

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

ORANGE COUNTY CATHOLIC
WORKER, et al.,

Plaintiffs,

v.

ORANGE COUNTY, the CITY OF
ANAHEIM, the CITY OF COSTA
MESA, and the CITY OF ORANGE,

Defendants.

Case No. 8:18-cv-00155 DOC (JDE)

**SETTLEMENT AGREEMENT BY
AND BETWEEN THE CITY OF
BREA, CITY OF BUENA PARK,
CITY OF CYPRESS, CITY OF
FULLERTON, CITY OF LA HABRA,
CITY OF LA PALMA, CITY OF LOS
ALAMITOS, CITY OF PLACENTIA,
CITY OF STANTON, CITY OF
VILLA PARK, AND CITY OF
YORBA LINDA, AND ALL
PLAINTIFFS, ON THEIR
INDIVIDUAL BEHALF**

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between,
on the one hand, the City of Brea, City of Buena Park, City of Cypress, City of
Fullerton, City of La Habra, City of La Palma, City of Los Alamitos, City of

1 Placentia, City of Stanton, City of Villa Park, and City of Yorba Linda (each
 2 individually a "NORTH SPA CITY", and collectively the "NORTH SPA
 3 CITIES"), and, on the other hand, Orange County Catholic Worker ("OCCW") (an
 4 unincorporated association, acting by and through its designated representatives),
 5 and the following individuals, each of whom enters into this Agreement on his or
 6 her individual behalf, as defined below: Lisa Bell, Melissa Fields, Gloria
 7 Shoemake, Richie Thomas, Shawn Carroll, Larry Ford, Cameron Ralston, and
 8 Kathy Schuler (collectively, the "Individual Plaintiffs", and together with OCCW,
 9 "Plaintiffs"). The parties to this Agreement are referred to herein individually as a
 10 "Party" and collectively as the "Parties."

11 RECITALS

12
 13 **A. WHEREAS**, on January 29, 2018, OCCW and certain of the
 14 Individual Plaintiffs (Lisa Bell, Melissa Fields, Gloria Shoemake, Shawn Carroll,
 15 Larry Ford, Cameron Ralston, and Kathy Schuler) filed this Action, entitled
 16 *Orange County Catholic Worker et al. v. Orange County et al.*, California Central
 17 District Case No. 8:18-cv-00155 (the "Action"), against the County of Orange, the
 18 City of Anaheim ("Anaheim"), the City of Costa Mesa, and the City of Orange
 19 ("Orange") (collectively, "Defendants").

20 **B. WHEREAS**, on July 26, 2018, all Plaintiffs filed a "First Amended
 21 Complaint" ("FAC") in the Action, against all Defendants. Among other changes
 22 from the original complaint, the FAC added Richie Thomas as a named Plaintiff
 23 and pleaded a potential class action against the County of Orange ("County"). At
 24 the time of execution of this Agreement, the FAC is the operative complaint in the
 25 Action.

26 **C. WHEREAS**, the FAC alleges that OCCW is an unincorporated
 27 association dedicated to the service and care of the poor in the County, and that the
 28 Individual Plaintiffs are homeless individuals residing in the County. The FAC

1 alleges, *inter alia*, that Defendants, and each of them, have violated the Individual
2 Plaintiffs' rights by enforcing various trespass, loitering, and/or anti-camping
3 ordinances or laws against them at times when, according to Plaintiffs, there were
4 no immediately accessible and appropriate beds available to them in the County.
5 Defendants dispute the factual allegations and legal contentions made by Plaintiffs
6 in the FAC.

7 **D. WHEREAS**, the FAC alleges the following claims for relief against
8 all Defendants: (1) violation of the Eighth and Fourteenth Amendments to the U.S.
9 Constitution (42 U.S.C. § 1983), and Article VII, section 17 of the California
10 Constitution for alleged "cruel and unusual punishment" (First Cause of Action);
11 (2) violation of the First and Fourth Amendments to the U.S. Constitution (42
12 U.S.C. § 1983) (Second Cause of Action); (3) violation of the right to due process
13 of law under the Fourteenth Amendment to the U.S. Constitution (42 U.S.C. §
14 1983) (Third Cause of Action); (4) violation of California Civil Code section 52.1
15 (Seventh Cause of Action); (5) violation of California Government Code section
16 815.6 (Eighth Cause of Action); and (6) violation of California Government Code
17 section 11135 (Ninth Cause of Action). Defendants dispute each of these claims
18 for relief in its entirety, and disputes Plaintiffs' underlying legal contentions and
19 theories.
20

21 **E. WHEREAS**, Plaintiffs have informed the Court that they intend to
22 file a Second Amended Complaint, naming the NORTH SPA CITIES as
23 defendants in the Action.

24 **F. WHEREAS**, without admitting any wrongdoing, liability, or legal
25 violations on the part of the NORTH SPA CITIES, without conceding the validity
26 of any of Plaintiffs' legal theories or claims, and for the sole purpose of
27 preemptively, economically, and efficiently resolving the Action (and any claims
28 relating thereto) as to the NORTH SPA CITIES, the Parties now desire to enter

1 into this Agreement on the terms set forth herein.

2 **G. WHEREAS,** Anaheim is a named defendant in the Action and has
3 entered into a separate Settlement Agreement with Plaintiffs, a copy of which is
4 attached hereto as Exhibit "A" ("Anaheim Agreement").

5 **H. WHEREAS,** Orange is a named defendant in the Action and has
6 entered into a separate Settlement Agreement with Plaintiffs, a copy of which is
7 attached hereto as Exhibit "B" ("Orange Agreement").

8 **TERMS**

9 **NOW, THEREFORE,** for full and valuable consideration, the sufficiency
10 of which is hereby acknowledged, and based upon the foregoing Recitals, and the
11 terms, conditions, covenants, and agreements herein, the Parties agree as follows:
12

13 **1. Order re Continuing Jurisdiction, and Effective Date.** Following
14 the full execution of this Agreement by all Parties, the Parties shall file with the
15 Court in the Action the "[Proposed] Order re Settlement and Continuing
16 Jurisdiction," attached hereto as Exhibit C (the "Order"). The obligations of the
17 Parties in the remaining sections of this Agreement, and the releases contained
18 herein, shall become effective and operative on the date on which the Order is
19 signed and entered by the Court ("Effective Date"), and shall be contingent upon
20 the Court's signing and entry of the Order.

21 **2. Incorporation of Recitals.** The representations in the above section
22 of this Agreement, entitled "RECITALS," are hereby incorporated into and made a
23 material part of the terms and representations of this Agreement.

24 **3. Construction and Operation of New Centers.**

25 **3.1** The area designated by the County as the North Service
26 Planning Area ("North SPA") includes the territory of the NORTH SPA CITIES,
27 the City of Orange, and the City of Anaheim.

28 **3.2** The NORTH SPA CITIES, and each of them, commit to the

1 following with respect to the funding and/or expedited review of one or more new
 2 facilities to provide placements for unsheltered homeless individuals located within
 3 the North SPA:

4 **3.2.1** The NORTH SPA CITIES shall fund, obtain funding
 5 from the County for, and/or coordinate third-party funding for, the construction
 6 and initial operation of two or more feasible, temporary, low barrier homeless
 7 shelters at locations within the boundaries of the North SPA (individually a "New
 8 Center", and collectively the "New Centers"), with an aggregate capacity of at
 9 least 200 beds. The NORTH SPA CITIES shall have complete discretion in
 10 determining which, if any, New Center projects to fund, and which New Center
 11 projects are suitably feasible, subject to any limitations set forth herein. The
 12 NORTH SPA CITIES' funding commitment for the New Centers is for four years
 13 only, commencing on the Effective Date.
 14

15 **3.2.2** The NORTH SPA CITIES agree to expedite any
 16 necessary processing, review, approvals, and/or inspections of any New Center
 17 project selected by the NORTH SPA CITIES for funding pursuant to this
 18 Agreement, to the extent reasonably practicable and permitted by law.

19 **3.3** The NORTH SPA CITIES, in conjunction with the County,
 20 currently plan to fund two New Centers in the North SPA, with the Placentia
 21 facility having a capacity of 100 beds, and the Buena Park facility having an initial
 22 capacity of 100 beds and the potential to expand to 150 beds, if necessary. As of
 23 the Effective Date, and subject to the conditions and limitations set forth herein,
 24 the NORTH SPA CITIES anticipate the New Centers to be located and have the
 25 capacity as follows:
 26

New Centers	
City	New Centers & Capacity
Buena Park	100
Placentia	100

Total	200
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1
2 **3.4** The NORTH SPA CITIES shall use their best efforts to ensure
3 construction of the New Centers by the earliest practicable date, with a goal of
4 making best efforts to complete construction and commence operations for
5 Placentia on or before December 31, 2019 and for Buena Park on or before
6 February 28, 2020.

