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22 SUPERIOR COURT OF THE STATE OF CALIFORNIA

23 COUNTY OF SAN BERNARDINO

24 **PROMISE GRACIA, NADINE FIERRO, AND**  
25 **SIBYLLE BARTZ,**

26 Petitioners and Plaintiffs,

27 v.

28 **CITY OF SAN BERNARDINO, AND SAN**  
**BERNARDINO CITY COUNCIL,**

Respondents and  
Defendants.

**PEOPLE OF CALIFORNIA EX REL. ROB**  
**BONTA, AND THE CALIFORNIA DEPARTMENT**  
**OF HOUSING AND COMMUNITY**  
**DEVELOPMENT,**

Petitioners and Plaintiffs in  
Intervention.

Case No. CIVSB2301828

Assigned for All Purposes to: Judge  
Khymberli S. Apaloo

**[PROPOSED] STIPULATED FINAL  
JUDGMENT AND ORDER**

1 Petitioners and Plaintiffs, PROMISE GRACIA, NADINE FIERRO, and SIBYLLE  
2 BARTZ, along with Intervening Parties, the PEOPLE OF THE STATE OF CALIFORNIA,  
3 acting by and through ROB BONTA, Attorney General of the State of California, and the  
4 CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, and  
5 Respondents and Defendants CITY OF SAN BERNARDINO and SAN BERNARDINO CITY  
6 COUNCIL, having stipulated to the entry of this Final Judgment and Order (“Judgment”) without  
7 the taking of proof and without trial or adjudication of any fact or law herein, and with all Parties  
8 having waived the right to appeal; and the Court having considered the pleadings and good cause  
9 appearing:

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

11 **PARTIES AND DESCRIPTION OF ACTION**

12 1. PROMISE GRACIA, NADINE FIERRO, and SIBYLLE BARTZ, are low-income  
13 residents of the City of San Bernardino and individual Petitioners/Complainants in this Action  
14 with a beneficial interest in the City complying with California Government Code section 65580  
15 *et seq.* (the “Housing Element Law”), Government Code section 65915 (the “Density Bonus  
16 Law”), and state and federal laws related to the passage and implementation of the City’s passage  
17 and implementation of its Crime-Free Ordinance and Multi-Housing Program;

18 2. Intervening Plaintiffs/Petitioners, the PEOPLE OF THE STATE OF CALIFORNIA,  
19 by and through its Attorney General, ROB BONTA, and the Department of Housing and  
20 Community Development (“HCD”) are charged with the enforcement of, among other things, the  
21 “Housing Element Law”.<sup>1</sup>

22 3. Respondent/Defendant CITY OF SAN BERNARDINO is a political subdivision of  
23 the State of California, and Respondent/Defendant SAN BERNARDINO CITY COUNCIL is the  
24 executive and legislative body of the City of San Bernardino (collectively, “the City”). The City  
25 is a local governmental agency charged with regulating and controlling land use and development  
26

27  
28 <sup>1</sup> Unless specified otherwise, all further statutory references are to the Government Code.

1 within the City's boundaries, including but not limited to complying with all applicable  
2 provisions of state law, such as the Housing Element Law.

3 4. The Housing Element Law required the City to adopt a housing element certified as  
4 compliant by HCD to the City's General Plan by October 15, 2021, for the 2021-2029 Planning  
5 Period (also known as the Sixth Cycle). Gov. Code §§ 65302, 65580 *et seq.* The City failed to  
6 meet that deadline.

7 5. Any housing element adopted by the City must also substantially comply with  
8 specific statutory requirements, including ensuring that the City's planning, programs, and  
9 ordinances do not unduly constrain or impede its obligation to meet its regional housing needs  
10 allocation.

