Available online at: <https://escondidograpevine.com/2020/04/23/escondido-issues-covid-19-action-plan/>.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *VOSD Podcast: Faulconer Faces Reality*, Voice of San Diego (April 24, 2020) Available online at: <https://www.voiceofsandiego.org/topics/news/vosd-podcast-faulconer-faces-reality/>. See also *San Diego police nearly double illegal lodging tickets issued to homeless during pandemic* Inewsource (May 25, 2020). Available online at:

<https://inewsource.org/2020/05/25/san-diego-police-ticket-homeless-pandemic/>

⁹³ *Id.*

⁹⁴ Mayor Kevin L. Faulconer. Press Release: Proactive Testing to Detect and Contain COVID-19 Identifies Two Positive Individuals at Shelter to Home Operation. Dated April 26, 2020. Available online at: <https://www.sandiego.gov/mayor/news/releases/proactive-testing-detect-and-contain-covid-19-identifies-two-positive-individuals-shelter>.

⁹⁵ Press conference. Coronavirus updates. County Operations Center, County of San Diego (April 29, 2020). Available online at: <https://www.pscp.tv/SanDiegoCounty/1kvJpXvIXWQJE>;

1 170. As of April 30, 2020, 30 unhoused individuals had tested positive for COVID-
2 19.⁹⁶

3 171. As of May 8, 2020, the County announced that three unhoused individuals
4 residing at the Convention Center had tested positive for COVID-19.

5 172. By May 20, 2020, the County announced that four unhoused individuals at the
6 Convention Center had tested positive.

7 173. As of May 22, 2020, the City had moved 1,266 unhoused individuals into the
8 Convention Center.⁹⁷

9 174. As of May 29, 2020, the County of San Diego had 77 active outbreaks, and 53 of
10 those outbreaks were in congregate living facilities. Of the County's 266 COVID-19 death total,
11 half were in congregate living facilities.

12 175. As of May 30, 2020, 68 unhoused individuals in San Diego County had tested
13 positive for COVID-19, and their hospitalization rate was more than double the hospitalization
14 rate for the general population.⁹⁸

15 176. As of May 30, 2020, San Diego County had the third highest number of
16 coronavirus cases among the state's 58 counties and the third most deaths, averaging 97 new
17 cases and 2.4 deaths each day.⁹⁹

18 177. As of June 4, 2020, 76 unhoused individuals in San Diego County had tested
19

20 *Officials Grapple With What Will Happen to the 1,000 Homeless in the Convention Center,*
21 *Voice of San Diego* (April 27, 2020). Available online at:
22 <https://www.voiceofsandiego.org/topics/government/officials-grapple-with-what-will-happen-to-the-1000-homeless-in-the-convention-center/>.

23 ⁹⁶ Press conference. Coronavirus updates. County Operations Center, County of San Diego
(April 30, 2020). Available online at: <https://www.pscp.tv/SanDiegoCounty/1kvJpXvIXWQJE>.

24 ⁹⁷ *San Diego police nearly double illegal lodging tickets issued to homeless during pandemic,*
25 *Inewsourc*e (May 25, 2020). Available online at: <https://inewsourc.org/2020/05/25/san-diego-police-ticket-homeless-pandemic/>.

26 ⁹⁸ *Daily 2019 Novel Coronavirus (COVID-19) Summary of Cases Among Persons Experiencing*
Homelessness (May 29, 2020), County of San Diego.

27 ⁹⁹ *Tracking coronavirus in San Diego County,* Los Angeles Times (May 30, 2020). Available
28 online at: <https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/san-diego-county/>.

1 positive for COVID-19.¹⁰⁰

2 178. At all times relevant to this complaint, the City and County denied requests for
3 non-congregate housing options when unhoused individuals who met the eligibility criteria
4 (chronic medical conditions and/or immunocompromised) for non-congregate housing made
5 such requests.

6 179. At all times relevant to this complaint, the City and County administered the
7 homeless programs in a way that provided non-congregate housing options only to individuals
8 who tested positive for COVID-19, and only upon confirmation from a health professional. This
9 is true for those in the Convention Center as well – even after one is screened and determined to
10 be a person with disabilities, underlying health conditions, and immunocompromised, a non-
11 congregate housing option is not provided unless the individual tests positive.¹⁰¹

12 180. At all times relevant to this complaint, in the City of San Diego, the City and
13 County restricted access to homeless programs to only individuals residing in the Convention
14 Center, and nearby congregate shelters.

15 181. At all times relevant to this complaint, the City used law enforcement to create a
16 hostile environment for unhoused individuals to force or coerce unhoused individuals to move to
17 the Convention Center. The City’s law enforcement activities have included: the threat of arrests
18 and citations for failing to disperse from encampments; the threat of encampment sweeps;
19 encampment sweeps that disperse and displace unhoused individuals; the threat of citations,
20 tickets, and arrests for violating “quality of life” ordinances including encroachment and vehicle
21 habitation; the issuance of citations, tickets, and arrests for violating “quality of life” ordinances;
22 and arrest and misdemeanor charges for illegal lodging.

23 182. During the pandemic, San Diego police continued enforcement actions, including
24

25 ¹⁰⁰ Daily 2019 Novel Coronavirus (COVID-19) Summary of Cases Among Persons
26 Experiencing Homelessness (June 5, 2020), County of San Diego.

27 ¹⁰¹ Mayor Kevin L. Faulconer. Press Release: Proactive COVID-19 Testing Begins for Shelter
28 Residents at Convention. Dated April 16, 2020. Available online at:
<https://www.sandiego.gov/mayor/news/releases/proactive-covid-19-testing-begins-shelter-residents-convention-center>.

1 issuing warnings and citations, generally aimed at unhoused individuals for illegal lodging,
2 encroachment, and living in a vehicle.¹⁰² San Diego police's priority was getting people to move
3 into the Convention Center.¹⁰³

4 183. The City knew that sweeps disperse and displace individuals and encampments,
5 and prevent unhoused individuals from sheltering in place and self-isolating. At all times
6 relevant to this complaint, the City directed its agents and entities, including law enforcement, to
7 threaten sweeps and to conduct sweeps. Upon information or belief, before the pandemic, the
8 City conducted its regular sweeps in the morning and evening, but effective mid-April 2020,
9 started conducting sweeps during morning hours. The San Diego police issued tickets during the
10 morning sweeps.¹⁰⁴ This action is counter to the CDC guidelines cautioning against the sweeps
11 of encampment in order to prevent further spread of COVID-19.

12 184. At all times relevant to this complaint, the City and County have failed to ensure
13 that restroom facilities near to unsheltered unhoused individuals have functional water taps, are
14 stocked with hand hygiene materials including soap and bath tissue, and remain open 24 hours
15 per day.

16 185. At all times relevant to this complaint, the City has failed to ensure that
17 encampments of more than 10 people without nearby restroom or handwashing facilities have
18 access to portable latrines with handwashing facilities.

19 **The City and County Have Refused to Modify Their Discriminatory Policies and**
20 **Denied Reasonable Accommodations, Which Harmed Plaintiffs**

21 186. The City and County coordinated their efforts in responding to the COVID-19
22

23 ¹⁰² *San Diego police nearly double illegal lodging tickets issued to homeless during pandemic*,
24 Inewssource (May 25, 2020). Available online at: <https://inewssource.org/2020/05/25/san-diego-police-ticket-homeless-pandemic/>; See also *Despite pandemic, sheriff continues booking suspects on minor, nonviolent offenses*, San Diego Union-Tribune (May 17, 2020). Available
25 online at: [https://www.sandiegouniontribune.com/news/watchdog/story/2020-05-17/despite-](https://www.sandiegouniontribune.com/news/watchdog/story/2020-05-17/despite-pandemic-sheriff-continues-booking-suspects-on-minor-nonviolent-%E2%80%A6)
26 [pandemic-sheriff-continues-booking-suspects-on-minor-nonviolent-%E2%80%A6](https://www.sandiegouniontribune.com/news/watchdog/story/2020-05-17/despite-pandemic-sheriff-continues-booking-suspects-on-minor-nonviolent-%E2%80%A6)
27 [A61/18](https://www.sandiegouniontribune.com/news/watchdog/story/2020-05-17/despite-pandemic-sheriff-continues-booking-suspects-on-minor-nonviolent-%E2%80%A6).

28 ¹⁰³ *Id.*

¹⁰⁴ *San Diego police nearly double illegal lodging tickets issued to homeless during pandemic*,
Inewssource (May 25, 2020). Available online at: [https://inewssource.org/2020/05/25/san-diego-](https://inewssource.org/2020/05/25/san-diego-police-ticket-homeless-pandemic/)
[police-ticket-homeless-pandemic/](https://inewssource.org/2020/05/25/san-diego-police-ticket-homeless-pandemic/).

1 pandemic on behalf of unhoused individuals, who reside in the City and County of San Diego.
2 The City and County's action, however, have left unhoused individuals who are disabled and at
3 high risk if contracting COVID-19 unable to access services and shelter; whereas, unhoused
4 individuals who are not high risk were able to access congregate shelter and services.

5 187. The City and County failed to provide accommodations to Plaintiffs.

6 188. First, on April 28, 2020, Plaintiffs submitted reasonable accommodation requests
7 to the City under the ADA, on behalf of unhoused individuals with disabilities, a copy of which
8 is attached as Exhibit A. Plaintiffs' requests asserted Plaintiffs' need for the City to make
9 reasonable modifications to its homeless programs based on their disabilities. Plaintiffs' requests
10 illustrated how the City's administration of its services and programs directly affected unhoused
11 individuals with disabilities that cause them to be more particularly vulnerable to complications
12 and death from COVID-19 and prevented them from having equal access to the City's services
13 and programs based on their disabilities. Informing the City of the imminent harm COVID-19
14 posed to many unhoused individuals with disabilities, Plaintiffs urged that the City modify its
15 homeless programs to: (1) provide non-congregate housing options to unhoused individuals with
16 disabilities upon request for preventative care, without requirement of a positive COVID-19 test
17 or COVID-19 symptoms, (2) provide programs and services to unhoused individuals with
18 disabilities in a way that evaluates each person's immediate needs and accommodates their
19 disabilities, and (3) until permanent, accessible, affordable housing is available to unhoused
20 individuals with disabilities, cease all law enforcement activity that disperses or displaces
21 unhoused individuals or encampments.

22 189. The City confirmed receipt of the reasonable accommodation requests, but failed
23 to engage in any discussion of Plaintiffs' requests.

24 190. Plaintiffs attempted to access non-congregate shelter through the COVID-19
25 Shelter Program intake processes, including contacting the City's Homeless Outreach Team and
26 211 San Diego, and those requests went unanswered and effectively denied.

27 191. Plaintiffs were not able to access the non-congregate shelters through the
28 Regional Task Force on the Homeless and San Diego Housing Commission, which serviced the

1 transfer, care, and linkages through their respective programs.

2 192. Subsequently, between April 28, 2020 through June 5, 2020, Plaintiffs made
3 multiple verbal and written demands for access to Operation Shelter to Home and, in the
4 alternative, requests for modification for placement into non-congregate housing due to their
5 higher risk of severe illness for COVID-19. Those requests went unanswered.

6 193. Plaintiffs asserted that their households were all within the high risk category if
7 contracting COVID-19 and were seeking non-congregate shelter placement and services.
8 Despite multiple attempts to contact the City and through County agencies, including Regional
9 Task Force on the Homeless, Plaintiffs were not screened, assessed or placed in appropriate
10 shelter options and connected to appropriate services.