7 **3.5** The NORTH SPA CITIES shall require that the New Centers
8 be operated by referral only and be subject to the substantially similar admission
9 requirements as the facility known as "Bridges at Kraemer Place," located in
10 Anaheim, as such admission requirements exist as of the Effective Date. However,
11 referrals to the New Centers will be available to all Police enforcement
12 organizations operating in the North SPA CITIES and including, but not limited to,
13 the following organizations: [Please list out what organizations want to have
14 referral authority]

15 **3.6** The NORTH SPA CITIES shall require that the New Centers
16 be operated on a non-religious basis and in full compliance with all applicable
17 federal and state non-discrimination laws, including but not limited to California
18 Government Code section 11135.

19 **3.7 Sharing of North SPA Capacity.** Orange and Anaheim have
20 previously entered into individual settlement agreements with Plaintiffs concerning
21 the Action. As relevant here, via the Orange Agreement, Orange committed, in
22 conjunction with the NORTH SPA CITIES and the County, to fund, or obtain
23 third-party funding for, the construction and initial operation of two or more
24 feasible, temporary low-barrier homeless shelters within the North SPA, with a
25 total capacity of at least 200 beds, and a goal of making best efforts to complete
26 construction and commence operations for Placentia on or before December 31,
27 2019 and for Buena Park on or before February 28, 2020.
28

1 **3.8** The NORTH SPA CITIES commit to coordinate and
 2 implement the sharing of bed capacity provided by (i) certain shelter facilities that
 3 are currently open and operating within the North SPA (“Existing Centers”), and
 4 (ii) the New Centers.

5 **3.9** To the extent they are required to do so by California
 6 Government Code section 65583 et. seq., or any other applicable law, the NORTH
 7 SPA CITIES agree, and currently intend, to execute a Memorandum of
 8 Understanding (“MOU”) with the County and the participating entities, setting
 9 forth the financial responsibilities of each participating entity for the development
 10 and ongoing operation of the New Centers, and the allocation of beds provided by
 11 the New Centers, the Existing Centers, (cumulatively “Navigation Centers”) to
 12 each participating entity according to its financial contribution and need.

13 **3.10** Although the Navigation Centers are not the exclusive means
 14 by which the NORTH SPA CITIES may satisfy their obligation to meet the needs
 15 of homeless individuals in the North SPA, Plaintiffs acknowledge and agree that
 16 the creation of the New Centers, or any portion thereof initially totaling 200 beds,
 17 plus the shared access to existing Navigation Centers located in the North SPA as
 18 described herein, shall satisfy the NORTH SPA CITIES’ obligations under Section
 19 3 of this Agreement and the Court’s requirement of available beds for at least 60
 20 percent of the unsheltered individuals in the North SPA.

21
 22 **4. Enforcement of Anti-Nuisance Ordinances.**

23 **4.1** The NORTH SPA CITIES shall establish the following policies
 24 and procedures relating to the enforcement of their trespass, loitering, anti-
 25 camping, and park closure ordinances (individually “Anti-Nuisance Ordinance”,
 26 and collectively the “Anti-Nuisance Ordinances”), or any analogous provision of
 27 local or State law, applied against homeless individuals within their respective
 28 jurisdiction:

1 **4.1.1** Absent exigent circumstances, any enforcement of the
2 Anti-Nuisance Ordinances against a homeless individual (including any of the
3 named Plaintiffs) will first be preceded by contacts with Outreach and Engagement
4 personnel to determine appropriate shelter placement for the individual in question,
5 per the procedures outlined herein. For purposes of this Agreement, the term
6 “Outreach and Engagement personnel” shall include representatives from the
7 County’s Health Care Agency, City Net, Mercy House, or any other organization a
8 NORTH SPA CITY contracts with for outreach and engagement services, and who
9 are trained in engaging in clinical assessments of individuals with disabilities as
10 necessary to determine an appropriate placement with a reasonable accommodation
11 of the individual’s disability. O&E personnel may include City employees,
12 homeless liaison and police officers, and, for NORTH SPA CITIES that contract
13 with the Orange County Sheriff’s Department (“OCSD”), OCSD staff, provided
14 the foregoing have been properly trained for interactions with the homeless
15 population (collectively, “O&E personnel”).
16

17 **4.1.2** In implementation of Section 4.1.1 of this Agreement, prior to
18 enforcement of an Anti-Nuisance Ordinance against any homeless individual, the
19 NORTH SPA CITY will first work with O&E personnel to offer an appropriate
20 immediately available Navigation Center placement for the individual in question
21 in the North SPA. If no such Navigation Center is available in the North SPA, but
22 an alternative appropriate and immediately available placement within the County
23 is identified by O&E personnel, then the NORTH SPA CITY may offer the
24 individual placement at that facility with the consent of the individual. Such
25 placements outside of the North SPA include, but are not limited to, countywide
26 Behavioral Health and Healthcare placements. The NORTH SPA CITY may
27 consider this offer an “available bed” for purposes of enforcement so long as the
28 placement does not unreasonably impede the individual’s ability to access medical

1 appointments, outpatient programs in which the individual may be enrolled, work
2 and other support systems in or near the North SPA. If the individual accepts the
3 offered placement outside of the North SPA, then O&E personnel will provide
4 transportation to the placement and will assist the individual in finding necessary
5 transportation to and from scheduled appointments or work, including but not
6 limited to bus passes, when such transportation is necessitated by the placement
7 outside of the North SPA.

8
9 **4.1.3** If the individual declines the offered placement, the NORTH
10 SPA CITY may proceed with enforcement of its Anti-Nuisance Ordinances in its
11 discretion. Notwithstanding the preceding sentence, for any individual who
12 declines the offered placement, the NORTH SPA CITY will first give the person a
13 warning and an opportunity to immediately leave the location before engaging in
14 citation and/or arrest. Provided the individual relocates upon warning to another
15 location, he or she will not be cited or arrested for that violation of the Anti-
16 Nuisance Ordinance. If the individual fails to relocate to another location as
17 directed, then the individual may be issued a citation or, subject to the provisions
18 of Section 6.3 and 6.4 of this Agreement, placed under custodial arrest for the
19 violation. The NORTH SPA CITY will advise the individual of the availability of
20 the Dispute-Resolution Process described in Section 6 of this Agreement and will
21 provide a contact number for Plaintiffs' attorneys in the Action. If the alleged
22 violation arises from an individual's presence in a park outside of the established
23 operational hours of the park in the NORTH SPA CITY's municipal code, or other
24 applicable municipal law or regulations, and if there is no appropriate and
25 immediately available placement for that person, the NORTH SPA CITY will
26 advise the individual of a location he or she may move to and avoid citation or
27 arrest for a violation of the Anti-Nuisance Ordinance until an appropriate and
28 immediately available bed is made available to the individual.

1 4.1.4 The requirements of this Section 4.1 shall only apply
2 until the earlier of (a) the date on which the case of *Martin v. City of Boise*, 902
3 F.3d 1031 (9th Cir. 2018) is no longer applicable law within the jurisdiction of the
4 Ninth Circuit, or (b) the date on which the Court finds that there are sufficient
5 appropriate and immediately available placements for the unsheltered population in
6 the North SPA.

7 4.2 The NORTH SPA CITIES shall not cite or arrest any homeless
8 individual for violation of the law based on an alleged obstruction of public
9 property unless that individual, either individually or in conjunction with his or her
10 property, actually interferes with the intended use of the public property and
11 declines to cease the interference, and declines to move the object(s) creating
12 obstruction from the public right of way after being requested to do so.

13 4.3 Nothing in this Agreement constitutes an admission by the
14 NORTH SPA CITIES that their current policies and procedures for enforcement of
15 their Anti-Nuisance Ordinances and/or other laws based on an individual's status
16 as homeless are either (a) different than those set forth above, or (b) in any way
17 legally inadequate, or a concession by Plaintiffs that it is legally adequate.

18 4.4 Nothing in this Agreement constitutes a promise,
19 representation, or warranty, on the part of the NORTH SPA CITIES that any
20 number of beds will be available to any particular person(s) at any time. The lack
21 of availability of an appropriate and immediately accessible bed for any person or
22 persons at any time, including any of the Plaintiffs, may impact the ability of the
23 NORTH SPA CITIES to punish a purported violation of law for camping in a
24 public place, being in a park during non-operational hours, or loitering, based on
25 an individual's status as homeless. However, the failure to meet the minimum
26 number of beds set out in this Agreement for the first four years, and a failure of
27 the NORTH SPA CITIES to meet reasonable accommodation needs, may be raised
28

1 with this Court under the Dispute-Resolution Process set forth below.

2 **4.5** Nothing in this Agreement limits Plaintiffs or their counsel
3 from raising facial challenges to the NORTH SPA CITIES' Anti-Nuisance
4 Ordinances on constitutional grounds. The NORTH SPA CITIES intend to make
5 their best efforts to prepare and adopt a model anti-camping and anti-loitering
6 ordinances.

7 **5. Anti-Discrimination Laws.**

8 **5.1** Any agreement entered into by the NORTH SPA CITIES,
9 whether directly or by an MOU with other cities and/or the County, with a
10 privately operated Navigation Center or a private contractor to operate a public
11 Navigation Center, will require the facility or the collective facilities subject to the
12 agreement(s) to meet all applicable anti-discrimination laws, including but not
13 limited to the requirements of the Americans with Disabilities Act, 42 U.S.C.
14 section 12101 *et seq.* (the "ADA"), its associated regulations, or any other state or
15 federal laws relating to disabilities, including but not limited to the Fair Housing
16 Act 42 U.S.C. section 3601 *et seq.*, the Rehabilitation Act, 29 U.S.C. section 701 *et*
17 *seq.*, and/or Government Code section 11135.