11 6. This Judgment is entered to fully resolve the claims and allegations brought by the  
12 individual petitioners and intervening parties. Petitioners and intervenors jointly allege that the  
13 City violated the Housing Element Law by failing to perform its statutory duty to timely adopt an  
14 updated housing element to its General Plan, in substantial compliance with California laws  
15 governing a local jurisdiction's obligations to do so, for the 2021-2029 planning period. The  
16 individual petitioners further allege that the City violated its mandatory duty under Government  
17 Code sections 65583(a)(4)(A), 65583(a)(4)(B), and 65583.2(i), and 65915, pertaining to its  
18 emergency shelter and local density bonus ordinances; and that the City violated 42 U.S.C.  
19 §§3601, 34 U.S.C 12495, Government Code §§12900, *et seq.*, and Cal. Code Reg. §§12264-  
20 12271, related to the passage and implementation of its Crime-Free Ordinance and Multi-Housing  
21 Program in the City.

22 7. The parties agree, solely for purposes of entry of this Judgment, that this Court has  
23 jurisdiction of the subject matter hereof and over the Parties, venue is proper in this County, and  
24 this Court has jurisdiction to enter this Judgment.

25 8. This Judgment is made without trial or adjudication of any issue of fact or law. The  
26 Parties voluntarily enter into this Judgment in order to avoid the time, expense, and uncertainty of  
27 litigation.

9. The Parties agree to resolve all claims and allegations pertaining to this action through this Judgment.

## APPLICABILITY

10. All provisions of this Judgment shall be binding upon, and apply to the parties, including their agents acting within the scope of their agency as well as its successors and assigns with respect to the conduct described in this Judgment.

11. The City has and will maintain the full power and authority to undertake the duties and obligations set forth in this Judgment.

12. The City shall use reasonable efforts to notify its City Councilmembers, elected officials, officers, directors, employees, and agents responsible for carrying out and effecting the terms of this Judgment and the requirements therein.

13. If a separate entity is established or reorganized so that its functions include overseeing or otherwise reviewing the operations of the City or any aspect thereof, the City agrees to ensure these functions and entities are consistent with the terms of this Judgment and will incorporate the terms of this Judgment into the oversight or review functions of the entity as necessary to ensure consistency.

## DEFINITIONS

The following definitions shall be used in construing the Judgment:

14. “EFFECTIVE DATE” means the date on which a copy of the Judgment, duly executed by the Parties, is approved by and becomes a Judgment/Order of the Court.

15. “LOWER-INCOME HOUSING” refers to housing that is affordable to households with extremely low, very low, or low incomes as defined in Health & Safety Code section 50079.5.

16. “ACUTELY LOW-INCOME” refers to an income that does not exceed 15 percent of the area median income.

17. “EXTREMELY LOW-INCOME” refers to an income that is less than 30 percent of the area median income.

1 18. “VERY LOW-INCOME” refers to an income that is less than 50 percent of the area  
2 median income.

3 19. “LOW-INCOME” refers to an income that is less than 80 percent of the area median  
4 income.

### 5 THE CITY’S OBLIGATIONS

6 20. Adoption of a Housing Element Revision Deemed to be Substantially Compliant by  
7 HCD. The City shall adopt a Housing Element Revision no later than February 7, 2024, for the  
8 Sixth Cycle 2021-2029 planning period, that substantially complies with Housing Element Law,  
9 as determined by HCD.

10 21. Milestones and/or Conditions to Ensure Adoption by February 7, 2024. The Parties  
11 agree that the City shall take the following required actions to complete and adopt its Sixth Cycle  
12 Housing Element Revision:<sup>2</sup>

- 13 a. The City’s Planning Commission will hold a duly noticed public hearing to consider a  
14 Draft Housing Element, and the City shall conduct public outreach, consistent with  
15 the terms set forth in this Judgment, by September 5, 2023.
- 16 b. The City Council will hold a duly noticed public hearing to consider the Draft  
17 Housing Element by September 13, 2023.
- 18 c. The City will submit the Draft Housing Element to HCD for review by September 15,  
19 2023.
- 20 d. Following HCD’s findings on the Draft Housing Element, anticipated on October 30,  
21 2023, the City will revise its Draft Housing Element by November 13, 2023.
- 22 e. The day after, no later than November 14, 2023, the City will release a revised Draft  
23 Housing Element for a 7-day public review.
- 24 f. The City will submit a revised Draft Housing Element to HCD by November 21,  
25 2023.