11 **The City and the County Administer Homeless Programs, including the COVID-19**
12 **Shelter Program, During the COVID-19 Pandemic, That Discriminates In Three Ways**
13 **Against Protected Classes of Individuals**

14 **i. Disparate Treatment on the Basis of Disability**

15 194. The City and County created a homeless shelter program during the COVID-19
16 pandemic that addressed the needs of unhoused individuals, including individuals with
17 disabilities. The COVID-19 Shelter Program included congregate shelter and non-congregate
18 shelter.

19 195. The City and County made available to unhoused individuals congregate shelter,
20 including the San Diego Convention Center, Paul Mirabile Center Shelter, PATH Shelter, and
21 Golden Hall. These congregate shelters provided beds that were not in separate rooms and did
22 not provide private bathrooms.

23 196. For high risk unhoused individuals, the CDC recommended that non-congregate
24 shelter be available as these individuals were at high risk of severe illness or death if they
25 contract COVID-19. FEMA in following the CDC guidelines made funds available for states and
26 local governments to provide non-congregate shelter. California Department of Social Services
27 made funds available for counties to provide non-congregate shelter as well.

28 197. The City and County of San Diego received both state and federal funds to

1 provide non-congregate shelter to its residents. In March 2020, the City and County rolled out a
2 program that provided that high risk unhoused individuals would be eligible for non-congregate
3 shelter.

4 198. However, high risk unhoused individuals, who have disabilities like Plaintiffs,
5 were not able to access the non-congregate shelter despite reaching out and seeking shelter
6 assistance from the City and County.

7 199. At all relevant times, there were non-congregate shelters, i.e. hotel and motel
8 rooms, through the City and County COVID-19 Shelter Program that were left empty.

9 200. Despite the available non-congregate shelter rooms, Plaintiffs, who are high risk
10 unhoused individuals, on numerous occasions tried to access the non-congregate shelter and
11 were denied access.

12 201. The City and County further knew that congregate living settings place all people
13 at higher risk of contracting COVID-19. The City and County knew that this is especially true
14 for people with disabilities who have these underlying health conditions.

15 202. At all relevant times, the City and County knew that the underlying disabling
16 health conditions of many unhoused individuals made them more likely than the general
17 population to become infected with COVID-19, to require hospitalization and/or ICU care for
18 COVID-19, and to die from COVID-19.

19 203. At all relevant times, the City and County knew that the congregate nature of a
20 shelter would place unhoused individuals with disabilities, which include these health conditions,
21 at higher risk of contracting COVID-19 because of their underlying health conditions and
22 disabilities. Yet, the City and County used state and federal COVID-19 funds to carry out plans
23 to amass 1,500 unhoused individuals in a single congregate setting – the Convention Center.

24 204. The City and County further knew that congregate shelters were functionally
25 unavailable to many unhoused individuals residing in the City and County with disabilities
26 because of their disabilities and not a place that they would be able to access because of
27 compromised immune systems. Yet, the City used law enforcement to create a hostile
28 environment for unhoused individuals to push them into a mega-shelter, the Convention Center.

1 The City and County also conditioned access to homeless programs on unhoused individuals
2 with disabilities staying in congregate shelter, including the Convention Center.

3 205. At all relevant times, the City and County knew or should have known that many
4 unhoused individuals were unable to tolerate shelters because of their disabilities. Yet, the City
5 and County did not provide non-congregate housing options to unhoused individuals with
6 disabilities. For these individuals, especially those who were eligible under the City and
7 County's own policies for non-congregate housing options, the City and County's actions caused
8 irreparable harm. The City and County's actions—including dispersing and displacing unhoused
9 individuals with disabilities and preventing them from practicing self-isolation and social
10 distancing—also caused irreparable harm to the greater public by causing community spread.

11 206. At all relevant times, the City and County knew that many people with disabilities
12 who have underlying health conditions and were considered high risk unhoused individuals,
13 would be more likely to require hospitalization and/or ICU care for COVID-19, and to die from
14 COVID-19.

15 207. The City and County did not adjust their process or intake criteria for high risk
16 unhoused individuals despite the low occupancy by such individuals in the non-congregate
17 shelter. Prior to this lawsuit, the City and County received requests for reasonable
18 accommodations as part of the interactive process from Plaintiffs, who have disabilities, are high
19 risk unhoused individuals, and eligible for non-congregate shelter, but were unable to obtain
20 appropriate placement through the COVID-19 Shelter Program's intake process. The City and
21 County, however, continued to deny Plaintiffs and other high risk individuals access to the non-
22 congregate shelters. The City and County maintained that the congregate shelters were the only
23 available shelter options for Plaintiffs and other high risk unhoused individuals despite the
24 program's own policy, and state and federal guidance.

25 **ii. Disparate Impact on the Basis of Disability**

26 208. The City and County's COVID-19 Shelter Program included both congregate and
27 non-congregate shelter options based on eligibility of unhoused individuals.

28 209. At all relevant times, the City and County knew that a disproportionate number of

1 unhoused individuals residing in the City and County have disabilities that render them
2 particularly vulnerable to COVID-19. The City and County's own policies and procedures
3 directed the provision of non-congregate housing, in the form of hotel and motel rooms leased
4 through state and federal funding, to high risk unhoused individuals. But, the City and County
5 administered the homeless programs in a discriminatory manner while COVID-19 continued to
6 spread among unhoused individuals and did not make the services accessible to people with
7 these disabilities.

8 210. To be eligible for the City and County's homeless programs, including the
9 COVID-19 Shelter Program, an individual must be an unhoused City and County resident. High
10 risk unhoused City and County residents constitute a subset of the eligible population and a
11 protected class of individuals with disabilities. The City and County administered the COVID-19
12 Shelter Program in a manner that disproportionately harmed this subset of high risk individuals
13 when compared to the entire population of eligible unhoused individuals.

14 211. Unhoused individuals, who were able to live in congregate shelter, were given
15 access to the City and County's COVID-19 Shelter Program and homelessness services.
16 Unhoused individuals were transferred to the COVID-19 congregate shelters from existing
17 congregate shelter, through placement by the City's Homeless Outreach Team, and by calling the
18 City and County's 211 hotline. Unhoused individuals who stayed at the San Diego Convention
19 Center were provided a shelter bed and connected to housing navigation, mental and behavioral
20 health services, healthcare, health screenings, and case managers for social services.

21 212. High risk unhoused individuals, however, were disproportionately unable to
22 access the COVID-19 Shelter Program. Due to their disabilities and medical conditions,
23 congregate shelter rendered them particularly vulnerable to COVID-19. However, the City and
24 County systematically denied high risk unhoused individuals from the non-congregate shelter.
25 High risk unhoused individuals were denied access by the City and County, including the City's
26 Homeless Outreach Team, through the City and County's 211 hotline, and City and County
27 contracted homeless providers. By not having access to the non-congregate shelters, high risk
28 unhoused individuals were denied the ability to self-isolate in a shelter during COVID-19, and

1 denied access to homeless services like housing navigation, mental and behavioral health
2 services, healthcare, health screenings, private bathrooms, meals, and case managers for social
3 services.

4 213. The City and County's own policies and procedures directed the provision of non-
5 congregate housing, in the form of hotel and motel rooms leased through state and federal
6 funding, to unhoused individuals. But, the City and County administered the homeless programs
7 in a discriminatory manner while COVID-19 continued to spread among unhoused individuals
8 and did not make the services accessible to people with these disabilities.

9 214. Further, the City and County knew or should have known that unhoused people
10 with disabilities were being denied equal access to the homeless programs, including the
11 COVID-19 Shelter Program, particularly after receiving Plaintiffs' requests for reasonable
12 modifications under the ADA. Despite this knowledge, the City and County refused to modify
13 the homeless programs, including the COVID-19 Shelter Program, to accommodate people with
14 disabilities, instead leaving these individuals unsheltered, without access to non-congregate
15 housing options or any homeless services, and subject to ongoing adverse treatment by law
16 enforcement.

17 215. High risk unhoused individuals who were not able to stay at the congregate
18 shelters were not given access to the non-congregate shelters. The City and County knew that a
19 disproportionate number of unhoused individuals are disabled and have these underlying health
20 conditions, and continued to leave non-congregate shelter rooms, which were part of its COVID-
21 19 Shelter Program, empty.

22 **iii. Discrimination on the Basis of Race**

23 216. The City and County's COVID-19 Shelter Program included both congregate and
24 non-congregate shelter options based on eligibility of unhoused individuals.

25 217. At all relevant times, the City and County knew that a disproportionate number of
26 unhoused individuals were racial minorities. Racial minorities experience homelessness at a
27 higher rate than white individuals.

28 218. The City and County also knew that racial minorities were disproportionately

1 harmed by COVID-19. Medical data demonstrated a disproportionate burden of COVID-19
2 infection, hospitalization, and death among racial minorities. Despite this knowledge, the City
3 and County continued to push unhoused individuals—disproportionately racial minorities—into
4 a congregate setting and conditioned access to homeless programs, including the COVID-19
5 Shelter Program, on residing at the Convention Center.

6 219. The City has had many opportunities to take steps to reduce the risk of COVID-19
7 to unhoused individuals who are racial minorities, yet the City and County chose to continue to
8 administer the homeless programs in a way that disproportionately adversely impacted and
9 threatened the safety of this population, despite outbreaks in congregate shelter settings.

10 220. To be eligible for the City and County’s homeless programs, including the
11 COVID-19 Shelter Program, an individual must be an unhoused City and County resident. This
12 population of unhoused City and County residents relied on the City and County’s COVID-19
13 Shelter Program. Unhoused City and County residents who are racial minorities constitute a
14 subset of the eligible population and a protected class. The City and County administered the
15 COVID-19 Shelter Program in a manner that disproportionately harmed this subset of racial
16 minorities when compared to the entire population of eligible unhoused individuals.

17 221. Unhoused City and County residents, who were able to live in congregate shelter,
18 were given access to the City and County Shelter Program and homelessness services. Unhoused
19 individuals were transferred to the COVID-19 congregate shelter from existing congregate
20 shelter. Unhoused individuals were also directed to the COVID-19 congregate shelter by the
21 City’s Homeless Outreach Team, and by calling the City and County’s 211 hotline. Unhoused
22 individuals who stayed at the San Diego Convention Center were provided a shelter bed and
23 connected to housing navigation, mental and behavioral health services, healthcare, health
24 screenings, and case managers for social services.

25 222. Unhoused individuals who are racial minorities, however, were disproportionately
26 unable to access the COVID-19 Shelter Program. They were at higher risk of hospitalization and
27 death from COVID-19, and had disabilities and medical conditions that rendered them
28 particularly vulnerable to COVID-19. However, the City and County systematically denied

1 unhoused individuals who are racial minorities from the non-congregate shelter. Unhoused
2 individuals who were racial minorities were denied access by the City and County, including the
3 City's Homeless Outreach Team, through the City and County's 211 hotline, and City and
4 County contracted homeless providers. By not having access to the non-congregate shelters,
5 unhoused individuals who were racial minorities were denied the ability to self-isolate in a
6 shelter during COVID-19, and denied access to homeless services like housing navigation,
7 mental and behavioral health services, healthcare, health screenings, private bathrooms, meals,
8 and case managers for social services.