18 **5.2** The Parties hereby agree that any and all disputes concerning
19 the adequacy of any placement offered to a homeless individual pursuant to
20 Section 4.1 of this Agreement, including but not limited to whether the offered
21 placement sufficiently accommodates the individual's disabilities, will be resolved
22 via the "Dispute-Resolution Process" set forth below. As used in this Agreement,
23 disability is defined as 42 U.S. Code section 12102.

24 **6. Dispute-Resolution Process.** The Court shall retain jurisdiction over
25 the Action until the date that is four years from the Effective Date ("Termination
26 Date"), for the purposes of (a) overseeing the implementation of this Agreement,
27 and (b) implementing and presiding over the dispute-resolution process (the
28

1 “Dispute-Resolution Process”), to be established by the Court and to which
2 Plaintiffs and the NORTH SPA CITIES, hereby consent and agree:

3 **6.1** Except as expressly identified in this Agreement, or as may be
4 modified by the Court or the Parties, with the Court’s consent, during the four-year
5 period of the Court’s continuing jurisdiction, this Dispute-Resolution Process shall
6 apply to adjudicate any and all disputes arising out of the appropriate housing of
7 homeless individuals, including but not limited to disputes regarding the
8 availability or adequacy of any Navigation Center or Navigation Center services
9 offered to the individual pursuant to Section 4.1 of this Agreement and expressly
10 excluding violations of law relating to conduct not arising from the individual’s
11 homeless status (examples include but are not limited to possession of illegal
12 substances or weapons, acts of violence, public intoxication, etc.) (collectively, the
13 “Disputes,” and individually, a “Dispute”).
14

15 **6.2** In the event of any Dispute, as defined above, arising during
16 the pendency of the Court’s continuing jurisdiction, the parties to that Dispute will
17 first attempt to meet and confer informally with the other side in an effort to
18 resolve it. In the case of a Dispute raised by one or more homeless individuals
19 (including but not limited to any of the Individual Plaintiffs) against a NORTH
20 SPA CITY, or a Dispute raised by a NORTH SPA CITY against one or more
21 homeless individuals who are known to be represented by counsel of record in the
22 Action, this attempt will at least involve (a) a communication from the party
23 initiating the Dispute to the other side’s counsel describing in detail the Dispute
24 and the requested remedy, and providing any available evidence in relation thereto,
25 and (b) a discussion, either in person or via telephone, seeking to resolve the
26 Dispute. In the event a complaint is received by a NORTH SPA CITY or a
27 Navigation Center from a homeless individual, the NORTH SPA CITY or the
28 Navigation Center shall give the complaining individual notice of the Court’s

1 Dispute-Resolution Process and the contact information for Plaintiffs' counsel,
2 together with a statement that Plaintiffs' counsel may be available to assist them.

3 **6.3** If the parties to a Dispute, as defined above, are unable to
4 resolve it within two court days after it is first raised informally by one of the
5 parties to the Dispute, any party to the Dispute may request a hearing with the
6 Court under the standards and processes to be set by the Court, and the Court will
7 have jurisdiction to resolve that Dispute. If the Dispute involves an emergency
8 situation that presents a threat to the immediate health and safety of an individual,
9 the parties may seek expedited review by the Court.

10 **6.4** The fact that a person has initiated the Dispute-Resolution
11 Process shall not impact a NORTH SPA CITY's right to enforce any law against
12 that person, including issuing citations to the person, concurrently with the
13 Dispute-Resolution Process. However, if the individual has initiated the Dispute-
14 Resolution Process, the NORTH SPA CITY agrees that no custodial arrest will
15 subsequently be made for a violation of the Anti-Nuisance Ordinances and
16 analogous laws arising from an individual's status as homeless prior to the
17 exhaustion of the Dispute-Resolution Process with the Court pursuant to Section
18 6.3 of this Agreement. Once the Dispute-Resolution Process has concluded
19 regarding an issue, the NORTH SPA CITY will not be required to await
20 exhaustion of the Dispute-Resolution Process regarding the same issue regarding
21 that individual prior to a custodial arrest, where the individual does not comply
22 with a warning or leave once a citation has been issued, provided the NORTH SPA
23 CITY complies with the Court's determination of that same issue. For purposes of
24 this Section, "same issue" refers to an issue determined by the Court in a Dispute-
25 Resolution Process where the individual's objections, including any claim of
26 alleged disability, physical limitations and the offered bed are substantially similar
27 for purposes of determining whether the individual's disability or other objection is
28

1 being reasonably accommodated. In circumstances involving citation for violation
2 of an Anti-Nuisance Ordinance, the Court may issue an order directing the
3 NORTH SPA CITY to stay the filing of formal charges against the homeless
4 individual until the Dispute-Resolution Process has been completed for that
5 Dispute. The NORTH SPA CITY agrees not to contest such a request for a brief
6 stay of the filing of charges.

7 **6.5** In resolving any Dispute, as defined above, the Court may
8 enforce any rights available to a party under this Agreement, subject to sufficient
9 notice, opportunity to be heard, briefing, evidence, and other due process. The
10 Court shall not be empowered to award damages or any other monetary relief,
11 including but not limited to attorney's fees, to any party as a result of any Dispute
12 submitted to this process. Nothing in this Agreement limits the ability of any
13 Plaintiff to seek damages in other proceedings not subject to this Agreement.

14
15 **7. Release and Covenant Not to Sue.**

16 **7.1** In consideration for the terms of this Agreement, Plaintiffs, and
17 each of them, on their own behalf, and any other individual claiming rights under
18 this Agreement, including but not limited to those employing the Dispute-
19 Resolution Process (the "Releasing Parties"), hereby release and forever discharge
20 the NORTH SPA CITIES, as well as their present and former employees, agents,
21 managers, officers, directors, council members, insurance companies, attorneys,
22 departments, and divisions or affiliated entities, whether previously or hereafter
23 affiliated in any manner (the "Released Parties"), from and against any and all
24 claims, demands, causes of action, obligations, damages, attorneys' fees, costs, and
25 liabilities, arising from or relating to the events detailed in the lawsuit of any nature
26 whatsoever, whether or not now known, suspected, or claimed, which the
27 Releasing Parties, and/or any of them, have, or ever may claim to have, as against
28 the Released Parties, or any of them, whether directly or indirectly, relating to or

1 arising out of (a) the Action, (b) any claims raised in, or that could have been
2 raised in, the Action, (c) the availability of Navigation Center, Navigation Center
3 beds, and/or other homeless accommodations in the County, (d) the NORTH SPA
4 CITIES' alleged obligation to provide and/or fund such accommodations, and/or
5 (e) the NORTH SPA CITIES' alleged inability to enforce any of the Anti-Nuisance
6 Ordinances identified herein (including but not limited to any law that the
7 Releasing Parties claim criminalizes a person's homeless status), against any
8 person because of his or her homeless status (hereinafter, the "Released Claims").
9

10 7.2 The release set forth above is a release of ALL claims,
11 demands, causes of action, obligations, damages, and liabilities, of any nature
12 whatsoever, and is intended to encompass all known and unknown, foreseen and
13 unforeseen, claims that are possessed by the Releasing Parties and within the scope
14 of the Released Claims based solely and only on the events giving rise to this
15 Action. To effectuate the intent of the Parties, the Releasing Parties expressly agree
16 to waive and relinquish all rights and benefits they may have under California Civil
17 Code Section 1542, which reads as follows:

18 § 1542. [General release; extent] A general release does not extend to
19 claims that the creditor or releasing party does not know or suspect to
20 exist in his or her favor at the time of executing the release and that, if
21 known by him or her, would have materially affected his or her
22 settlement with the debtor or released party.

23 7.3 The Releasing Parties, and each of them, warrant that they have
24 made no assignment, and will make no assignment, of any claim, chose in action,
25 right of action, or any right, of any kind whatsoever, within the scope of the
26 Released Claims, and that no other person or entity of any kind had or has any
27 interest in any of the demands, obligations, actions, causes of action, debts,
28 liabilities, rights, contracts, damages, attorneys' fees, costs, expenses, losses, or
claims within the scope of the Released Claims.

8. **Dismissal of the Action.** At the conclusion of the Court's continuing

1 jurisdiction, Plaintiffs will take all necessary actions and file all necessary
2 documents to effectuate dismissal of the Action, with prejudice.

3 **9. Settlement Payments and Attorneys' Fees.**

4 All Parties, and all Releasing Parties, shall bear their own costs, expenses,
5 and attorneys' fees in relation to or arising out of (a) the Action, (b) the resolution,
6 negotiation, and settlement of the Action, including the negotiation of this
7 Agreement, and (c) the implementation of this Agreement, including the resolution
8 of any Dispute.