26  
27 <sup>2</sup> The parties agree that, if Judgment cannot be entered before September 5, any obligation  
28 preceding the date Judgment is entered shall be treated as conditions precedent to the parties  
stipulating to the entry of Judgment.

- 1 g. Following HCD's findings on the Draft Housing Element, anticipated on January 9,  
2 2024, the City's Planning Commission shall hold a duly noticed public hearing as  
3 soon as practicable, to consider the revised Draft Housing Element sometime in  
4 January 2024. Said public hearing shall be noticed on a date that would allow  
5 sufficient time so as to permit the adoption of the Housing Element to be  
6 agendized on the City Council's calendar in the first week of February 2024, or  
7 earlier.
- 8 h. On or before February 7, 2024, the City Council will hold a duly noticed public  
9 hearing to adopt its updated Housing Element for the Sixth Cycle.
- 10 i. On or before February 8, 2024, the City will submit its adopted Housing Element to  
11 HCD.
- 12 j. On or before April 17, 2024, the City will complete any rezoning required to  
13 accommodate the regional housing need allocation, in a manner consistent with the  
14 program directives set forth in its updated Housing Element.

15 22. Rezoning. Notwithstanding Government Code section 65588(e)(4)(C)(iii), the parties  
16 agree the City shall complete the required rezoning for adequate sites during the Sixth Cycle  
17 2021-2029 Planning Period under Government Code sections 65583(c)(1)(A) and 65583.2(h) and  
18 (i) on or before April 17, 2024.

19 23. Sixth Cycle Housing Element Revision and Public Participation. Consistent with the  
20 provisions above, the City's public participation efforts shall include the following:

- 21 a. The City shall conduct at least three community workshops to solicit input from the  
22 community regarding the community's housing needs, and shall ensure that at  
23 least one of the community workshops it conducts occurs in the evening or on a  
24 weekend, to ensure maximum attendance by members of the community.
- 25 b. The City shall provide all written notices of any meeting or workshop to solicit input  
26 from the community in both English and Spanish and make available the Sixth  
27 Cycle Housing Element Revision not less than seven (7) days prior to the  
28

1 community workshop. The written notice shall also include information on how to  
2 request a Spanish interpreter or auxiliary aids and services for persons with vision,  
3 hearing, or speech disabilities to be available at any meeting or workshop from the  
4 City. Notwithstanding the foregoing, if necessary to meet the deadlines herein,  
5 City may, without being held in breach of this Judgment, call a special session  
6 upon twenty-four (24) hours' notice.

- 7 c. The City shall have Spanish interpretation or auxiliary aids and services for persons  
8 with vision, hearing, or speech disabilities available at any meeting or workshop to  
9 solicit input from the community.

10 24. Community Outreach. The City shall conduct affirmative outreach to organizations  
11 that serve people experiencing homelessness, lower-income tenants, people with disabilities, and  
12 other special needs populations. Such outreach includes, but is not limited to, specific requests for  
13 input and invitations to any meetings, workshops, and public hearings in which the City will  
14 receive input on the community's housing needs. The outreach by the City shall include, but is  
15 not limited to, the following organizations:

- 16 a. Congregations Organized for Prophetic Engagement (C.O.P.E.), c/o Sonya Gray-  
17 Hunn, Lead Housing Organizer, 1505 W. Highland Avenue, San Bernardino,  
18 California 92411, <http://copesite.org>
- 19 b. Warehouse Worker Resource Center, c/o, Tim Shadix, Legal Director, 521 N. Euclid  
20 Avenue, Ontario, California 91762, [warehouseworkers.org](http://warehouseworkers.org)
- 21 c. Inland Equity Partnership, Inland Equity Community Land Trust, c/o Maribel Nunez,  
22 Executive Director and Jeff Green, Associate Director, <https://inlandequityclt.org>
- 23 d. Center for Community Action and Environmental Justice, c/o Ana Gonzalez,  
24 Executive Director, 3840 Sunnyhill Drive, Jurupa Valley, California 92509,  
25 <https://www.ccae.org>
- 26 e. Inland Temporary Homes, [ithomes.org](http://ithomes.org), c/o Carmen Rascon, Housing Programs  
27 Supervisor, and Kate Bernardo, Housing Programs Manager  
28

- f. House of Ruth, 522 North Fern Avenue, Ontario, California 91762
- g. San Bernardino City & County CoC CA-609, c/o Christy Hamilton, Staff Analyst II,  
County of San Bernardino, Office of Homeless Services 303 E. Vanderbilt Way,  
1st Floor, San Bernardino, California 92415
- h. Catholic Charities San Bernardino & Riverside Counties, c/o Agustin Avantez,  
Director of Services, <https://ccsbriv.org>
- i. Aging and Disability Resource Connection of San Bernardino County,  
<https://adrc.sbcounty.gov>

25. The Sixth Cycle Housing Element Revision shall describe the input received through these outreach efforts, and shall describe the amendments, if any, to the Draft Housing Element that respond to each of the comments made by the organizations and individuals who provided comment to the City.

26. Emergency Shelter Ordinance Amendment. On or before August 31, 2023, the City shall issue a Director's Memorandum directing its staff to conduct ministerial review of any application consistent with Government Code sections 65583(a)(4), and 65583.2(i), notwithstanding any contrary terms in the San Bernardino Municipal Code. The Director's Memorandum, which the City shall make publicly available, shall include an attestation by the City's legal counsel that the ministerial review and subsequent by-right approval consistent with that review is authorized and consistent with this Judgment. No later than April 17, 2024, the City shall amend its emergency shelter ordinance, at San Bernardino Municipal Code, Chapter 19.10-E, to conform with Government Code sections 65583(a)(4), and 65583.2(i), including provision of by-right approval of applications with only ministerial review.

27. Density Bonus Ordinance Amendment. On or before August 31, 2023, the City shall issue a Director's Memorandum directing its staff to process and approve any application for a density bonus consistent with the terms of Government Code sections 65915-65918, notwithstanding any contrary terms in the San Bernardino Municipal Code. The Director's Memorandum, which the City shall make publicly available, shall include an attestation by legal



1 counsel that the approval of any application for a density bonus consistent with section 65915 is  
2 consistent with this Judgment. No later than April 17, 2024, the City shall amend its density  
3 bonus ordinance, at San Bernardino Municipal Code, Chapter 19.04, to conform with  
4 Government Code sections 65915-65918, including a mechanism to account for applications  
5 made after future amendments to state law.

6 28. Amend the City's Crime-Free Ordinance and Multi-Housing Program to Comport  
7 with State and Federal Law. The City shall revise its crime-free housing program, which includes  
8 the purpose, definitions, and scope of its Crime-Free Ordinance and Multi-Housing Program as  
9 set forth in Chapter 15.27.010-15.27.040, to remove the words "crime-free" and "crime  
10 reduction", which includes any variations of these phrases and words from the purpose and scope  
11 of inspections of multi-family housing in the City. The City shall discontinue implementation and  
12 enforcement of and repeal the following San Bernardino Municipal Code sections: Mandatory use  
13 of, or recommended use of, a crime-free lease addendum (Chapter 15.27.050 C), providing 24-  
14 hour information to the City (Chapter 15.27.050 D), voluntary certification process which  
15 included mandating the use of a crime-free lease addendum and mandated universal background  
16 checks (Chapter 15.27.060). Additionally, the City shall discontinue and repeal the following  
17 provisions of Chapter 15.27: Chapter 15.27.070 (Inspection Fees); Chapter 15.27.090 D  
18 (regarding fees); Chapter 15.27.130 (Complaint-Based inspections); Chapter 15.27.140 (Public  
19 Nuisance); Chapter 15.27.150 (Enforcement Alternatives); and Chapter 15.27.160 (Penalties). In  
20 Chapter 15.27, the City shall only retain the provisions relating to the mandatory 8-hour  
21 educational class and the annual exterior inspections. (See Chapter 15.27.050 B, 15.27.080  
22 (Notice of Inspection), 15.27.090 (Violations), 15.27.100 (Re-Inspections), 15.27.110  
23 (Administrative Citation) and 15.27.120 (Appeals).)