9 **CAUSES OF ACTION**

10 **FIRST CAUSE OF ACTION**

11 **Violation of the Fair Employment and Housing Act**
12 **(Gov. Code §§ 12920, 12927, 12955)**

13 223. Plaintiffs hereby incorporate each and every allegation contained in the foregoing
14 paragraphs as if fully set forth herein.

15 224. The California Fair Employment and Housing Act (FEHA) prohibits housing
16 discrimination based on race, color, religion, sex, gender, gender identity, gender expression,
17 sexual orientation, marital status, national origin, ancestry, familial status, source of income,
18 disability, veteran or military status, or genetic information. Gov. Code §§ 12920, 12955. FEHA
19 provides no fewer rights and remedies as those provided by the Federal Fair Housing
20 Amendments Act of 1988. Gov. Code §12955.6.

21 225. Gov. Code § 12955.8(b) authorizes a claim for housing discrimination irrespective
22 of intent, when the alleged act or omission has the effect of discriminating based on disability
23 and/or race.

24 226. Proof of an intentional violation of FEHA includes an act or failure to act that
25 demonstrates an intent to discriminate. Gov. Code § 12955.8(a). There is intentional
26 discrimination when the intent to discriminate is a motivating factor in the commitment of a
27 discriminatory housing practice, even though other factors may also have motivated the practice.
28 *Id.* An intent to discriminate may be established by direct or circumstantial evidence. *Id.*

1 227. Upon finding that a discriminatory housing practice has occurred or is about to
2 occur, FEHA authorizes a court to grant injunctive relief, an order enjoining the defendant from
3 engaging in or continuing to engage in, such unlawful practice. Gov. Code §§ 12989.2, 12900 *et*
4 *seq.*

5 228. FEHA declares it unlawful to discriminate by making unavailable or denying
6 access to a dwelling, based on the handicap of a person residing in or intending to reside in that
7 dwelling after it is made available. Gov. Code § 12955(k). It is also unlawful to aid, abet, incite,
8 compel, or coerce such acts or practices. *Id.* §12955(g).

9 229. Unlawful discrimination includes making housing opportunities unavailable;
10 denying or withholding housing accommodations; or providing inferior terms, conditions,
11 privileges, facilities, or services in connection with housing accommodations. *Id.* §§12955(g),
12 (k), 12927(c)(1).

13 230. The City and the County have a mandatory legal duty to comply with FEHA and
14 are liable for violations of FEHA.

15 231. Hotel and motel rooms, and shelters provided through the City and County's
16 homeless programs qualify as "dwellings" within the meaning of FEHA because they are used as
17 residences by one or more individuals. Plaintiffs have nowhere else to go and have relied on the
18 shelters and motels as their only available housing option. *Auburn Woods I Homeowners Ass'n v.*
19 *Fair Employment and Housing Com'n*, 121 Cal. App. 4th 1578, 1590 (2004) ("Courts often look
20 to cases construing the FHA, the Rehabilitation Act of 1973, and the American with Disabilities
21 Act of 1990 when interpreting FEHA.").

22 232. Plaintiffs are people with disabilities within the meaning of FEHA because their
23 respective physical and/or mental impairments substantially limit one or more of their major life
24 activities. See *Id.* §§ 12955.3, 12926(j), (m).

25 233. The City and County discriminated, against these eligible individuals because of
26 their disabilities by depriving them, or threatening to deprive them, of the ability to stay at hotels
27 or motels, thereby making these dwellings unavailable, and by failing to provide reasonable
28 modifications.

1 234. Plaintiffs are informed and believe, and based thereon allege, that the City and
2 County's administration of their homeless programs, particularly their withholding of non-
3 congregate housing options, has a disproportionate impact on unhoused individuals who are
4 members of a protected class, including persons with disabilities, racial minorities, and families
5 with children.

6 235. Plaintiffs are informed and believe, and based thereon allege, that the City and
7 County intentionally discriminated against unhoused individuals with disabilities because of their
8 disabilities and race. Adversely impacting and harming unhoused individuals with disabilities
9 and racial minorities were motivating factors behind the City and County's administration of the
10 homeless programs, particularly their withholding of non-congregate housing options.

11 236. The City and County knew that a disproportionate number of unhoused
12 individuals have disabilities and are more likely to become infected with COVID-19, require
13 hospitalization from COVID-19, and die from COVID-19 than the general population.

14 237. The City and County knew that non-congregate settings allowed individuals to
15 shelter in place, self-isolate, and practice social distancing. The City also knew that congregate
16 settings pose a higher risk of COVID-19 transmission than non-congregate settings. The City and
17 County knew about the rapid way in which COVID-19 spread through homeless shelters in
18 similarly situated cities. Yet, the City and County administered homeless programs for unhoused
19 individuals without affording those with disabilities, including underlying medical conditions
20 that result in increased susceptibility to complications and death from COVID-19, meaningful
21 access to the benefits of the homeless programs, including housing that accommodates their
22 disabilities and allows them to practice social distancing. The City and County conditioned
23 access to services on residing in a congregate setting, the Convention Center. The City and
24 County administered the homeless programs in a way that prevented unhoused individuals from
25 accessing non-congregate housing options.

26 238. The City and County failed to modify policies and services as requested by
27 unhoused individuals with disabilities, including racial minorities and unhoused families with
28 children. By failing to modify the homeless programs to accommodate people with disabilities,

1 the City and County have subjected unhoused individuals with disabilities, including racial
2 minorities and unhoused families with children, to dangers that put their health and well-being at
3 risk, including increased risk of contracting and dying from COVID-19, and aggravation of their
4 mental health conditions and physical disabilities.

5 239. Based on the foregoing, Plaintiffs are entitled to and demand declaratory and
6 injunctive relief, damages, reasonable attorneys' fees and costs.

7 **SECOND CAUSE OF ACTION**
8 **Violation of Unruh Civil Rights Act**
9 **(Civ. Code §§ 51 *et seq.*)**

10 240. Plaintiffs hereby incorporate each and every allegation contained in the foregoing
11 paragraphs as if fully set forth herein.

12 241. The Unruh Civil Rights Act entitles all individuals to "full and equal
13 accommodations, advantages, facilities, privileges, or services in all business establishments of
14 every kind whatsoever." Civ. Code § 51(b).

15 242. The Unruh Civil Rights Act defines who is protected and where they shall be free
16 from discrimination: "All persons within the jurisdiction of this state are free and equal, and no
17 matter what their sex, race, color, religion, ancestry, national origin, disability, medical
18 condition, genetic information, marital status, sexual orientation, citizenship, primary language,
19 or immigration status are entitled to the full and equal accommodations, advantages, facilities,
20 privileges, or services in all business establishments of every kind whatsoever." *Id.*

21 243. The Unruh Civil Rights Act does not limit what persons are liable, declaring
22 "Whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary to
23 Section 51, 51.5, or 51.6, is liable for each and every offense ..." Civ. Code § 52(a).

24 244. The Unruh Civil Rights Act sets forth the procedure for bringing a civil action:
25 "Whenever there is reasonable cause to believe that any person or group of persons is engaged in
26 conduct of resistance to the full enjoyment of any of the rights described in this section, and that
27 conduct is of that nature and is intended to deny the full exercise of those rights, the Attorney
28 General, any district attorney or city attorney, or any person aggrieved by the conduct may bring

1 a civil action in the appropriate court by filing with it a complaint.” Civ. Code. § 52(c). The civil
2 action shall contain “[a] request for preventive relief, including an application for a permanent or
3 temporary injunction, restraining order, or other order against the person or persons responsible
4 for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights
5 described in this section.” Civ. Code. § 52(c)(3).

6 245. At all times relevant to this action, the Defendants City of San Diego and County
7 of San Diego, through Operation Shelter to Home, participated in a public-private partnership in
8 providing housing accommodations for people who are unhoused including the provision of non-
9 congregate housing options in the form of private, commercial hotel and motel rooms to
10 unhoused individuals at high risk for complications and death from COVID-19.

11 246. At all relevant times, the City and County addressed the economic hardship faced
12 by the hotel and motel industry during the COVID-19 pandemic by advertising the availability of
13 the COVID-19 Shelter Program to contract vacant rooms at approximately market-value room
14 rates per night. The City and County also engaged the hotel and motel operators to provide
15 services to unhoused individuals alongside commercial guests staying at the same property.

16 247. The provision of housing accommodations is a “business establishment” within
17 the meaning of Civil Code § 51. Thus, Defendants, through their Operation Shelter to Home,
18 have a mandatory duty to comply with the Unruh Civil Rights Act, and are liable for violations
19 of the Unruh Civil Rights Act. Neither the Defendants nor their agents may enforce policies or
20 practices which directly or indirectly abridge the rights afforded to individuals by section 51 of
21 the Unruh Civil Rights Act.

22 248. Plaintiffs are people with disabilities within the meaning of Gov. Code § 12926,
23 and come within the protection of the Unruh Civil Rights Act.

24 249. Through the concerted actions, Defendant discriminated against Plaintiffs because
25 of their disabilities and race by depriving them of the opportunity to stay in the hotel and motel
26 rooms, making these housing accommodations unavailable to Plaintiffs, and by failing to provide
27 reasonable modifications.

28 250. Plaintiffs are informed and believe, and based thereon allege, that Defendant

1 denied to Plaintiffs services, advantages, accommodations, facilities, and privileges of the above-
2 mentioned housing accommodations on account of Plaintiffs' disabilities and race. Adversely
3 impacting and harming unhoused individuals with disabilities, including racial minorities, by
4 excluding them from accessible shelter, including privately-owned hotels and motels, was a
5 motivating factor behind Defendants' withholding of access to the above-mentioned business
6 establishments.

7 251. Defendants' wrongful conduct continue as Defendants continue to deny Plaintiffs
8 and similarly situated unhoused individuals at high risk of complications or death from COVID-
9 19 the full and equal accommodations, advantages, facilities, privileges, and services of the
10 above-mentioned housing accommodations based on their disability and race. Plaintiffs have
11 been denied, and continue to be denied, free and equal access to housing accommodations and
12 business establishments for which access is operated by the City and County. Unless compelled
13 by this Court to comply with the Unruh Civil Rights Act, Defendants will continue to refuse to
14 comply with the Unruh Civil Rights Act and will continue to violate the law. Plaintiffs and other
15 unhoused individuals with disabilities, including racial minorities, will continue to be injured as
16 a result.

17 252. Defendants' actions discriminate against Plaintiffs in violation of Civ. Code §§ 51
18 *et seq.*

19 253. Plaintiffs are entitled to injunctive relief, declaratory relief, damages including
20 statutory damages, attorneys' fees, and costs.

21 **THIRD CAUSE OF ACTION**
22 **Discrimination in State-Funded Programs**
23 **(Violation of California Government Code § 11135)**

24 254. Plaintiffs hereby incorporate each and every allegation contained in the foregoing
25 paragraphs as if fully set forth herein.

26 255. Section 11135(a) of the California Government Code provides in relevant part:
27 "No person in the State of California shall, on the basis of ... disability, ... be unlawfully denied
28 the benefits of, or be unlawfully subjected to discrimination under, any program or activity that

1 is conducted, operated, or administered by the state or by any state agency, is funded directly by
2 the state, or receives any financial assistance from the state.”

3 256. Section 11135 of the California Government Code prohibits discrimination based
4 on sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental
5 disability, physical disability, medical condition, genetic information, marital status, and sexual
6 orientation.