9 **10. Non-Admission of Liability.** By entering into this Agreement, the
10 NORTH SPA CITIES admit no liability, and explicitly deny any liability or
11 wrongdoing of any kind arising out of or relating to any of the claims alleged in the
12 Action. Nothing herein constitutes an admission by the NORTH SPA CITIES as to
13 any interpretation of laws, or as to the merits, validity, or accuracy of any of the
14 claims or legal contentions made in the Action. The NORTH SPA CITIES have
15 entered into this Agreement solely to avoid the time, expense, and risk of
16 continued litigation. The Parties agree that an express condition of this settlement
17 is that there has been no finding of liability on the merits, and that this settlement
18 and any document related to this settlement, including this Agreement and the
19 Order, and the negotiations leading up to this settlement, shall be inadmissible in
20 evidence and shall not be used for any purpose in this or any other proceeding
21 except in an action or proceeding to approve, interpret, or enforce the Agreement.

22 **11. Knowing and Voluntary.** This Agreement is an important legal
23 document and, in all respects, has been voluntarily and knowingly executed by the
24 Parties. The Parties, and each of them, specifically represent that, prior to signing
25 this Agreement, (a) they have each been provided a reasonable period of time
26 within which to consider whether to accept this Agreement, (b) they have each
27 carefully read and fully understand all of the provisions of this Agreement, and (c)
28

1 they are voluntarily, knowingly, and without coercion entering into this Agreement
2 based upon their own judgment. Plaintiffs, and each of them, further specifically
3 represent that, prior to signing this Agreement, they have conferred with counsel of
4 their choice to the extent desired concerning the legal effect of this Agreement, and
5 that the legal effect of this Agreement has been adequately explained to them.

6 **12. Entire Agreement.** This Agreement constitutes the entire agreement
7 between Plaintiffs and the NORTH SPA CITIES regarding the matters discussed
8 herein and supersedes any and all other agreements, understandings, negotiations,
9 or discussions, either oral or in writing, express or implied, between Plaintiffs and
10 the NORTH SPA CITIES relating to the subject matter hereof. Plaintiffs and the
11 NORTH SPA CITIES each acknowledge that no representations, inducements,
12 promises, agreements, or warranties, oral or otherwise, have been made by them,
13 or anyone acting on their behalf, which are not embodied in this Agreement, that
14 they have not executed this Agreement in reliance on any such representation,
15 inducement, promise, agreement, or warranty, and that no representation,
16 inducement, promise, agreement, or warranty not contained in this Agreement,
17 including, but not limited to, any purported supplements, modifications, waivers,
18 or terminations of this Agreement, shall be valid or binding, unless executed in
19 writing by all of the Parties to this Agreement. Any alteration, change, or
20 modification of or to this Agreement shall be made by written instrument executed
21 by each Party in order to become effective.

22 **13. Warranty of Authority.** Each individual or entity that executes this
23 Agreement represents and warrants, in his, her, or its personal capacity, that he,
24 she, or it is duly authorized and empowered to enter into this Agreement on behalf
25 of the party it purports to represent.

26 **14. Counterparts.** This Agreement may be executed in multiple
27 counterparts, each of which shall be considered an original but all of which shall
28

1 constitute one agreement.

2 IN WITNESS WHEREOF, this Settlement Agreement is hereby entered into
3 and executed by the parties hereto on the dates set forth below.

4 Dated: 8/6/19, 2019

ORANGE COUNTY CATHOLIC
WORKER

By: 

8 APPROVED AS TO FORM:

10 Dated: 8/6/19, 2019

ELDER LAW AND DISABILITY
RIGHTS CENTER

By: 

Brooke Weitzman
Attorneys for Plaintiffs

17 Dated: 8/6/19, 2019

LAW OFFICE OF CAROL A.
SOBEL

By: 

Carol A. Sobel
Attorneys for Plaintiffs

24 [SIGNATURES FOR EACH CITY OF THE NORTH SPA TO FOLLOW]

CITY OF Brea

By: 

William Gallardo

Name

city manager

Title

5-8-2019
Date

ATTEST:



City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager: William Gallardo

City of: Brea

Street Address: 1 Civic Center Circle

Brea, CA 92821

Phone: (714) 990-7711

Fax: (714) 990-2258

APPROVED AS TO FORM:


City Attorney

SIGNED IN COUNTERPART

CITY OF Buena Park

By: _____

James B. Vanderpool
Name

City Manager
Title

Date

5/14/19

ATTEST:

City Clerk

[Signature]



NOTICE TO CITY TO BE GIVEN TO:

City Manager: James B. Vanderpool

City of: Buena Park

Street Address: 6650 Beach Blvd

Buena Park, CA 90622

Phone: (714) 562-3555

Fax: (714) 562-3559

APPROVED AS TO FORM:

City Attorney

[Signature]

SIGNED IN COUNTERPART

CITY OF Cypress

By: [Signature]

Peter Grant
Name

City Manager
Title

May 14 2019
Date

ATTEST:

[Signature]
City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager: _____

City of: Cypress

Street Address: 5275 Orange Ave

Cypress, CA 90630

Phone: 714 229 6680

Fax: _____

APPROVED AS TO FORM:

[Signature]
City Attorney

SIGNED IN COUNTERPART

CITY OF Fullerton

By: [Signature]
Jesus Silva

Name

Mayor
Title

5-13-19
Date

ATTEST:

[Signature]
City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager: Kenneth Damer

City of: Fullerton

Street Address: 303 W. Commonwealth Avenue
Fullerton, CA 92832

Phone: 714. 738. 6310

Fax: N/A

APPROVED AS TO FORM:

[Signature]
City Attorney

SIGNED IN COUNTERPART

CITY OF La Habra

By: 

Jim Sadro

Name

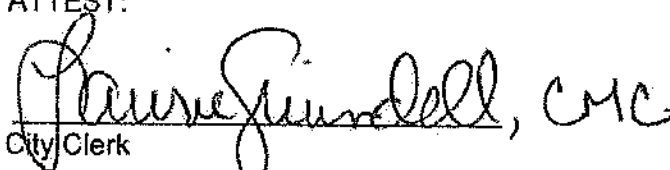
City Manager

Title

May 14, 2019

Date

ATTEST:


City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager: Jim Sadro

City of: La Habra


Street Address: 110 E. La Habra Blvd.

La Habra, CA 90631

Phone: (562) 383-4010

Fax: (562) 383-4474

APPROVED AS TO FORM:


City Attorney

SIGNED IN COUNTERPART

CITY OF LA PALMA

By:  _____

May 14, 2019
Date

Marshall Goodman
Name

Mayor
Title

ATTEST:

 _____
City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager: Laurie Murray

City of: La Palma

Street Address: 7822 Walker Street
La Palma, CA 90623

Phone: 714-690-3334

Fax: 714-690-3346

APPROVED AS TO FORM:

SIGNED IN COUNTERPART

Emily Webb, City Attorney

CITY OF LA PALMA

By: _____

May 14, 2019

Date

Marshall Goodman
Name

Mayor
Title

ATTEST:

City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager: Laurie Murray


City of: La Palma

Street Address: 7822 Walker Street
La Palma, CA 90623

Phone: 714-690-3334

Fax: 714-690-3346

APPROVED AS TO FORM:



Emily Webb, City Attorney

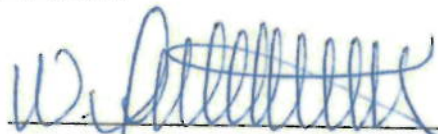
SIGNED IN COUNTERPART

CITY OF Los Alamitos


Bret M. Plumlee, City Manager

5/14/19
Date

ATTEST:


Windmera Quintanar, MMC, City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager: Bret M. Plumlee

City of: Los Alamitos


Street Address: 3191 Katella Ave.

Los Alamitos, CA 90720

Phone: (562) 431-3538

Fax: (562) 493-1255

APPROVED AS TO FORM:


Michael S. Daudt, City Attorney

SIGNED IN COUNTERPART

CITY OF Placentia

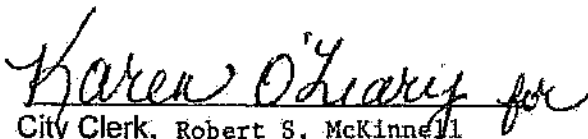
By: 

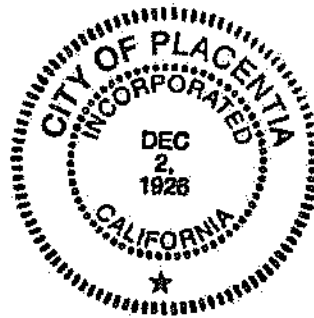
Date 05/21/19

Damien R. Arrula
Name

City Administrator
Title

ATTEST:


City Clerk, Robert S. McKinney



NOTICE TO CITY TO BE GIVEN TO:

City Manager: Damien R. Arrula

City of: Placentia

Street Address: 401 E. Chasman Ave.