- 24 a. With respect to the mandatory 8-hour educational class and annual exterior  
25 inspections or re-inspections, the City shall revise Chapter 15.27.050 B to remove  
26 the words "crime-free" and provide that any communication (oral or written),  
27 educational manuals, guidance, inspection materials, memoranda, reports,  
28

worksheets, and writings used by the City, including its agents, assigns, departments, directors, employees, and anyone acting on behalf of or at the behest of the City to conduct the mandatory 8-hour educational class and annual exterior inspections, shall not contain any reference to the words “crime-free,” “crime reduction,” which includes variations of these phrases and words, and shall not pejoratively or derogatorily describe a person who has a criminal history, or make, refer, rely upon, or use any statement, including criminal history information, in housing admissions and termination of housing that is prohibited by fair housing laws, including without limitation, the Violence Against Women Act, 34 U.S.C. 12491, *et seq.*, ([*see* 34 U.S.C. §12491(b)(3) [termination on the basis of criminal activity; 34 U.S.C. §12495 (right to report crime and emergencies from one’s home]; and 24 C.F.R. 5.2005 *et seq.*]); Title VI, 42 U.S.C. § 2000d, *et seq.*; federal Fair Housing Act, 42 U.S.C. section 3601 *et seq.*, [*see* 42 U.S.C. § 3604 (discrimination in the sale or rental of housing and other prohibited practices)]; Civil Code sections 51, *et seq.*, 1946.8 and Government Code sections 11135, 53165, as amended; Fair Employment and Housing Act, Gov. Code 12926 *et seq.* and its enabling regulations at Cal. Code. Reg., Tit. 2, section 12005, *et seq.* [*see* 2 CCR §§ 12264-12271 [use of criminal history information in housing decisions], and for persons living with disabilities with criminal history information, needing reasonable accommodations under Cal. Code Reg. Tit. 2, section 12176 *et seq.*, as well as by federal and state guidance from the following governmental enforcement agencies:

- i. Joint Statement of the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Justice on Reasonable Accommodations under the Fair Housing Act (May 17, 2004).

- 1           ii. HUD PIH Notice 2015-19 Guidance for Public Housing Agencies (PHAs) and  
2           Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records  
3           in Housing Decisions (issued Nov. 2, 2015).
- 4           iii. HUD Office of General Counsel Guidance on Application of Fair Housing Act  
5           Standards to the Use of Criminal Records by Providers of Housing and Real  
6           Estate-Related Transactions (April 4, 2016).
- 7           iv. HUD Office of General Counsel Guidance on Application of Fair Housing Act  
8           Standards to the Enforcement of Local Nuisance and Crime-Free Housing  
9           Ordinances Against Victims of Domestic Violence, Other Crime Victims, and  
10          Others Who Require Police or Emergency Services (Sept. 2016).
- 11          v. HUD Memorandum, Eliminating Barriers That May Unnecessarily Prevent  
12          Individuals with Criminal Histories from Participating in HUD Programs (April  
13          12, 2022).
- 14          vi. Office of Fair Housing and Equal Opportunity (FHEO) Guidance on Compliance  
15          with Title VI of the Civil Rights Act in Marketing and Application Processing at  
16          Subsidized Multifamily Properties, HUD (April 21, 2022).
- 17          vii. HUD Memorandum, Implementation of the Office of General Counsel's  
18          Guidance on Application of Fair Housing Act Standards to the Use of Criminal  
19          Records by Providers of Housing and Real Estate-Related Transactions (June 10,  
20          2022).
- 21          viii. State of California, Office of the Attorney General Guidance Memorandum  
22          Regarding Crime-Free Housing Policies (April 21, 2023).
- 23          ix. Any forthcoming federal or state law, including without limitation, statutory,  
24          regulatory, and interpretive guidance concerning the use of criminal history  
25          information in housing decisions.
- 26      b. Communications (oral or written), educational manuals, guidance, inspection  
27          materials, memoranda, reports, worksheets, and writings used by the City to  
28