7 257. At all times relevant to this action, the City and County received financial
8 assistance from the State of California for their services and programs as described in Section
9 11135(a). The City and County’s services and program, referred to as homeless programs, are “a
10 program or activity that is conducted, operated, or administered by the state or by any state
11 agency, is funded directly by the state, or receives any financial assistance from the state.”

12 258. Section 11135(b) of the Government Code incorporates the protections and
13 prohibitions contained in the Americans with Disabilities Act and its implementing regulations.
14 Section 11135(b) states in relevant part:

15 259. With respect to discrimination on the basis of disability, programs and activities
16 subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of
17 the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules
18 and regulations adopted in implementation thereof, except that if the laws of this state prescribe
19 stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall
20 be subject to the stronger protections and prohibitions.

21 260. Through their acts and omissions described herein, the City and County have
22 violated and will continue to violate California Government Code § 11135 by unlawfully
23 denying unhoused people with disabilities the benefits of state funding.

24 261. The City and County’s acts and omissions demonstrate intentional discrimination
25 against Plaintiffs for withholding a state-funded benefit for which they were eligible for, and
26 instead left underutilized rather than to allow eligible individuals access to the COVID-19
27 Shelter Program.

28 262. The City and County’s acts and omissions also have the purpose and effect of a

1 disproportionately adverse impact on people with disabilities who are at high risk if contracting
2 COVID-19, and susceptible to severe illness or higher risk of death than the general unhoused
3 population.

4 263. The City and County's acts and omissions also have the purpose and effect of
5 disproportionately adversely impacting racial minorities, particularly African Americans, who
6 are three times more likely than white individuals to be harmed by the City and County's
7 policies.

8 264. The City and County also failed to accommodate the reasonable requests of
9 Plaintiffs to modify the COVID-19 Shelter Program and its implementation which would allow
10 access to Plaintiffs who are all people with disabilities.

11 265. Pursuant to California Government Code § 11139, Plaintiffs have a private right
12 of action to enforce California Government Code § 11135(b).

13 266. Plaintiffs are directly and beneficially interested in the City and County's
14 compliance with all applicable provisions of the law and with all legal duties, as set forth herein.

15 267. At all times relevant to this action, the City and County have had the ability to
16 comply with Gov. Code § 11135 and have failed to do so by denying Plaintiffs the benefits of the
17 homeless programs for the reasons set forth above.

18 268. Plaintiffs are entitled to injunctive and declaratory relief, damages, and attorneys'
19 fees and costs.

20 **FOURTH CAUSE OF ACTION**
21 **Declaratory and Injunctive Relief**
22 **(Code of Civ. Proc. §§ 526 and 1060)**

23 269. Plaintiffs incorporate all previous paragraphs as if fully set forth herein.

24 270. Unhoused individuals with disabilities are suffering irreparable injury as a result
25 of the City and County's administration of their homeless programs. The injuries suffered are not
26 easily quantified or compensable. No money damages or other legal remedy could adequately
27 compensate or make whole Plaintiffs and unhoused individuals with disabilities for the
28 irreparable harm the City and County's conduct has caused, continues to cause, and threatens to

1 cause Plaintiffs and members of the public through its continued violation of state law and the
2 California Constitution. The City and County, unless enjoined, will continue to discriminate
3 against unhoused individuals with disabilities and administer their homeless programs in a way
4 that harms Plaintiffs, other members of the public, and unhoused individuals with disabilities.

5 271. Plaintiffs, other members of the public, and unhoused individuals have suffered
6 and/or will continue to suffer from a lack of access to the City and County's homeless programs,
7 which they cannot access as a direct and proximate result of the City and County's actions.

8 272. There is an actual and justiciable controversy between Plaintiffs and Defendants
9 regarding whether the City and County's actions comply with all applicable laws. Plaintiffs,
10 other members of the public, and unhoused individuals with disabilities are deprived, among
11 other things, of their rights under Article I, Section 7 of the California Constitution, the
12 California Disabled Persons Act (Civ. Code §§ 54 *et seq.*), the Fair Employment and Housing
13 Act (Gov. Code §§ 12920, 12927, and 12955), the Unruh Civil Rights Act (Civ. Code §§ 51 *et*
14 *seq.*), and Gov. Code § 11135. By administering the homeless programs in a way that denies
15 unhoused individuals with disabilities meaningful access, the City and County are failing, as set
16 forth herein, to comply with the law.

17 273. Unless enjoined by this Court, the City and County will continue to administer the
18 homeless programs in a way that disproportionately impacts unhoused individuals with
19 disabilities, precluding them from accessing available and medically appropriate, non-congregate
20 housing options during COVID-19, and instead providing only congregate setting options which
21 increase their risk of exposure to COVID-19.

22 274. Plaintiffs are entitled to a legal declaration of their rights and the City and
23 County's obligations under applicable state law and the California Constitution as alleged in this
24 petition and complaint.

25 275. Without such a judicial declaration, disputes and controversy will continue over
26 whether the City and County's actions administering the homeless programs comply with all
27 applicable laws.

28 276. Plaintiffs are entitled to injunctive relief requiring the City and County to comply

1 with their legal duties as alleged in this petition and complaint.

2 277. Plaintiffs are directly and beneficially interested in the City and County's
3 compliance with all applicable provisions of the law and with all legal duties, as set forth herein.
4 As a result, they have standing to bring this claim for declaratory and injunctive relief.

5 278. At all times relevant to this action, the City and County have had the ability to
6 perform the legal duties set forth herein and comply with the law, and have failed to perform
7 those duties and comply with the law.

8 279. Unless compelled by this Court to perform those acts and duties and comply with
9 the law, the City and County will continue to refuse to carry out those duties and continue to
10 violate the law. Plaintiffs and unhoused individuals with disabilities will continue to be injured
11 as a result.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs respectively pray that this Court:

3 A. For injunctive relief commanding the City and County to:

- 4 i. Administer the COVID-19 Shelter Program, including homeless
5 programs, under the City and County's policies and procedures by
6 providing non-congregate housing options for unhoused individuals who
7 are "at increased risk due to their age and presence of underlying health
8 conditions (defined as 65 years of age or older, and/or with chronic
9 medical conditions, or immunocompromised)" and/or "at particularly high
10 risk of contracting COVID";
- 11 ii. Refrain from conditioning unhoused individuals' access to non-congregate
12 housing options only on unhoused individuals contracting COVID-19 or
13 experiencing COVID-19 symptoms;
- 14 iii. Refrain from conditioning access to the City and County's homeless
15 services and programs on whether an unhoused person accesses or accepts
16 shelter;
- 17 iv. Comply with Article I, Section 7 of the California Constitution, the
18 California Disabled Persons Act (Civ. Code §§ 54 *et seq.*), the Fair
19 Employment and Housing Act (Gov. Code §§ 12920, 12927, and 12955),
20 and Gov. Code § 11135, by administering the homeless programs in a way
21 that provides unhoused individuals with disabilities meaningful access;
22 and
- 23 v. Refrain from committing gross waste and mismanagement of funds
24 intended for unhoused services and programs during the COVID-19
25 pandemic by immediately directing funds to non-congregate housing
26 options instead of congregate settings.

27 B. For injunctive relief commanding the City and County to comply with the Unruh
28 Civil Rights Act (Civ. Code §§ 51 *et seq.*).

1 C. For a declaration that:

- 2 i. The City and County have administered the homeless programs in a
3 discriminatory fashion, violating state law and the California Constitution;
4 and
5 ii. The City and County's provision of shelter in the form of congregate
6 settings does not constitute adequate shelter for many unhoused
7 individuals with disabilities at higher risk for severe illness from COVID-
8 19 during the COVID-19 pandemic.

9 D. For reasonable attorney's fees and costs under, *inter alia*, Code of Civil Procedure
10 § 1021.5;

11 E. For damages to Plaintiffs in an amount to be determined according to proof;

12 F. For such other and further relief that the Court deems just and proper.

13
14 Date: September 15, 2021



15 **Disability Rights California**

16 Parisa Ijadi-Maghsoodi

17 Lili Graham

18 S. Lynn Martinez

19 Ann Menasche

Nichole Mendoza

Attorneys for Plaintiffs

20 **Bremer Whyte Brown & O'Meara, LLP**

21 Keith G. Bremer

22 *Attorney for Plaintiffs*

23 **Community Advocates for Just and Moral
24 Governance**

25 Geneviève L. Jones-Wright

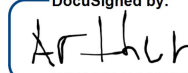
26 Branden Sigua

27 *Attorneys for Plaintiffs*

VERIFICATION

I, Arthur Price, am one of the Plaintiffs in the above-entitled action. I have read the foregoing
THIRD AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF and know the contents thereof. The same is true of my own knowledge, except as to those
matters which are therein alleged on information and belief, and as to those matters, I believe it to be
true.

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct. Executed this 9/14/2021, in San Diego, California.

DocuSigned by:

E07CA3A8EE774FF...

Arthur Price

VERIFICATION

I, Cherrie Dosio, am one of the Plaintiffs in the above-entitled action. I have read the foregoing THIRD AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9/14/2021, in San Diego, California.

DocuSigned by:

194306F49D49415...

Cherrie Dosio

VERIFICATION

I, Christopher Voelp, am one of the Plaintiffs in the above-entitled action. I have read the foregoing THIRD AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9/14/2021, in Tuscon, AZ.

DocuSigned by:

Christopher Sean Voelp


2B0CABB1275A4E9...

Christopher Voelp

VERIFICATION

I, Patrick Quinones, am one of the Plaintiffs in the above-entitled action. I have read the foregoing THIRD AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9/14/2021, in Tuscon, AZ.

DocuSigned by:

12FE8C4C63A64E5...

Patrick Quinones

VERIFICATION

I, Keith Reid, am one of the Plaintiffs in the above-entitled action. I have read the foregoing
THIRD AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF and know the contents thereof. The same is true of my own knowledge, except as to those
matters which are therein alleged on information and belief, and as to those matters, I believe it to be
true.

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct. Executed this 9/15/2021, in San Diego, California.

DocuSigned by:

6C406A1E8082493...

Keith Reid

VERIFICATION

I, Dasha Arlett, am an agent of Food Not Bombs – San Diego, one of the Plaintiffs in the above-entitled action. I am authorized to make this verification on behalf of Food Not Bombs – San Diego. I have read the foregoing THIRD AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9/14/2021, in San Diego, California.

DocuSigned by:

9C1287A7E3FF440...

Dasha Arlett

EXHIBIT A

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LEGAL ADVOCACY UNIT

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April 28, 2020

Via E-mail: cityclerk@sandiego.gov

Mayor Kevin Faulconer
City Councilmember Montgomery
City Councilmember Campbell
City Councilmember Cate
City Councilmember Moreno
202 C St, San Diego, CA 92101
San Diego, CA 92101

City Councilmember Gomez
City Councilmember Ward
City Councilmember Kersey
City Councilmember Sherman
City Councilmember Bry

**Re: Demand to Stop Unlawful Discrimination Against Homeless
Individuals with Disabilities and Request for Reasonable
Modifications**

Dear Mayor Faulconer and Councilmembers:

We urgently write on behalf of individuals with disabilities who are experiencing homelessness. The City must stop law enforcement activity against homeless individuals which recklessly threatens the health and safety of individuals experiencing homelessness, and instead provide them the necessary services to manage their disabilities, health, and basic needs.