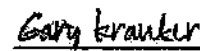
Placentia, CA 92870

Phone: (714) 993-8171

Fax: (714) 961-0283

APPROVED AS TO FORM:

SIGNED IN COUNTERPART


City Attorney

ORIGINAL

North Specific Planning Area Settlement Agreement Signature Page (Stanton)

CITY OF STANTON

By: David J. Shawver

Date May 14, 2019

David J. Shawver
Name

Mayor
Title

ATTEST:

[Signature]
City Clerk



NOTICE TO CITY TO BE GIVEN TO:

City Manager: Jarad L. Hildenbrand

City of: Stanton

Street Address: 7800 Katella Avenue

Stanton, CA 90680

Phone: (714) 890-4277

Fax: (714) 890-1443

APPROVED AS TO FORM:

[Signature]
City Attorney

SIGNED IN COUNTERPART

North Specific Planning Area Settlement Agreement Signature Page



CITY OF Villa Park

By: [Signature]

Steve Franks
Name

City Manager
Title

May 14, 2019
Date

ATTEST:

[Signature]
City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager: Steve Franks

City of: Villa Park

Street Address: 17855 Santiago

Villa Park, CA 92861

Phone: (714) 998-1500

Fax: (714) 998-1508

APPROVED AS TO FORM:

Todd [Signature]
City Attorney

SIGNED IN COUNTERPART

CITY OF YORBA LINDA

By: Mark Polone

05-15-2019
Date

MARK POLONE
Name

CITY MANAGER
Title

ATTEST:

[Signature]
City Clerk Deputy City Clerk
for

NOTICE TO CITY TO BE GIVEN TO:

City Manager: _____

City of: _____

Street Address: _____

_____, CA _____

Phone: _____

Fax: _____

APPROVED AS TO FORM:

SIGNED IN COUNTERPART

Todd [Signature]
City Attorney

EXHIBIT A

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between, on the one hand, the City of Anaheim ("Anaheim"), and, on the other hand, Orange County Catholic Worker ("OCCW") (an unincorporated association, acting by and through its designated representatives), and each of the individual Plaintiffs named in the First Amended Complaint (collectively with OCCW, "Plaintiffs").

On January 29, 2018, Plaintiffs filed this action, entitled *Orange County Catholic Worker v. Orange County*, California Central District Case No. 8:18-cv-00155 (the "Action"), against the County of Orange, the City of Costa Mesa, the City of Orange, and Anaheim (collectively, "Defendants").

Plaintiffs filed a First Amended Complaint ("FAC") against all Defendants on July 26, 2018. Plaintiffs allege that their rights were violated by, *inter alia*, enforcing Anaheim Municipal Code sections 11.10 and 13.08.101.080 based on their status as homeless individuals. The City disputes the factual allegations and legal contentions set forth in the FAC.

Without any admission of liability on the part of Anaheim or any concession of the validity of Plaintiffs' allegations, and for the sole purpose of resolving the Action in an economic and efficient manner, the Parties now desire to enter into this Agreement on the terms set forth herein.

TERMS

1. **Consent Decree, and Effective Date.** Following the full execution of this Agreement by all Parties, the Parties shall file a document on the terms required by the Court in the Action (hereinafter, the "Court") to effectuate this Agreement as an order and/or consent decree (the "Consent Decree"). The terms of this Agreement shall only become effective and operative on the date it is approved by the Court (hereinafter, the "Effective Date").

2. **Construction and Operation of New Homeless Shelter(s).** Anaheim commits to the following with respect to the funding and/or expedited review of

1 one or more new homeless shelters within its boundaries:

2 2.1 Anaheim shall fund, and/or coordinate third-party funding for,
3 the construction and initial operation, as solely agreed to by Anaheim and the
4 operator(s), of one or more temporary, low-barrier homeless shelters within its
5 boundaries (collectively, the "Shelters," and individually a "Shelter"), with a total
6 capacity of at least 325 beds. Anaheim's funding commitment for the Shelters is for
7 two years only, commencing on the Effective Date.

8 2.2 Anaheim shall use its best efforts to ensure construction of the
9 325 Shelter beds by the earliest practicable date, with a goal of completing
10 construction of the 325 beds by January 2019.

11 2.3 Any agreement between Anaheim and any other entity
12 regarding the provision of funding for a Shelter by Anaheim shall include a term
13 requiring the entity receiving the funding to comply with any applicable anti-
14 discrimination laws, including but not limited to any applicable laws prohibiting
15 discrimination on the basis of a disability, and to provide a reasonable
16 accommodation of the disabilities of any Shelter occupants as required by law.

17 2.4 Nothing contained in this Agreement will cause Anaheim to be
18 deemed or considered to be (a) a tenant of all of any portion of a Shelter site, (b) in
19 control of all or any portion of any Shelter site, or of any operations, development,
20 or construction thereon, or (c) an occupant or owner of all of any portion of a
21 Shelter site, or any structures or facilities thereon.

22 **3. Enforcement Against Homeless Individuals**

23 3.1 On all Anaheim properties (other than the specific properties
24 exempted in Section 3.3 below), Anaheim will lead the contact of those indigent
25 homeless individuals inhabiting areas open to the public with outreach and
26 engagement personnel. For purposes of this Agreement, the term "outreach and
27 engagement personnel" shall include County Outreach and Engagement personnel,
28 City personnel, and/or representatives from CityNet or any other organization(s)

1 with which Anaheim has contracted for such services and who are qualified to
2 conduct appropriate assessments of individuals with disabilities (collectively,
3 "O&E personnel").

4 **3.2** O&E personnel will determine appropriate placements for the
5 indigent homeless persons and the availability of said placements. Disputes over an
6 appropriate placement will be subject to the policies and procedures outlined in this
7 Agreement. Absent exigent circumstances, after engagement by O&E personnel, an
8 indigent homeless person will be given a warning of the alleged violation and
9 notice (of at least 24 hours) of their service and shelter options. After an offer of
10 appropriate placement, a warning, and a notice of the need to relocate, and an
11 opportunity to accept the placement or voluntarily relocate, Anaheim may utilize
12 criminal law, including any applicable Anaheim ordinances, to effect the person's
13 removal. In the event the homeless person declines the offered placement, Anaheim
14 will advise the person of the availability of the notice-and-grievance process
15 enacted by the Court as discussed below and provide the person with the contact
16 information for Plaintiffs' attorneys in the Action, Brooke Weitzman and Carol
17 Sobel.

18 **3.3** The procedures set forth in this Section 3 shall not apply to the
19 enforcement of criminal laws and/or Anaheim ordinances on (1) currently lockable,
20 gated, and fenced Anaheim park facilities with noticed hours of operation, (2)
21 Anaheim libraries during closed hours of operation, or (3) other special-use
22 properties as agreed upon by the Parties. In such locations, indigent homeless
23 persons shall have and enjoy the same right of access (and shall be subject to the
24 same rules of conduct) as other members of the public, and Anaheim shall, where
25 feasible, provide indigent homeless persons a warning and an opportunity to vacate
26 the area, before issuing a citation or effecting an arrest. On any property where
27 Anaheim and the County have dual enforcement authority, County restrictions on
28 access to that property shall be applicable to and enforceable by Anaheim.

1 **3.4** Nothing herein shall be construed to prevent Anaheim from
2 performing routine maintenance, remediation, or cleaning projects, as determined to
3 be necessary by Anaheim. Anaheim will advise Plaintiffs' counsel when a proposal,
4 plan, or project is expected to be submitted to the Anaheim City Council or
5 appropriate Anaheim agency or personnel if said proposal, plan, or project will
6 result in the displacement of an unsheltered community and, if necessary, submit
7 the proposal to the Court's notice-and-grievance process (discussed below)
8 pursuant to this Agreement. The Parties will meet and confer in good faith on the
9 implementation of the project as it impacts an unsheltered community. Except in
10 cases of emergency, in the event of such projects, Anaheim shall provide at least 24
11 hours' notice to affected indigent homeless persons and shall provide storage, at no
12 charge, for their personal property. The Parties agree to meet and confer on the
13 extent of Anaheim's obligation to store personal property seized during such
14 projects.

15 **3.5** To further the goals of maximizing eligibility for, and providing
16 services to, unhoused persons so they can be enrolled in available benefit programs,
17 including homeless court, Anaheim will endeavor, when feasible, to charge
18 offenses based on homeless status as infractions rather than misdemeanors.
19 However, nothing herein shall be construed to preclude Anaheim from enforcing
20 criminal law not based on homeless status.

21 **3.6** Absent exigent circumstances, prior to the time the 325 Shelter
22 beds referenced in section 2.1 are operational in Anaheim, a homeless individual
23 believed to be in violation of Anaheim Municipal Code section 13.08.101.080 (the
24 "Park-Hours Provision") will be given a warning and directed to move to another
25 public area outside the park which is not subject to a curfew. Once an individual
26 has been given the warning and direction set forth above on two separate days,
27 Anaheim need not provide it again to the same individual on any subsequent day
28 prior to enforcing the Park-Hours Provision against that individual.