conduct its mandatory 8-hour educational class and annual exterior inspections or re-inspections shall only refer to duties that fall within the scope of Code Enforcement responsibilities such as those codified under Civil Code sections 1941, 1941.1, *et seq.*, Health and Safety Code sections 17920.3 and 17975 *et seq.* The City shall neither use law enforcement personnel nor those contracted with the City to provide law enforcement services to teach the 8-hour educational class nor shall the City make any reference to San Bernardino law enforcement involvement in property inspections during the 8-hour educational class. Further, the City shall not use San Bernardino law enforcement to conduct any of the annual exterior inspections or re-inspections of rental properties subject to the Ordinance and Multi-Housing Program in the City. The City shall implement this program and complete the repeal and revise of the Ordinance and Multi-Housing Program as set forth in this section by no later than October 4, 2023.

## ADDITIONAL PROVISIONS

29. Technical Assistance from HCD. HCD shall provide the City with technical assistance with its Sixth Cycle Housing Element Revision as follows:

- a. HCD staff will commit to at least 2.5 hours per month in technical assistance telephone calls with the City, with additional time provided as capacity permits. In connection with these technical assistance telephone calls, the City agrees to make good faith, reasonable progress on the housing element revision process between these calls.
- b. To ensure efficiency in the technical assistance provided by HCD during the housing element review process, the City agrees to make all revisions and edits to its housing element in track changes, or to devise some other method of highlighting all revisions and edits to the housing element, such that HCD can quickly identify and review the City's revisions and edits.

1           30. Annual Progress Reports. Throughout the Sixth Cycle 2021-2029 Planning Period,  
2 the City shall timely prepare Annual Progress Reports by April 1 of each year, as required by  
3 Government Code section 65400.

4           31. Compliance with No Net Loss. The City shall also maintain sites sufficient to  
5 accommodate Regional Housing Needs Allocation throughout the Sixth Cycle planning period  
6 consistent with Government Code section 65863.

7           32. Compliance with the Housing Accountability Act (HAA). The City shall comply with  
8 the HAA, including but not limited to Government Code section 65589.5, subdivision (d)  
9 (including the so-called Builder's Remedy).

#### 10                           **ENFORCEMENT OF JUDGMENT AND REMEDIES**

11           33. Upon the City's failure to comply with the provisions above, the City shall be subject  
12 to the suspension of certain local planning authority provided in Government Code section  
13 65755(a), except for applications and permits for housing that is affordable to those in need of  
14 LOWER-INCOME HOUSING and EXTREMELY LOW-INCOME, ACUTELY LOW-  
15 INCOME, VERY LOW-INCOME, and LOW-INCOME households, and emergency shelters,  
16 until the City comes into compliance with the provisions of this Judgment, as set forth herein.

17           34. City Consequence Upon an Initial Violation. Immediately upon the City's failure to  
18 comply with any of the terms of this Agreement causing the City Consequence, the City shall not  
19 grant subdivision map approvals for any and all categories of subdivision map approvals, except  
20 for subdivision map approvals for housing where at least 20% of the units are affordable to those  
21 in need of LOWER-INCOME HOUSING and EXTREMELY LOW-INCOME, ACUTELY  
22 LOW-INCOME, VERY LOW-INCOME, and LOW-INCOME households, and emergency  
23 shelters. The City's subdivision map authority shall remain suspended until the City completes  
24 the particular action required by the City under this Judgment.