Homeless individuals with disabilities rely on the City of San Diego's administered "Homeless Programs", city-led programs and services, to manage the symptoms of their disabilities especially during this pandemic. However, the City discriminates and denies homeless individuals from accessing the Homeless Programs as detailed below and as raised by Community Advocates for Just and Moral Governance in their cease and desist letter dated April 13, 2020, which this letter supplements. Attached as Exhibit A.

To enable individuals experiencing homelessness to access the City's Homeless Programs, we ask that the City cease its discrimination against homeless individuals with disabilities and modify its programs, as requested below.¹

These demands are urgent and underscored by the two homeless individuals at the Convention Center who tested positive for COVID-19.² The City is failing to provide non-congregate housing options for its most vulnerable residents and, instead, placing people in congregate housing options which subjects individuals to *higher* risk of exposure to and transmission of COVID-19. At a time when the region is experiencing its highest daily COVID-19 infection and death rates, the City's actions pose a threat to public safety.

The City's administration of its COVID-19 related programs and services discriminates against homeless individuals with disabilities in violation of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, and the California Disabled Persons Act. The City's actions, including its ongoing law enforcement activity against homeless individuals, violate the constitutional rights of homeless individuals with disabilities, endanger them, exacerbate their disabilities, and risk their lives.

A. The City of San Diego's Homeless Programs Includes Services and Programs That Enable Homeless Individuals to Manage Their Health and Disabilities.

In San Diego, a high number of homeless individuals have disabilities. The Regional Task Force on the Homeless found that 39% of homeless people in San Diego reported mental health disabilities and 40% reported a physical disability.³ Some surveys have found even higher rates of disability. For example, of the 1,145 persons attending a one-day resource fair for the

¹ Disability Rights California's clients, homeless individuals with disabilities, request reasonable modifications as detailed in Section C of this demand.

² Mayor Kevin L. Faulconer. Press Release: *Proactive Testing to Detect and Contain COVID-19 Identifies Two Positive Individuals at Shelter to Home Operation*. Dated April 26, 2020. Available online at: <https://www.sandiego.gov/mayor/news/releases/proactive-testing-detect-and-contain-covid-19-identifies-two-positive-individuals-shelter>.

³ *Regional Task Force on the Homeless 2017 We All Count Results* (2017). Available online at: <http://www.rtfhsd.org/wp-content/uploads/2017/07/2017-PITC-Results-Powerpoint.pdf>.

homeless in the City, 60.2% reported a long-lasting medical condition and 49.5% reported having a mental illness.⁴

1. The City of San Diego's Homeless Programs

The City's fiscal year 2020 budget for homeless services and programs ("Homeless Programs") exceeded \$116 million.⁵ The City's funding includes Federal, State, and local sources. Through its Homeless Programs, the City administers millions in funding from the Department of Housing and Urban Development (HUD)'s Continuum of Care, a program designed to end homelessness by quickly rehousing homeless individuals and families while minimizing trauma and dislocation.

The City identified the Homeless Programs to include: "[a]ssist individuals and families to gain stable housing after experiencing homelessness or a housing crisis by providing appropriate housing and service solutions grounded in best practices"; identify health care and mental health resources as vital services for homeless families to achieve stability; and, include as homelessness programs and services – shelters, transitional housing, permanent supportive housing options, outreach and engagement, housing location assistance, medical services, substance abuse recovery, mental health care, veteran services, and storage.⁶ In addition to federal funding, the City received Homeless Emergency Aid Program (HEAP) funds for homeless programs to connect homeless individuals to mental health services through the jurisdiction's Continuum of Care program.

2. The City's Homeless Programs During COVID-19

During the COVID-19 pandemic, the City expanded its Homeless Programs through Federal, State, and local funding to include programs and services that the City intended to meet the needs of the homeless population and is comprised of various components. The City combined the \$3.7 million it had received in state emergency homelessness grant funding with \$3.4 million

⁴ *San Diego Housing Commission Project Homeless Connect Report* (2015). Available online at: http://www.sdhc.org/uploadedFiles/Housing_Innovations/Project_Homeless_Connect/2015Project%20Homeless%20Connect%20Report_04.15.15.pdf.

⁵ *City of San Diego Community Action Plan on Homelessness* at 15 (2019). Available online at: https://www.sdhc.org/wp-content/uploads/2019/10/SD_Homeless_CSH_report_final_10-2019.pdf.

⁵ *City of San Diego Fiscal Year 2020-2024 Consolidated Plan* (June 2019). Available online at: <https://www.sandiego.gov/sites/default/files/cosdfy2024conplan.pdf>.

⁶ *Id.*

from the County of San Diego and the Regional Task Force on the Homeless to house and provide services to homeless individuals. This plan included the opening of an emergency homeless shelter at the Convention Center that includes a capacity of up to 1,500 people.⁷ Homeless Programs also included placing high risk homeless individuals in non-congregate housing options, including hotels and motels.

The City also set in place plans to complete the following: installation of 257 handwashing stations throughout the region; procurement of hotel and motel rooms by the County to temporarily isolate individuals who may have symptoms; deployment of public health nurses to shelters across the region, including the San Diego Convention Center; and assignment of public health nurses to Homeless Outreach Teams to educate individuals living on the streets, in the canyons and in the riverbed about COVID-19.

Excluding the City's plan to place unsheltered homeless individuals in the Convention Center, the Homeless Programs aimed to follow the guidance set forth by the State of California by focusing on infection prevention efforts, with the primary strategy being the provision of single occupancy housing.⁸ This protocol is demonstrated in the attached flow chart.⁹ Attached as Exhibit B. These protocols are also consistent with CDC guidance.¹⁰

⁷ City of San Diego Staff Report: *COVID-19 Emergency Homelessness Grant Funding*. Dated March 27, 2020. Available online at: <https://onbase.sandiego.gov/OnBaseAgendaOnline/Meetings/ViewMeeting?id=3965&doctype=1#>.

⁸ *State of California Recommended Strategic Approaches for COVID-19 Response for Individuals Experiencing Homelessness* (March 2020). Available online at: <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Protocols-Homeless-Pop.pdf>.

⁹ *State of California COVID-19 Recommended Protocol for People Experiencing Homelessness*. Available online at: <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/flowchart-COVID19-homelessness.pdf>.

¹⁰ *CDC Interim Guidance for Responding to Coronavirus Disease 2019 (COVID-19) Among People Experiencing Unsheltered Homelessness*. Available online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html> ("The balance of risk should be considered for each individual experiencing unsheltered homelessness.").

B. The City of San Diego's Actions Deny Homeless Individuals the Ability to Prevent the Contraction of COVID-19 and Discriminate Against Homeless Individuals With Disabilities.

As of March 18, 2020, San Diego had already experienced two COVID-19 outbreak scares at two of the region's largest homeless shelters.¹¹ As of April 13, 2020, 15 homeless individuals had tested positive for COVID-19.¹² On April 26, 2020, two homeless individuals at the Convention Center tested positive for COVID-19.¹³

On April 21, 2020, San Diego experienced its largest number of fatalities in one day, and largest one-day increases in new cases.¹⁴ As of April 23, 2020, the total deaths from COVID-19 numbered 96 with 2,491 individuals testing positive.¹⁵ The number of cases in San Diego has not yet peaked, and according to Eric McDonald, Medical Director with the County Epidemiology Immunization Branch, the number of people actually infected is likely ten times the reported total.¹⁶

Yet, the City continues to force homeless people into congregate shelters, deny housing placement and services as offered in its Homeless Programs, and sweep people living in self-isolated encampments. The City's actions deny homeless individuals the ability to practice the recommended preventative measures during the COVID-19 pandemic.

1. The City plans to shelter 1,500 homeless individuals in a single congregate facility, despite availability of non-congregate housing options, is discriminatory.

Using state and federal COVID-19 funds, the City is carrying out plans to house and serve 1,500 homeless individuals in a *single* congregate setting,

¹¹ *Homeless shelter tenants tested for COVID-19*, San Diego Union-Tribune (March 18, 2020). Available online at: <https://www.sandiegouniontribune.com/news/health/story/2020-03-18/homeless-shelter-tenants-tested-for-virus>.

¹² *County Reports 75 New Cases, Three Deaths as Homeless Testing Increases*, KPBS (April 16, 2020). Available online at: <https://www.kpbs.org/news/2020/apr/16/county-reports-75-new-cases-three-deaths-homeless/>.

¹³ See fn. 2.

¹⁴ *Escondido issues 'COVID-19 Action Plan'*, The Escondido Grapevine (April 23, 2020). Available online at: <https://escondidograpevine.com/2020/04/23/escondido-issues-covid-19-action-plan/>.

¹⁵ *Id.*

¹⁶ *Id.*

despite the availability of non-congregate housing options. By conducting encampment sweeps, citations, tickets, arrests, and impoundments, the City uses law enforcement to disperse homeless encampments, and push homeless individuals into congregate settings or unprotected on the streets. The City's policies and actions defy CDC guidelines, State of California guidelines, and recent COVID-19 reports, including those released by the CDC and UC Berkeley School of Public Health.

Recent medical reports and studies illustrate the threat congregate settings, specifically homeless shelters, pose to not only homeless individuals but to entire communities' efforts to prevent rapid community spread.¹⁷ The reports illustrate how dangerous the virus is for residents in homeless shelters.

Moreover, because homeless individuals with disabilities face higher risk of exposure to and transmission of COVID-19, the City's policy to force individuals into congregate shelters place homeless individuals at higher risk. Homeless individuals are not only more likely to become infected with COVID-19, but are two or three times more likely to require hospitalization, two to four times more likely to require ICU care, and twice as likely to die.¹⁸ Congregate housing, even housing that complies with CDC guidelines on distance between beds, increases the risk of COVID-19 exposure and transmission.¹⁹

Non-congregate housing options should be made available to all homeless individuals with disabilities to protect their health and safety and prevent the contraction of COVID-19. Instead, the City administers Homeless Programs

¹⁷ *For the Good of Us All: Addressing the Needs of Our Unhoused Neighbors During the COVID-19 Pandemic*, UC Berkeley School of Public Health (April 2020). Available online at: <https://publichealth.berkeley.edu/wp-content/uploads/2020/04/For-the-Good-of-Us-All-Report.pdf>; *Assessment of SARS-CoV-2 Infection Prevalence in Homeless Shelters — Four U.S. Cities, March 27–April 15, 2020*, Morbidity and Mortality Weekly Report (April 22, 2020). Available online at: <http://dx.doi.org/10.15585/mmwr.mm6917e1>; *COVID-19 Outbreak Among Three Affiliated Homeless Service Sites — King County, Washington*, Morbidity and Mortality Weekly Report (April 22, 2020). Available online at: <http://dx.doi.org/10.15585/mmwr.mm6917e2>; *COVID-19 outbreak at a large homeless shelter in Boston: Implications for universal testing*, medRxiv (April 12, 2020), <https://doi.org/10.1101/2020.04.12.20059618>.

¹⁸ *For the Good of Us All: Addressing the Needs of Our Unhoused Neighbors During the COVID-19 Pandemic*, UC Berkeley School of Public Health at 19 (April 2020). Available online at: <https://publichealth.berkeley.edu/wp-content/uploads/2020/04/For-the-Good-of-Us-All-Report.pdf>.

¹⁹ *Id.* at 18. (Even in a newly opened shelter in Seattle that complies with CDC guidelines, homeless individuals have tested positive for COVID-19.)

against public health directives – self-isolate only after a homeless person has contracted or displayed symptoms of COVID-19.