1 3.7 Anaheim shall not cite or arrest any homeless individual for
2 violation of Anaheim Municipal Code section 7.28.010 (the "Anti-Loitering
3 Provision") unless that individual, either individually or in conjunction with his or
4 her property, actually obstructs the free passage of any person or vehicle on any
5 public highway, alley, sidewalk, or crosswalk and declines to move the obstruction
6 after being asked to do so. A sidewalk is "obstructed" if less than 36 consecutive
7 inches of the sidewalk is available for passage.

8 3.8 Absent exigent circumstances, for five days after the Effective
9 Date, Anaheim Municipal Code sections 11.10.030 and 11.10.040, to the extent
10 they relate to the possession or storage of personal property in public areas, shall
11 not be used as the basis to cite or arrest any homeless individual, or to permit the
12 seizure of property, whether attended or unattended, in Anaheim parks during park
13 hours, or on other, non-park public property at all other times. During that five-day
14 period, the Parties agree to meet to discuss possible resolution of their conflicts on
15 these issues, including potential revisions to the ordinance and due-process
16 procedures regarding the possession or storage of personal property in a public
17 park. At the end of the five-day period, the restriction set forth above shall end
18 unless otherwise agreed to in writing by the Parties.

19 3.9 The terms of this agreement may be vacated or modified, at the
20 request of any party hereto, before the Termination Date (defined below) if: (a) the
21 holding of *Martin v. City of Boise*, Case No. 15-35845, 2018 WL 4201159 (9th Cir.
22 Sept. 4, 2018) ("*Martin v. Boise*") is reversed or modified, or is otherwise no longer
23 good law; or, (b) the Court determines that the number of available and appropriate
24 shelter placements in the City of Anaheim warrant termination or modification of
25 the Agreement.

26 4. Notice-and-Grievance Process.

27 4.1 The Parties agree that a more thorough and detailed notice-and-
28 grievance review procedure that complies and is otherwise consistent with state and

1 federal law must be developed and agreed to by the Parties, for approval and
2 implementation by the Court. In utilizing such procedure, the Parties anticipate that
3 every effort will be made by the Parties to resolve issues before seeking review by
4 the Court. The Parties agree that the Court will have the authority to enforce the
5 terms of this Agreement and resolve disputes as they may arise. The Parties agree to
6 make reasonable efforts to exhaust any and all applicable meet-and-confer and/or
7 grievance procedures prior to contacting the Court, except in instances where the
8 health or safety of individuals is at risk of imminent harm. The informal court
9 hearing process as part of the notice-and-grievance procedure will be established by
10 mutual agreement and with the approval of the Court. The parties shall make every
11 reasonable, good-faith effort to have these disputes heard by the Court during
12 normal business hours, but understand that the hearings may be dependent upon (1)
13 the Court's availability, and (2) circumstances in which the health or safety of an
14 individual is at risk of imminent harm.

15 4.2 Once a matter is decided in the Dispute-Resolution Process, the
16 parties will be bound by the decision as applied to substantially similar facts for the
17 same individual. When the determination is in favor of the City, the City may
18 proceed with citation and release or, where appropriate in its discretion, arrest, in
19 future contacts with the same person without deferring to the Dispute-Resolution
20 Process.

21 5. This Agreement will fully terminate on the date that is three years after
22 the Effective Date (the "Termination Date").

23 \\\

24 \\\

25 \\\

26 \\\

27 \\\

28 \\\

1 6. The Parties will endeavor to separately resolve the issue of attorneys'
2 fees, costs, and damages, as to any individual Plaintiffs, prior to the Effective Date.

3 7. The effectiveness of this Agreement shall be subject to the Parties
4 agreeing to an appropriate release.

5
6 DATED: November 2, 2018

BURKE, WILLIAMS, & SORENSEN
MARK J. AUSTIN

7
8 By: 

9 Mark J. Austin
10 Attorneys for Defendant CITY OF
11 ANAHEIM

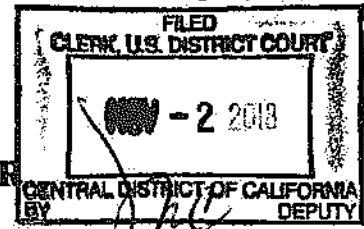
12 DATED: November 2, 2018

LAW OFFICE OF CAROL A. SOBEL

13
14 By: 

15 Carol A. Sobel
16 Attorneys for Plaintiffs
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT B



BROOKE WEITZMAN SBN 301037
WILLIAM WISE SBN 109468
ELDER LAW AND DISABILITY RIGHTS CENTER
1535 E 17th Street
Santa Ana, California 92705
t. 714-617-5353
e. bweitzman@eldrcenter.org
e. bwise@eldrcenter.org

CAROL A. SOBEL SBN 84483
MONIQUE ALARCON SBN 31165
AVNEET CHATTHA SBN 316545
LAW OFFICE OF CAROL SOBEL
725 Arizona Avenue, Suite 300
Santa Monica, California 90401
t. 310-393-3055
e. carolsobellaw@gmail.com
e. Monique.alarcon8@gmail.com
e. avneet.chattha7@gmail.com

PAUL L. HOFFMAN SBN 71244
CATHERINE SWEETSER SBN 271142
COLLEEN M. MULLEN SBN 299059
**SCHONBRUN, SEFLOW, HARRIS &
& HOFFMAN**
11543 W. Olympic Blvd.
Los Angeles, California 90064
t. 310-396-0731
e. hoffpaul@aol.com
e. csweetser@sshhlaw.com
e. cmullen@sshhlaw.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

**ORANGE COUNTY CATHOLIC
WORKER, et al.,**

Plaintiffs,

v.

**ORANGE COUNTY, the CITY OF
ANAHEIM, the CITY OF COSTA
MESA, and the CITY OF ORANGE,**

Defendants.

Case No. 8:18-cv-00155 DOC (JDE)

**SETTLEMENT AGREEMENT BY AND
BETWEEN THE CITY OF ORANGE
AND ALL PLAINTIFFS, ON THEIR
INDIVIDUAL BEHALF**

NOW, THEREFORE, for full and valuable consideration, the sufficiency of which is hereby acknowledged, and based upon the foregoing Recitals, and the

1 terms, conditions, covenants, and agreements herein, the Parties agree as follows:

2 **1. Order re Continuing Jurisdiction, and Effective Date.** Following
3 the full execution of this Agreement by all Parties, the Parties shall file with the
4 Court in the Action the "[Proposed] Order re Settlement and Continuing
5 Jurisdiction," attached hereto as Exhibit A (the "Order"). The obligations of the
6 Parties in the remaining sections of this Agreement, and the releases contained
7 herein, shall become effective and operative on the date on which the Order is
8 signed and entered by the Court, and shall be contingent upon the Court's signing
9 and entry of the Order (hereinafter, the "Effective Date").

10 **2. Incorporation of Recitals.** The representations in the above section
11 of this Agreement, entitled "RECITALS," are hereby incorporated into and made a
12 material part of the terms and representations of this Agreement.

13 **3. Construction and Operation of New Homeless Shelter(s).** Orange
14 commits to the following with respect to the funding and/or expedited review of
15 one or more new facilities to provide placements for unsheltered individuals within
16 the City's jurisdiction:

17 **3.1** The cities in the area designated by the County as the North
18 Special Planning Area ("North SPA"), which includes, Orange, Fullerton,
19 Placentia, Buena Park, Anaheim, Brea, Cypress, La Habra, La Palma, Los
20 Alamitos, Stanton, Villa Park and Yorba Linda, shall fund, or obtain funding from
21 the County for, the construction and initial operation of two or more feasible,
22 temporary, low-barrier homeless shelters at locations within North SPA cities
23 (collectively, the "Shelters," and individually a "Shelter"), with a total capacity of
24 at least 200 beds to be operational and a goal of having the facilities operational by
25 June 30, 2019, or sooner if possible. The North SPA shall have complete discretion
26 in determining which, if any, Shelter projects to fund, and which Shelter projects
27 are suitably feasible, subject to any limitations set forth herein.
28

1 **3.2** To the extent that it is required to do so by Government Code
2 sec. 65583 et seq., or any other relevant provision, Orange agrees to execute an
3 MOU with the County and the participating North SPA cities, setting forth the
4 financial responsibilities of each participating government entity for the
5 development and ongoing operation of the Shelter(s) and the allocation of beds to
6 each participating entity according to its financial contribution.

7 **3.3** The City of Orange also agrees to expedite any necessary
8 processing, review, approvals, and/or inspections of any Shelter project selected by
9 the North SPA for funding pursuant to this Agreement, to the extent reasonably
10 practicable and permitted by law.