2. The City's Homeless Programs fail to provide meaningful access to non-congregate housing placement.

The City's Homeless Programs only allow self-isolation if a homeless individual has contracted COVID-19 or displays symptoms of COVID-19. This is contrary to the public health directive for housed residents of San Diego. The inability for homeless individuals in San Diego to access non-congregate housing – as recommended by the CDC – is disability discrimination.

The City is failing to provide non-congregate housing options to homeless individuals with disabilities. The City has ample resources to facilitate non-congregate housing options for those who cannot utilize shelters through the Homeless Programs, but the City is failing to administer the program in a way that gives meaningful access to homeless individuals with disabilities. The City is enforcing restrictive requirements for placement – conditioned on evidence of symptoms or a COVID-19 positive test – which places homeless individuals with disabilities in a position of having no option for prevention of contracting the coronavirus but instead is only allowed self-isolation upon contracting the disease. Actions that condition access to these programs and services on moving to a congregate setting deny meaningful access to homeless individuals with disabilities.

The City must give every homeless individual an option to prevent the contraction of this disease, not push them into a situation that will increase their chances of contracting the disease.

3. The City's failure to cease law enforcement activity forces homeless individuals into high risk situations during COVID-19.

As described above, CDC and State of California guidelines make clear that encampments should not be cleared unless individual housing units are available. When individual housing units are not available, the guidelines direct the City to ensure access to sanitary and hygiene materials, in the form of accessible restroom facilities or through the provision of portable latrines.

However, in San Diego, law enforcement displaces homeless individuals from encampments by harassing, threatening citations and arrests, and creating a hostile environment for homeless individuals with disabilities based on

“qualify of life” ordinance violations. All with the intent of moving homeless individuals away from encampment or moving them into congregate shelters.

The City’s law enforcement activity discriminates against individuals with disabilities and places them at higher risk of contracting COVID-19. Until such time that permanent, accessible, affordable housing is available to homeless individuals with disabilities, law enforcement activity against homeless individuals will continue to disproportionately impact persons with disabilities.

C. Individuals with Disabilities’ Request for Reasonable Modifications of the City’s Homeless Programs.

We request reasonable modifications on behalf of our individual clients with disabilities, who are not able to access the services and program that will enable them to prevent the contraction of COVID-19. The City’s administration of its services and programs directly affects all homeless individuals with disabilities.

On behalf of our clients and those similarly situated, we request that the City modify its programs and services to: (1) provide non-congregate housing options to homeless individuals with disabilities upon request for preventative care, without requirement of a positive COVID-19 test or COVID-19 symptoms, (2) provide programs and services to homeless individuals with disabilities in a way that evaluates each person’s immediate needs and accommodates their disabilities, and (3) until permanent, accessible, affordable housing is available to homeless individuals with disabilities, cease all law enforcement activity that disperses or displaces homeless individuals or encampments.²⁰

Conclusion

The City’s administration of homeless services and programs during the COVID-19 pandemic excludes and denies access to homeless individuals with disabilities, places homeless individuals with disabilities at greater risk of

²⁰ “A public entity shall make reasonable modifications in its policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.” 28 C.F.R. Section 35.130(b)(7)(i). Government entities may be required to modify neutral policies if they bear more heavily on people with disabilities than on others, even if there are insufficient grounds for a disparate treatment claim. See *Crowder v. Kitagay*, 81 F.3d 1480, 1484-1485 (9th Cir. 1996); *Fry v. Saenz*, 98 Cal. App. 4th 256, 264 (2002).

COVID-19, and defies medical guidance aimed at mitigating community spread. The City must immediately stop enforcement against homeless individuals and instead provide necessary services.

In addition, the City should grant homeless individuals with disabilities the requested reasonable modifications. Our clients cannot afford housing and, without access to the City's services and programs, cannot manage the symptoms of their disabilities and suffer higher risk of COVID-19 exposure.

If the City fails to provide homeless individuals with disabilities equal access to homeless services and programs, our clients must pursue further action. To further discuss, please contact me at (619) 814-8518 or Parisa.Ijadi-Maghsoodi@disabilityrightsca.org by May 4th.

Sincerely,



Parisa Ijadi-Maghsoodi
Lili Graham
Tiffany Nocon
Ann Menasche

Attorneys

cc: City Attorney Mara W. Elliott, cityattorney@sandiego.gov

Attachment A



Geneviève L. Jones-Wright, Esq., LL.M.

Executive Director

COMMUNITY ADVOCATES FOR
JUST AND MORAL GOVERNANCE

HOLDING GOVERNMENT ACCOUNTABLE TO ALL PEOPLE

4089 Fairmount Ave.

San Diego, CA 92105

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director@moralgovernance.org

April 13, 2020

San Diego Mayor Kevin Faulconer
202 C Street, San Diego, CA 92101

San Diego Police Chief David Nisleit
1401 Broadway, MS 700, San Diego, CA 92101

Via Electronic Transmission

Urgent - Demand to Cease and Desist from: Ticketing Unsheltered San Diegans for Illegal Lodging, Sleeping in the Park, Encroachment, Vehicle Habitation, and Other Quality of Life Offenses; Impoundment of Vehicle Shelters; and Sweeps and All Other Displacement of Unhoused Persons During The COVID-19 Crisis

Dear Mayor Faulconer and Chief Nisleit:

I write on behalf of Community Advocates for Just and Moral Governance (MoGo) urging you to immediately (1) cease and desist from engaging in sweeps and clearing homeless encampments and (2) suspend the ticketing of persons who are experiencing unsheltered homelessness for “quality of life” offenses in light of the COVID-19 pandemic that is ravaging our global community. This letter comes on the heels of the San Diego Police Department (SDPD) ordering humans, sheltering under the awning of a closed public building during back-to-back days of torrential downpour, to move off of city property into the rain. *Please see attached.* This letter also comes five days after eight (8) local community organizations sent a letter to Mayor Faulconer and San Diego City Council President Georgette Gomez respectfully asking for a “moratorium on all arrests and ticketing of homeless people for Vehicle Habitation, illegal lodging and encroachment during the Coronavirus outbreak.” They also called for a moratorium on the “impoundment of vehicles used by homeless people for shelter.”

Nonetheless, SDPD has continued to harass unhoused San Diegans. It has been business as usual for the City of San Diego and SDPD, in particular, as it relates to ticketing unsheltered community members for encroachment, illegal lodging, and sleeping in public places - even after a state of emergency was declared by Governor Newsom (on March 4, 2020) and Mayor Faulconer himself (on March 12, 2020). Worse even, within the last few days (and since receiving the letter from community organizations on April 8, 2020), SDPD has continued its sweeps, clearing of encampments, ticketing, and impounding of vehicle shelters. *Please see attached.*



Geneviève L. Jones-Wright, Esq., LL.M.

Executive Director

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In response to its failure to implement a real plan to address our longstanding housing crisis - which fuels our homelessness issue making us fifth in the nation for the largest homeless population - the City of San Diego consistently relies on punitive measures as the remedy. Through its policies and ordinances that target unsheltered individuals for doing acts that are basic human needs, the City of San Diego needlessly ushers unhoused San Diegans into our criminal courts. Targeting unsheltered individuals through the enforcement of ordinances that prohibit encroachment, sleeping, sitting, and resting in public places, and vehicle habitation is terrible public policy on its own. When coupled with the pandemic we now face as a global community, such practices are an even greater affront to the very notions of basic decency and humanity. Moreover, such practices run in clear contravention of what health experts are advising *everyone* - elected and appointed officials, professionals, and laypeople - to do.

The City's policy and practice of breaking up existing homeless encampments directly conflicts with the prevention measures spelled out by the Centers for Disease Control and Prevention ("CDC") to be used as guidelines, which instruct as follows: "Unless individual housing units are available, do not clear encampments during community spread of COVID-19. Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread." Simply put, by continuing to conduct sweeps on any scale, the City of San Diego is directly endangering the lives of thousands of San Diego residents, housed and unhoused alike. A moratorium on all sweeps is essential to curb the spread of the virus and to protect against preventable hospitalization and death, as it would significantly minimize the risk of exposure to not only unhoused San Diegans but also to the broader public.

Despite Governor Newsom's Executive Order N-33-20, issued March 19, 2020 which "order[s] all individuals living in the State of California to stay home or at their place of residence[,] San Diego police officers continue to conduct sweeps of persons who are experiencing homelessness moving them from one location to another. This, without providing any viable, adequate, or even alternative options for shelter for those displaced. The reality is that San Diego is home to many thousands of persons whose current residences are the streets, homeless encampments, parks, under freeway overpasses (even where the City has placed sharp rocks), and by the riverbed.



Geneviève L. Jones-Wright, Esq., LL.M.

Executive Director

COMMUNITY ADVOCATES FOR
JUST AND MORAL GOVERNANCE

HOLDING GOVERNMENT ACCOUNTABLE TO ALL PEOPLE

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San Diego, CA 92105

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These locations *are* the residences of the individuals who live at these sites¹. Therefore, by breaking up existing encampments, i.e. the residences of unhoused San Diegans, under any pretext and sweeping unsheltered persons from location to location, the City of San Diego is violating California State Executive Order No. N-33-20 and is adversely affecting its goal to “bend the curve and disrupt the spread of the virus.”

Accordingly, for the reasons stated above, we are urging police and all other city departments to immediately cease and desist from clearing homeless encampments and to suspend ticketing for the above-listed quality of life offenses and all sweeps of persons who are experiencing unsheltered homelessness, and get in compliance with both Executive Order N-33-20 and the guidelines promulgated by the CDC. The City has had ample time to consider and implement Governor Newsom’s directives, the CDC’s guidelines, and the requests of local organizations; it, however, has yet to act. Under these circumstances, it is more than reasonable to request that the City issue a written order suspending the ticketing of unsheltered community members for “quality of life” offenses along with homeless sweeps and the clearing of encampments by close of business tomorrow, April 14, 2020. For the sake of all members of our community, we look forward to your issuance of the requested order and to receiving a copy of this order upon its issuance.

Be advised that MoGo will continue to work with unhoused persons, other community advocates, and organizational allies to support the broader homeless community, which will include monitoring and documenting the actions of the City and its departments for possible legal action to enjoin your continued endangerment of public safety.

Sincerely,

Geneviève L. Jones-Wright, Esq., LL.M.

Executive Director

Community Advocates for Just and Moral Governance (MoGo)

¹ California Voting Rights law permits an unhoused person to register to vote by merely describing streets, parks, or other locations where they live, or, in most cases, are forced to live for lack of affordable housing. (See [Voter Registration Application](#) at California Secretary of State website.)



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Attachments: Screenshot of video footage showing SDPD officers ordering unhoused San Diegans off of city property and into the rain during an early morning sweep on 4/9/20
Citations given to unhoused San Diegans by SDPD after COVID-19 was believed by the mayor to have reached “community spread status” in San Diego County
(7 total pages of attachments)

cc:

Governor Gavin Newsom

San Diego City Council

San Diego County Board of Supervisors

Wilma J. Wooten, M.D., M.P.H., San Diego County Public Health Officer



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Michael McConnell @Ho... · 4h

"You can't stay here, it's city property" - San Diego Police pushing people out into the rainy weather early this morning.