11 **3.4** The North SPA cities, in conjunction with the County, currently
12 plan to fund two Shelter(s) in the North SPA, each with an initial capacity of 100
13 beds and the availability of expansion to 200 beds, if necessary. Although these
14 projects are not the exclusive means by which Orange may satisfy its obligation to
15 meet the needs of homeless individuals in the City, Plaintiffs acknowledge and
16 agree that the creation of these Shelter projects, or any portion thereof initially
17 totaling 200 Shelter beds, shall satisfy Orange's obligations under Paragraph 3.1 of
18 this Agreement to meet the Court's requirement of available placements for at least
19 60 percent of the unsheltered individuals in the Defendant City.
20

21 **4. Enforcement of Anti-Camping and Anti-Loitering Provisions.**

22 **4.1** Orange shall establish the following policies and procedures
23 relating to the enforcement of Orange Municipal Code sections 12.66.030 and
24 12.48.045 (collectively, the "Anti-Camping Provision"), or any comparable
25 provisions of state law, or any law concerning "loitering" against homeless
26 individuals within its jurisdiction:

27 **4.1.1** Absent exigent circumstances, any enforcement of the
28 Anti-Camping Provision against a homeless individual (including any of the

1 named Plaintiffs) will first be preceded by contacts by outreach and engagement
2 personnel to determine appropriate shelter placement for the individual in question,
3 per the procedures outlined herein. For purposes of this Agreement, the term
4 "appropriate outreach and engagement personnel" shall include County Outreach
5 and Engagement personnel, and/or representatives from CityNet or any other
6 organization(s) with which Orange has contracted for such outreach and
7 engagement services (collectively, "O&E personnel"), who are trained in engaging
8 in appropriate clinical assessments of individuals with disabilities when necessary
9 to determine an appropriate placement. Orange may elect to use City employees as
10 long as they are properly trained.

11 **4.1.2** In implementation of Section 4.1.1, prior to enforcement of the
12 Anti-Camping Ordinance against any homeless individual, Orange will first work
13 with O&E personnel to locate and offer an available shelter placement for the
14 individual in question in the North SPA that constitutes a reasonable
15 accommodation of the individual's disabilities, if any. If no such shelter is
16 available in the North SPA but an alternative appropriate and immediately
17 available placement within the County of Orange is identified by O&E, Orange
18 may place the individual at that shelter with the consent of the individual. Orange
19 may consider this offer an "available bed" for purposes of enforcement so long as
20 the placement does not impede the individual's ability to access their doctors,
21 outpatient programs in which they may be enrolled, work and other support
22 systems in or near Orange. If the individual accepts the offered placement outside
23 of the North SPA, Orange will provide transportation to the placement and will
24 assist the individual in finding any necessary transportation to and from scheduled
25 appointments or work required as a result of the placement outside of the North
26 SPA, including but not limited to bus passes. If the individual declines the offered
27 placement, Orange may proceed with enforcement of the Anti-Camping Ordinance
28

1 in its discretion. Notwithstanding the preceding sentence, for any individual who
2 declines the offered placement, Orange will first give the person a warning and an
3 opportunity to immediately leave the location before engaging in further
4 enforcement efforts, such as citation and/or arrest. If the alleged violation arises
5 from an individual's presence in a park outside of the established operational
6 hours, Orange Municipal Code section 12.48.090 (the "Park-Hours Provision"),
7 and if there is no appropriate and immediately available placement for that person,
8 Orange will advise the individual that they must leave the park. Orange will
9 advise the individual that they may move to any public area outside the park per
10 *Martin v. City of Boise*. If the person does not leave the park after receiving a
11 warning, Orange may issue a citation to the individual. However, if the individual
12 contests whether the offered and immediately available bed is a reasonable
13 accommodation, absent exigent circumstances, Orange shall not execute a
14 custodial arrest but will, instead, issue a citation and advise the individual of the
15 available Dispute Resolution process. Orange shall advise of the availability of the
16 Dispute Resolution Process at each stage of engagement once an individual
17 declines an offered placement.
18

19 **4.1.3** The requirements of this Section 4.1 shall only apply until the
20 earlier of (a) the date on which the case of *Martin v. City of Boise*, Case No. 15-
21 35845, 2018 WL 4201159 (9th Cir. Sept. 4, 2018) ("*Martin v. Boise*") is no longer
22 applicable law within the jurisdiction of the Ninth Circuit, and (b) the date on
23 which the Court finds that there are sufficient appropriate and immediately
24 available placements for the unsheltered population in the City of Orange.

25 **4.2** Orange shall not cite or arrest any homeless individual for
26 violation of the law based on an alleged obstruction of public property unless that
27 individual, either individually or in conjunction with his or her property, actually
28 obstructs free passage of any person or vehicle on any public highway, alley,

1 sidewalk, or crosswalk and declines to move the object(s) creating obstruction
2 from the public right of way after being requested to do so.

3 **4.3** Nothing in this Agreement constitutes an admission by Orange
4 that its current policies and procedures for enforcement of the Anti-Camping
5 Provision and/or Anti-Loitering Provision are either (a) different than those set
6 forth above, or (b) in any way legally inadequate, or a concession by Plaintiffs that
7 it is legally adequate.

8 **4.4** Nothing in this Agreement constitutes a promise,
9 representation, or warranty, on the part of Orange, that any number of beds will be
10 available to any particular person(s) at any time. The lack of availability of an
11 appropriate and immediately accessible bed for any person or persons at any time,
12 including any of the Plaintiffs, may impact the ability of Orange to find a purported
13 violation of law, including but not limited to Orange Municipal Code sections
14 12.66.030 and 12.48.045 (the "Anti-Camping Provision"). However, the failure to
15 meet the number of beds set out in this agreement, and a failure of a shelter to meet
16 reasonable accommodation needs, may be raised with this court under the Dispute-
17 Resolution procedure set forth below.

18
19 **5. Disability Laws.**

20 **5.1** Any agreement entered into by Orange, whether directly or by
21 an MOU with the North SPA cities and/or County, with a privately operated
22 Shelter(s) or a private contractor to operate a public shelter, will require that the
23 facility meets the requirements of the Americans with Disabilities Act, 42 U.S.C.
24 §§ 12101 *et seq.* (the "ADA"), its associated regulations, or any other state or
25 federal laws relating to disabilities, including but not limited to the Fair Housing
26 Act 42 U.S.C. §§ 3601 *et seq.*, the Rehabilitation Act, 29 U.S.C. §§ 701 *et seq.*,
27 and/or Government Code section 11135 (collectively with the ADA, the Disability
28 and Anti-discrimination Laws").

1 **5.2** The Parties hereby agree that any and all disputes concerning
2 the adequacy of any placement offered to a homeless individual pursuant to
3 Section 4.1 of this Agreement, including but not limited to whether the offered
4 placement sufficiently accommodates the individual's disabilities, will be resolved
5 via the "Dispute-Resolution Process," as defined below.

6 **6. Dispute-Resolution Process.** The Court shall retain jurisdiction over
7 the Action for a period of three years from the date of this Agreement (hereinafter,
8 the "Termination Date"), for the purposes of (a) overseeing the implementation of
9 this Agreement, and (b) implementing and presiding over the a dispute-resolution
10 process (the "Dispute-Resolution Process"), to be established by the Court and to
11 which Plaintiffs and Orange, hereby consent and agree:

12 **6.1** Except as expressly identified in this Agreement, or as may be
13 modified by the Court or the Parties, with the Court's consent, during the three-
14 year period of the Court's continued jurisdiction, this Dispute-Resolution Process
15 shall apply to adjudicate any and all disputes between, on the one hand, Orange,
16 and, on the other hand, any homeless individual or individuals (including but not
17 limited to any individual Plaintiffs), relating to (a) the implementation of this
18 Agreement, and/or (b) Orange's enforcement of the above-identified Orange
19 Municipal Code sections, or analogous state penal code provisions applied on the
20 basis of an individual's status as homeless, including but not limited to disputes
21 regarding the availability or adequacy of any shelter or shelter services offered to
22 the individual pursuant to Section 4.1 of this Agreement (collectively, the
23 "Disputes," and individually, a "Dispute").

24 **6.2** In the event of any Dispute arising during the pendency of the
25 Court's retained jurisdictions, the parties to that Dispute will first attempt to meet
26 and confer informally with the other side in an effort to resolve it. In the case of a
27 Dispute raised by one or more homeless individuals (including but not limited to
28

1 any individual Plaintiffs) against Orange, or a Dispute raised by Orange against
2 one or more homeless individuals who are known to be represented by counsel of
3 record in the Action, this attempt will at least involve (a) a written communication
4 from the party initiating the Dispute to the other side's counsel describing in detail
5 the Dispute and the requested remedy, and providing any available evidence in
6 relation thereto, and (b) a discussion, either in person or via telephone, seeking to
7 resolve the Dispute. Orange employees, as well as the employees of the Shelter(s),
8 shall give any affected individual notice of the Court's Dispute-Resolution Process
9 and the contact information for Plaintiffs' counsel, together with a statement that
10 Plaintiffs' counsel may be available to assist them.

11
12 **6.3** If the parties to a Dispute are unable to resolve it within two (2)
13 court days after it is first raised informally by one of the parties to the Dispute, any
14 party to the Dispute may request a hearing with the Court under the standards and
15 processes to be set by the Court, and the Court will have jurisdiction to resolve that
16 Dispute. If the Dispute involves an emergency situation that presents a threat to
17 the immediate health and safety of an individual, the parties may seek expedited
18 review by the Court.

19 **6.4** Except as provided for in Section 4, hereinabove, nothing in
20 this agreement shall impact Orange's right to enforce any law against a person
21 believed to be homeless, including issuing citations and arresting the person for an
22 alleged violation of the law.