414 views



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Yr. of Veh. Make P E D Model P E D Body-Style P E D Color P E D ☐ HAZARDOUS MATERIAL (Veh. Code, § 353)

Evidence of Financial Responsibility ☐ Same as Driver

Registered Owner or Lessee ☐ Same as Driver

Address _____ State _____ ZIP Code _____

City _____ ☐ Booking Required _____ Misdemeanor or Infraction (Circle)

Correctable Violation (Veh. Code, § 40610) Yes No Code and Section Description M I

☐ ☒ 63.0102(b)(12)50MCI M I

☐ ☐ _____ M I

☐ ☐ SLEEPING IN M I

☐ ☐ PARK M I

Speed Approx. _____ P.F./Max Spd. _____ Veh. Lmt. _____ Safe _____ Radar _____ N _____

☐ COLLISION W _____ E _____

COMMENTS: (Weather, Road & Traffic Conditions) CLR CLDY FOG RAIN DRY SLIPPERY HVY. MED. LIGHT

Location of Violation(s) at 3200 PARK BL.

☒ CITY OF SAN DIEGO, CA ☐ OTHER

☐ Violations not committed in my presence, declared on information and belief.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

FIORILLO Arresting or Citing Officer I.D. No. 7205 Command/Shift MPD-1 Beat 531

3/27/20 Date Name of Arresting Officer, if different from Citing Officer I.D. No. _____ Command/Shift _____ Beat _____

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.

X Signature [Signature] TIME: _____ ☐ AM ☐ PM

WHEN: ON OR BEFORE THIS DATE: 06/17/20

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE

WHERE:

<input type="checkbox"/> JUVENILE COURT, DEPT. 11 2901 MEADOWLARK DRIVE SAN DIEGO, CA 92123 (858) 634-1600	<input type="checkbox"/> MISDEMEANOR ARRAIGNMENT DEPT. 220 W. BROADWAY SAN DIEGO, CA 92101 (619) 450-5400
<input checked="" type="checkbox"/> SAN DIEGO TRAFFIC COURT 6950 CLAIREMONT MESA BOULEVARD SAN DIEGO, CA 92123 (858) 634-1800 NIGHT COURT-CONTACT COURT FOR INFO	<input type="checkbox"/> SOUTH BAY COURT 500 3 RD AVENUE CHULA VISTA, CA 91910 (619) 746-8200 NIGHT COURT-CONTACT COURT FOR INFO
<input type="checkbox"/> NORTH COUNTY REGIONAL CENTER 325-B MELBOSE DRIVE, SUITE 350 VISTA, CA 92081 (760) 201-8600 INFORMATION	<input type="checkbox"/> EAST COUNTY REGIONAL CENTER 250 EAST MAIN STREET EL CAJON, CA 92020 (619) 406-4100 INFORMATION

Additional information is available at www.sdcourt.ca.gov

Notice to Appear form approved by the Judicial Council of California.
PD-177 (4/16) PW/PS-42 (Veh. Code, §§ 40500(b), 40513(b), 40522, 40600, Pen. Code, § 853.9)

SEE REVERSE
1N/130



Geneviève L. Jones-Wright, Esq., LL.M.

Executive Director

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Fax (619) 898-9229

director@moralgovernance.org

Registration Number of License: PED

City: _____ State: _____ ZIP Code: _____

Correctable Violation (Veh. Code, § 40610) ☐ Booking Required ☐ Misdemeanor or Infraction (Circle)

Yes	No	Code and Section	Description	M	I
<input type="checkbox"/>	<input checked="" type="checkbox"/>	63.0102(b)(12)-SDMC	(OVER NIGHT SLEEPIN PARK)	M	I
<input type="checkbox"/>	<input type="checkbox"/>			M	I
<input type="checkbox"/>	<input type="checkbox"/>			M	I
<input type="checkbox"/>	<input type="checkbox"/>			M	I

Speed Approx. _____ P.F./Max Spd. _____ Veh. Lmt. _____ Safe _____ Radar _____ N _____

COMMENTS: (Weather, Road & Traffic Conditions) ☐ COLLISION W _____ E _____

Location of Violation(s) at 2000 NATIONAL AVE S _____

☒ CITY OF SAN DIEGO, CA ☐ OTHER

☐ Violations not committed in my presence, declared on information and belief.
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

J.J. ARGUELLES 3/24/20 5259 NPD 511
Arresting or Citing Officer I.D. No. Command/Shift Beat

3/28/20 J.J. GOMEZ 3/24/20 5232 NPD 511
Date Name of Arresting Officer, if different from Citing Officer I.D. No. Command/Shift Beat

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.

X Signature Roberto Gomez

WHEN: ON OR BEFORE THIS DATE: 06/23/20 TIME: 0800 ☐ AM ☐ PM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE

WHERE:

<input type="checkbox"/> JUVENILE COURT, DEPT. 11 2901 MEADOWLARK DRIVE SAN DIEGO, CA 92123 (858) 634-1600	<input type="checkbox"/> MISDEMEANOR-ARRAIGNMENT DEPT. 220 W. BROADWAY SAN DIEGO, CA 92101 (619) 450-5400
<input type="checkbox"/> SAN DIEGO TRAFFIC COURT 8950 CLAIREMONT MESA BOULEVARD SAN DIEGO, CA 92123 (858) 634-1800 NIGHT COURT-CONTACT COURT FOR INFO	<input type="checkbox"/> SOUTH BAY COURT 500 3RD AVENUE CHULA VISTA, CA 91910 (619) 746-6200 NIGHT COURT-CONTACT COURT FOR INFO
<input type="checkbox"/> NORTH COUNTY REGIONAL CENTER 325 S. MELROSE DRIVE, SUITE 350 VISTA, CA 92081 (760) 201-8600 INFORMATION	<input type="checkbox"/> EAST COUNTY REGIONAL CENTER 250 EAST MAIN STREET EL CAJON, CA 92020 (619) 456-4100 INFORMATION

Additional information is available at www.sdcourt.ca.gov

Notice to Appear form approved by the Judicial Council of California.
PD-177 (4/16) PW/PS-42 (Veh. Code, §§ 40500(b), 40513(b), 40522, 40600; Pen. Code, § 853.9)

SEE REVERSE
TR-130



Geneviève L. Jones-Wright, Esq., LL.M.

Executive Director

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director@moralgovernance.org

04/22/20

Correctable Violation (Veh. Code, § 40610)
Yes No Code and Section Description Misdemeanor or Infraction (Circle)
☐ ☒ 647(e) PC - ILLEGAL U-TURN (M) I
☐ ☒ SY. 0110 SOME - ENROUTE (M) I
☐ ☐
☐ ☐
Speed Approx. P.F./Max Spd. Veh. Lmt. Safe Radar COLLISION W N E S
COMMENTS: (Weather, Road & Traffic Conditions)
CLR CLDY FOG RAIN DRY SLIPPERY HVY. MED. LIGHT
Location of Violation(s)
at 1500 ISLAND AVE
☒ CITY OF SAN DIEGO, CA ☐ OTHER
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.
Arresting or Citing Officer HOFRIETTER 7658 NI 501
I.D. No. Command/Shift Beat
Name of Arresting Officer, if different from Citing Officer HOFRIETTER 7658 NI 501
I.D. No. Command/Shift Beat
Date 04/22/20
TIME: 0800 AM PM
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.
X Signature [Signature]
WHEN: ON OR BEFORE THIS DATE: 04/22/20
WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE
WHERE:
☐ JUVENILE COURT, DEPT. 11
2901 MEADOWLARK DRIVE
SAN DIEGO, CA 92123 (658) 634-1600
☐ SAN DIEGO TRAFFIC COURT
8950 CLAIREMONT MESA BOULEVARD
SAN DIEGO, CA 92123 (658) 634-1890
NIGHT COURT/CONTACT COURT FOR INFO
☐ NORTH COUNTY REGIONAL CENTER
325 S. MELROSE DRIVE, SUITE 350
VISTA, CA 92081 (760) 201-8600 INFORMATION
☐ MISDEMEANOR ARRAIGNMENT DEPT.
220 W. BROADWAY - 1133 ON 1133
SAN DIEGO, CA 92101 (619) 450-5400
☐ SOUTH BAY COURT
500 3RD AVENUE
CHULA VISTA, CA 91910 (619) 796-6209
NIGHT COURT/CONTACT COURT FOR INFO
☐ EAST COUNTY REGIONAL CENTER
250 EAST MAIN STREET
EL CAJON, CA 92020 (619) 450-4100 INFORMATION
Additional information is available at www.sdcourt.ca.gov
Notice to Appear form approved by the Judicial Council of California
FD-177 (5/18) PDPS-42 (Veh. Code, §§ 40500(d), 40512(d), 40522, 40550 Pen. Code, § 853.9)



Geneviève L. Jones-Wright, Esq., LL.M.

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SAN DIEGO POLICE DEPARTMENT ☐ MISDEMEANOR **DEFENDANT'S COPY**
NOTICE TO APPEAR ☐ Traffic ☒ Nontraffic **2298827**

Date of Violation: 4.6.20 Time: 6:40 AM Day of Week: SMTWTFSS Case No.:
Responsibility (Veh. Code, § 40001)
Address: 299 17th St City: San Diego State: CA ZIP Code: 92101
Class: ☒ Commercial ☐ Yes ☐ No Age: 32 Birth Date: 4/10/72
Height: 5-4 Weight: 140 Race: H ☐ Const. Zone ☐ School Zone
Make: Model: Body Style: Color: ☐ COMMERCIAL VEHICLE (Veh. Code, § 15210(b))
☐ HAZARDOUS MATERIAL (Veh. Code, § 353)
Registered Owner of Lessee: ☐ Same as Driver
Address: City: State: ZIP Code:
Correctable Violation (Veh. Code, § 40610) ☐ Booking Required
Yes No Code and Section Description Misdemeanor or Infraction (Circle)
☐ ☒ 54.0110 5000 - ENCLOSURE M I
Speed Approx. P.F./Max Spd. Veh. Lmt. Safe Radar COLLISION W E
COMMENTS: (Weather, Road & Traffic Conditions) CLR CLDY FOG RAIN DRY SLIPPERY HVY. MED. LIGHT
Location of Violation(s) at 315 16th St
☒ CITY OF SAN DIEGO, CA ☐ OTHER
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.
Arresting or Citing Officer: 4612 Date: 4.6.20 Name of Arresting Officer, if different from Citing Officer: I.D. No.: Command/Shift: Beat:
WITHOUT ADMITTING GUILT, I AGREE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.
X Signature:
WHEN: ON OR BEFORE THIS DATE: 7-17-20 TIME: 6:00 AM ☐ PM
WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE
WHERE:
☐ JUVENILE COURT, DEPT. 11
2901 MEADOWLARK DRIVE
SAN DIEGO, CA 92123 (619) 634-1800
☐ SAN DIEGO TRAFFIC COURT
8950 CLAIREMONT MESA BOULEVARD
SAN DIEGO, CA 92123 (619) 634-1800
NIGHT COURT-CONTACT COURT FOR INFO
☐ NORTH COUNTY REGIONAL CENTER
325 S. MELROSE DRIVE, SUITE 350
VISTA, CA 92081 (760) 201-8600 INFORMATION
☒ MISDEMEANOR ARRAIGNMENT DEPT.
220 W. BROADWAY, 400
SAN DIEGO, CA 92101 (619) 456-5000
☐ SOUTH BAY COURT
500 3RD AVENUE
CHULA VISTA, CA 91910 (619) 746-6200
NIGHT COURT-CONTACT COURT FOR INFO
☐ EAST COUNTY REGIONAL CENTER
250 EAST MAIN STREET
EL CAJON, CA 92020 (619) 456-4100 INFORMATION

Additional information is available at www.sdcourt.ca.gov
See to Appear form approved by the Judicial Council of California.
7 (4/16) PW/PS-42 (Veh. Code, §§ 40500(b), 40513(b), 40522, 40600; Pen. Code, § 853.9) **SEE REVERSE** TR-130



Geneviève L. Jones-Wright, Esq., LL.M.

Executive Director

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director@moralgovernance.org

**SAN DIEGO POLICE DEPARTMENT
NOTICE TO APPEAR**

☐ Traffic ☐ MISDEMEANOR ☒ DEFENDANT'S COPY

Date: 4/11/20 Time: 6:45 AM Day of Week: M T W T F S S Case No: Y2298402

Name (Print Name): [REDACTED]

Address: 299 17TH ST City: SAN DIEGO State: CA

Driver's Lic. No.: NO CDL State: CA

Sex: M Hair: BRN Eyes: HRL Height: 5-9 Weight: 140 Race: W Age: 37 Birth Date: 7/12/82

Veh. Lic. No. or VIN: [REDACTED] State: CA

Model: [REDACTED] Body Style: [REDACTED] Color: [REDACTED]

Evidence of Financial Responsibility: [REDACTED]

Registered Owner of Lessee: [REDACTED]

Address: [REDACTED] City: [REDACTED] State: [REDACTED] ZIP Code: [REDACTED]

Correctable Violation (Veh. Code, § 40610) ☐ Booking Required ☐ Medemeanor or Infraction (Circle)

Yes No Code and Section Description M I

☒ 54.0110 SDMC ENCROACHMENT M ①

☐ ☐ M I

☐ ☐ M I

☐ ☐ M I

Speed Approx. P.F./Max Spd. Veh. Lmt. Safe Radar N

COMMENTS: (Weather, Road & Traffic Conditions) ☐ COLLISION W E

CLR CLDY FOG RAIN DRY SLIPPERY HVY. MED. LIGHT

Location of Violation(s): 1700 IMPERIAL AVE

☒ CITY OF SAN DIEGO, CA ☐ OTHER

☐ Violations not committed in my presence, declared on information and belief.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

P. MURILLO 4/11/20 6115 W/INV 521

Arresting or Citing Officer I.D. No. Command/Shift Beat

Date Name of Arresting Officer, if different from Citing Officer I.D. No. Command/Shift Beat

WITHOUT ADMITTING GUILT, I AGREE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW

X Signature [REDACTED]

WHEN: ON OR BEFORE THIS DATE: 7/8/20 TIME: [REDACTED] AM PM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE

WHERE:

☐ JUVENILE COURT, DEPT. 11
2501 KATE STREET, 4TH FLOOR
SAN DIEGO, CA 92101 (619) 634-1600

☒ SAN DIEGO TRAFFIC COURT
8800 CLAREMONT MESA BOULEVARD
SAN DIEGO, CA 92128 (619) 634-1600

☐ NORTH COUNTY REGIONAL CLERK
400 S. MILPITAS AVENUE, SUITE 300
VANDERBILT (760) 941-9800 INFORMATION

☐ MISDEMEANOR ARRAIGNMENT DEPT
200 W. BROADWAY
SAN DIEGO, CA 92101 (619) 590-6400

☐ SOUTH BAY COURT
500 J. J. AVENUE
CHULA VISTA, CA 91910 (619) 796-0200

☐ NORTH COUNTY CONTACT COURT FOR INFO

☐ EAST COUNTY REGIONAL CLERK
201 EAST MAIN STREET
ES CALON, CA 92009 (619) 450-4100 INFORMATION

Additional information is available at www.sdcourt.ca.gov

Notice to Appear form approved by the Judicial Council of California
PS-177 (03/09) (Rev. Code, §§ 400000.0, 400100.0, 400200.0, 400300.0, 400400.0, 400500.0, 400600.0, 400700.0, 400800.0, 400900.0, 401000.0, 401100.0, 401200.0, 401300.0, 401400.0, 401500.0, 401600.0, 401700.0, 401800.0, 401900.0, 402000.0, 402100.0, 402200.0, 402300.0, 402400.0, 402500.0, 402600.0, 402700.0, 402800.0, 402900.0, 403000.0, 403100.0, 403200.0, 403300.0, 403400.0, 403500.0, 403600.0, 403700.0, 403800.0, 403900.0, 404000.0, 404100.0, 404200.0, 404300.0, 404400.0, 404500.0, 404600.0, 404700.0, 404800.0, 404900.0, 405000.0, 405100.0, 405200.0, 405300.0, 405400.0, 405500.0, 405600.0, 405700.0, 405800.0, 405900.0, 406000.0, 406100.0, 406200.0, 406300.0, 406400.0, 406500.0, 406600.0, 406700.0, 406800.0, 406900.0, 407000.0, 407100.0, 407200.0, 407300.0, 407400.0, 407500.0, 407600.0, 407700.0, 407800.0, 407900.0, 408000.0, 408100.0, 408200.0, 408300.0, 408400.0, 408500.0, 408600.0, 408700.0, 408800.0, 408900.0, 409000.0, 409100.0, 409200.0, 409300.0, 409400.0, 409500.0, 409600.0, 409700.0, 409800.0, 409900.0, 410000.0, 410100.0, 410200.0, 410300.0, 410400.0, 410500.0, 410600.0, 410700.0, 410800.0, 410900.0, 411000.0, 411100.0, 411200.0, 411300.0, 411400.0, 411500.0, 411600.0, 411700.0, 411800.0, 411900.0, 412000.0, 412100.0, 412200.0, 412300.0, 412400.0, 412500.0, 412600.0, 412700.0, 412800.0, 412900.0, 413000.0, 413100.0, 413200.0, 413300.0, 413400.0, 413500.0, 413600.0, 413700.0, 413800.0, 413900.0, 414000.0, 414100.0, 414200.0, 414300.0, 414400.0, 414500.0, 414600.0, 414700.0, 414800.0, 414900.0, 415000.0, 415100.0, 415200.0, 415300.0, 415400.0, 415500.0, 415600.0, 415700.0, 415800.0, 415900.0, 416000.0, 416100.0, 416200.0, 416300.0, 416400.0, 416500.0, 416600.0, 416700.0, 416800.0, 416900.0, 417000.0, 417100.0, 417200.0, 417300.0, 417400.0, 417500.0, 417600.0, 417700.0, 417800.0, 417900.0, 418000.0, 418100.0, 418200.0, 418300.0, 418400.0, 418500.0, 418600.0, 418700.0, 418800.0, 418900.0, 419000.0, 419100.0, 419200.0, 419300.0, 419400.0, 419500.0, 419600.0, 419700.0, 419800.0, 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Geneviève L. Jones-Wright, Esq., LL.M.

Executive Director

**COMMUNITY ADVOCATES FOR
JUST AND MORAL GOVERNANCE**

HOLDING GOVERNMENT ACCOUNTABLE TO ALL PEOPLE

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San Diego, CA 92105

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director@moralgovernance.org

Yr. of Veh.	Make	Model	Body Style	Color	<input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)
Evidence of Financial Responsibility					
Registered Owner of Lessee					<input type="checkbox"/> Same as Driver
Address					<input type="checkbox"/> Same as Driver
City		State		ZIP Code	
Correctable Violation (Veh. Code, § 40610)					
Yes	No	Code and Section	Description	<input type="checkbox"/> Booking Required	Misdemeanor or Infraction (Circle)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	54.0110	SDMC ENFORCEMENT		M ①
<input type="checkbox"/>	<input type="checkbox"/>				M I
<input type="checkbox"/>	<input type="checkbox"/>				M I
<input type="checkbox"/>	<input type="checkbox"/>				M I
Speed Approx.		P.F./Max Spd.	Veh. Lmt.	Safe	Radar
COMMENTS: (Weather, Road & Traffic Conditions)					<input type="checkbox"/> COLLISION
CLR CLDY FOG RAIN DRY SLIPPERY HVY. MED. LIGHT					W E
Location of Violation(s)					S
at 1700 IMPERIAL AVE					
<input checked="" type="checkbox"/> CITY OF SAN DIEGO, CA					<input type="checkbox"/> OTHER
<input type="checkbox"/> Violations not committed in my presence, declared on information and belief.					
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.					
F. MURILLO		4/11/20		6115 W/INV 521	
Arresting or Citing Officer		I.D. No.		Command/Shift	
Date		Name of Arresting Officer, if different from Citing Officer		I.D. No.	
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW					
<input checked="" type="checkbox"/> Signature: Mary Ann G... 7.8.20					
WHEN: ON OR BEFORE THIS DATE 7.8.20 TIME: 9:00 AM					
WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE					
WHERE:					
<input type="checkbox"/> JUVENILE COURT, DEPT. 11 2901 MEADOWCARK DRIVE SAN DIEGO, CA 92123 (858) 634-1600			<input type="checkbox"/> MISDEMEANOR ARRAIGNMENT DEPT 228 W. BROADWAY SAN DIEGO, CA 92101 (619) 450-0400		
<input checked="" type="checkbox"/> SAN DIEGO TRAFFIC COURT 8950 CLAIREMONT MESA BOULEVARD SAN DIEGO, CA 92123 (858) 634-1800 NIGHT COURT-CONTACT COURT FOR INFO			<input checked="" type="checkbox"/> SOUTH BAY COURT 600 S. AVENUE CHULA VISTA, CA 91910 (619) 746-6200 NIGHT COURT-CONTACT COURT FOR INFO		
<input type="checkbox"/> NORTH COUNTY REGIONAL CENTER 325 S. MELROSE DRIVE, SUITE 350 VISTA, CA 92081 (760) 201-8600 INFORMATION			<input type="checkbox"/> EAST COUNTY REGIONAL CENTER 250 EAST MAIN STREET EL CAJON, CA 92020 (619) 450-4100 INFORMATION		
Additional information is available at www.sdcourt.ca.gov					
SEE REVERSE					

Notice to Appear form approved by the Judicial Council of California
PD-177 (4/16) PW/PS-42 (Veh. Code, §§ 40500(b), 40513(b), 40522, 40600, Pen. Code, § 853.9)

Attachment B

State of California COVID-19 Recommended Protocol for People Experiencing Homelessness

STEP 0: Current status

In medical care

In a shelter

Unsheltered

STEP 1: Screening check

Check done while in
medical facility

Basic screening check done by
shelter/outreach staff.

if individual answers yes to triage questions,
connect to centralized health staff for further
evaluation and placement recommendation.

If determined low likelihood
COVID+, place based on "not positive"
categorization in Step 2.

See attached page for
screening check procedure.

STEP 2: Priority & wellness categorization

Treated &
discharged
(but still
contagious)

Self-
presenting
&
discharged

COVID +
or PUI

Presumed
COVID –
& HIGH risk of
complications

Presumed
COVID –
& LOW risk of
complications

COVID + or PUI

If HIGH risk &
limited ADLs

If LOW risk & ADL
independent

STEP 3: Move to destination

Alternative
Care Center

Motels, Hotels,
or
Trailers

NOTE: Separate locations for
COVID + vs. COVID –

Remain in current
status (in shelter or
unsheltered)

NOTE: Shelter should meet social
distancing protocol & unsheltered
protocols should follow CDC guidance.
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