23 **6.5** In resolving any Dispute, the Court may enforce any rights
24 available to a party under this Agreement, subject to sufficient notice, opportunity
25 to be heard, briefing, evidence, and other due process. The Court shall not be
26 empowered to award damages or any other monetary relief to any party as a result
27 of any Dispute submitted to this process.

28 **8. Release and Covenant Not to Sue.**

1 **8.1** In consideration for the terms of this Agreement, Plaintiffs, and
2 each of them, on their own behalf (the "Releasing Parties"), hereby release and
3 forever discharge Orange, as well as its present and former employees, agents,
4 managers, officers, directors, council members, insurance companies, attorneys,
5 departments, and divisions or affiliated entities, whether previously or hereafter
6 affiliated in any manner (the "Released Parties"), from and against any and all
7 claims, demands, causes of action, obligations, damages, attorneys' fees, costs, and
8 liabilities, arising from and relating to the events detailed in the lawsuit of any
9 nature whatsoever, whether or not now known, suspected, or claimed, which the
10 Releasing Parties, and/or any of them, have, or ever may claim to have, as against
11 the Released Parties, or any of them, whether directly or indirectly, relating to or
12 arising out of (a) the Action, (b) any claims raised in, or that could have been
13 raised in, the Action, (c) the availability of homeless shelters, shelter beds, and/or
14 other homeless accommodations in Orange County, (d) Orange's alleged
15 obligation to provide and/or fund such accommodations, and/or (e) Orange's
16 alleged inability to enforce any of the Ordinances identified herein (including but
17 not limited to any law that the Releasing Parties claim criminalizes a person's
18 homeless status), against any person because of his or her homeless status
19 (hereinafter, the "Released Claims"), conditional upon the provision of section
20 4.1.3, hereinabove.

22 **8.3** The release set forth above is a release of ALL claims,
23 demands, causes of action, obligations, damages, and liabilities, of any nature
24 whatsoever, and is intended to encompass all known and unknown, foreseen and
25 unforeseen, claims that are possessed by the Releasing Parties and within the scope
26 of the Released Claims based solely and only on the events giving rise to this
27 Action. To effectuate the intent of the Parties, the Releasing Parties expressly agree
28 to waive and relinquish all rights and benefits they may have under Section 1542

1 of the Civil Code of the State of California, which reads as follows:

2 § 1542. [General release; extent] A general release does not extend to
3 claims which the creditor does not know or suspect to exist in his or her
4 favor at the time of executing the release, which if known by him or her
must have materially affected his or her settlement with the debtor.

5 **8.4** The Releasing Parties, and each of them, warrant that they have
6 made no assignment, and will make no assignment, of any claim, chose in action,
7 right of action, or any right, of any kind whatsoever, within the scope of the
8 Released Claims, and that no other person or entity of any kind had or has any
9 interest in any of the demands, obligations, actions, causes of action, debts,
10 liabilities, rights, contracts, damages, attorneys' fees, costs, expenses, losses, or
11 claims within the scope of the Released Claims.
12

13 **9. Dismissal of the Action.** At the conclusion of the Court's retained
14 jurisdiction, Plaintiffs will take all necessary actions and file all necessary
15 documents to effectuate dismissal of the Action, with prejudice.

16 **10. Settlement Payments and Attorneys' Fees.** Within thirty (30) days
17 after the full execution of this Agreement by the Parties, Orange shall make the
18 following payments to the following persons or entities:

19 a. \$40,000 made payable to the Elder Law and Disability Rights
20 Center in full satisfaction of any claims for attorneys' fees and/or costs of
21 Plaintiffs' counsel in connection with the Action;

22 b. \$7,500 to a Special Needs Trust, in satisfaction of any claims
23 for damages on behalf of Cameron Ralston; and

24 Except as set forth above, all Parties, and all Releasing Parties, shall bear
25 their own costs, expenses, and attorneys' fees in relation to or arising out of (a) the
26 Action, (b) the resolution, negotiation, and settlement of the Action, including the
27 negotiation of this Agreement, and (c) the implementation of this Agreement,
28 including the resolution of any Dispute.

1 **11. Non-Admission of Liability.** By entering into this Agreement,
2 Orange admits no liability, and explicitly denies any liability or wrongdoing of any
3 kind arising out of or relating to any of the claims alleged in the Action. Nothing
4 herein constitutes an admission by Orange as to any interpretation of laws, or as to
5 the merits, validity, or accuracy of any of the claims or legal contentions made
6 against it in the Action, or that the claims alleged in the Action are suitable for
7 class-wide treatment (which Orange expressly denies). Orange has entered into this
8 Agreement solely to avoid the time, expense, and risk of continued litigation. The
9 Parties agree that an express condition of this settlement is that there has been no
10 finding of liability on the merits, that the plaintiffs have agreed to move for
11 dismissal of the class allegations, and that this settlement and any document related
12 to this settlement, including this Agreement and the Order, and the negotiations
13 leading up to this settlement, shall be inadmissible in evidence and shall not be
14 used for any purpose in this or any other proceeding except in an action or
15 proceeding to approve, interpret, or enforce the Agreement.
16

17 **12. Knowing and Voluntary.** This Agreement is an important legal
18 document and in all respects has been voluntarily and knowingly executed by the
19 Parties. The Parties, and each of them, specifically represent that, prior to signing
20 this Agreement, (a) they have each been provided a reasonable period of time
21 within which to consider whether to accept this Agreement, (b) they have each
22 carefully read and fully understand all of the provisions of this Agreement, and (c)
23 they are voluntarily, knowingly, and without coercion entering into this Agreement
24 based upon their own judgment. Plaintiffs, and each of them, further specifically
25 represent that, prior to signing this Agreement, they have conferred with counsel of
26 their choice to the extent desired concerning the legal effect of this Agreement, and
27 that the legal effect of this Agreement has been adequately explained to them.
28

13. Entire Agreement. This Agreement constitutes the entire agreement

1 between the Releasing Parties and Orange regarding the matters discussed herein
2 and supersedes any and all other agreements, understandings, negotiations, or
3 discussions, either oral or in writing, express or implied, between the Releasing
4 Parties and Orange relating to the subject matter hereof. The Releasing Parties and
5 Orange each acknowledge that no representations, inducements, promises,
6 agreements, or warranties, oral or otherwise, have been made by them, or anyone
7 acting on their behalf, which are not embodied in this Agreement, that they have
8 not executed this Agreement in reliance on any such representation, inducement,
9 promise, agreement, or warranty, and that no representation, inducement, promise,
10 agreement, or warranty not contained in this Agreement, including, but not limited
11 to, any purported supplements, modifications, waivers, or terminations of this
12 Agreement, shall be valid or binding, unless executed in writing by all of the
13 Parties to this Agreement. Any alteration, change, or modification of or to this
14 Agreement shall be made by written instrument executed by each party hereto in
15 order to become effective.
16

17 **14. Warranty of Authority.** Each individual or entity that executes this
18 Agreement represents and warrants, in his, her, or its personal capacity, that he,
19 she, or it is duly authorized and empowered to enter into this Agreement on behalf
20 of the party it purports to represent.

21 **15. Counterparts.** This Agreement may be executed in multiple
22 counterparts, each of which shall be considered an original but all of which shall
23 constitute one agreement.

24 IN WITNESS WHEREOF, this Settlement Agreement is hereby entered into
25 and executed by the parties hereto on the dates set forth below.

26 Dated: Nov. 2, 2018

ORANGE COUNTY CATHOLIC
WORKER

By: _____

XXXXXXXXXXXXXXXXXXXXX

Dated: _____, 2018

LISA BELL, ON HER OWN BEHALF

Dated: _____, 2018

MELISSA FIELDS, ON HER OWN
BEHALF

Dated: _____, 2018

GLORIA SHOEMAKE, ON HER OWN
BEHALF

Dated: _____, 2018

RICHIE THOMAS, ON HIS OWN
BEHALF

Dated: _____, 2018

SHAWN CARROLL, ON HIS OWN
BEHALF

Dated: _____, 2018

LARRY FORD, ON HIS OWN BEHALF

Dated: _____, 2018

CAMERON RALSTON, ON HIS OWN
BEHALF

1 Dated: _____, 2018

KATHY SCHULER, ON HER OWN
BEHALF

2
3
4 Dated: Oct. 29, 2018

CITY OF ORANGE

By: Teresa E. Smith

Teresa E. Smith, Mayor

8 APPROVED AS TO FORM:

9
10 Dated: Oct. 31, 2018, 2018

ELDER LAW AND DISABILITY
RIGHTS CENTER

12 By: Brooke Weitzman/s/
13 Brooke Weitzman
14 Attorneys for Plaintiffs

15
16
17 Dated: Oct. 31, 2018, 2018

LAW OFFICE OF CAROL A. SOBEL

19 By: Carol A. Sobel
20 Carol A. Sobel
21 Attorneys for Plaintiffs

1 Dated: Oct. 29, 2018

ORANGE CITY ATTORNEY'S
OFFICE

2
3 By: 

4 Wayne W. Winthers
5 Attorneys for Defendant
6 CITY OF ORANGE
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