25           35. City Consequence After Continued Violation (60 Days). If the City continues to  
26 violate any provision of this Judgment for 60 days past the date the City's actions are due, in  
27 addition to the consequences upon an initial violation, the City shall not grant any and all  
28

1 categories of zoning changes, variances, or both, except for zoning changes, variances, or both,  
2 for housing where at least 20% of the units are affordable to those in need of LOWER-INCOME  
3 HOUSING and EXTREMELY LOW-INCOME, ACUTELY LOW-INCOME, VERY LOW-  
4 INCOME, and LOW-INCOME households, and emergency shelters. The City's zoning approval  
5 authority shall remain suspended until the City completes the particular action required by the  
6 City under this Judgment.

7 36. City Consequence After Continued Violations (120 days). In addition to the  
8 consequences above, if the City continues to violate any agreed upon terms causing the City  
9 Consequence for 120 days past the date the City's actions are due, the City shall not issue  
10 building permits, or any category of building permits, and all other related permits, except: (a) for  
11 building permits and all other related permits for housing where at least 20% of the units are  
12 affordable to those in need of LOWER-INCOME HOUSING and EXTREMELY LOW-  
13 INCOME, ACUTELY LOW-INCOME, VERY LOW-INCOME, and LOW-INCOME  
14 households, and emergency shelters; and (b) that the City shall continue to function as an  
15 enforcement agency for review of permit applications for appropriate codes and standards  
16 compliance, prior to the issuance of building permits and other related permits for residential  
17 housing. The City's permitting approval authorities under this Section shall remain suspended  
18 until the City completes the particular action required by the City under this Judgment.

19 37. Statutory Monetary Penalties Pursuant to Government Code section 65585. In  
20 addition to the City Consequences set forth above, in the event that the City does not adopt a  
21 Sixth Cycle Housing Element that HCD finds substantially complies with the law within 12  
22 months of the EFFECTIVE DATE of this Judgment, the statutory penalties under Government  
23 Code section 65585(l) shall apply.

24 38. Opportunity to Cure. In the event the City fails to comply with any provisions of this  
25 Judgment, Petitioners and/or the State shall provide written notice identifying the term with  
26 which the City has failed to comply. Petitioners and/or the State shall allow a reasonable time to  
27 cure of 21 calendar days before seeking imposition of the City Consequence. To the extent the  
28

1 City must call a special session of its governing bodies (including the City Council) to timely cure  
2 any failure to comply with this Agreement, the City shall call such special session.

3 **SATISFACTION OF JUDGMENT, RELEASE, AND COST RECOVERY**

4 39. Execution of this Judgment shall constitute full and final resolution of all disputes  
5 related to this action.

6 40. Nothing in this Judgment shall be construed to limit the authority or ability of the  
7 Attorney General to assert its right to protect the interests of the State of California or the people  
8 of the State of California. This Judgment shall not bar the Attorney General or HCD from  
9 investigating and enforcing laws, regulations, or rules against the City for conduct not covered by  
10 this Judgment. Further, nothing in this Judgment precludes or affects the Attorney General's right  
11 to determine and ensure compliance with this Judgment or individual Petitioners' right to seek  
12 enforcement of this Judgment.

13 41. This Judgment shall be deemed satisfied once all obligations under the provisions of  
14 this Judgment are fulfilled.

15 42. With the exception of the provisions on enforcement and remedies set forth in this  
16 Judgment, this Judgment releases and forever discharges any civil claim for damages, costs,  
17 attorneys' fees, or penalties of any kind against the City by HCD and the People related to the  
18 City's failure to timely adopt its updated housing element for the Sixth Cycle 2021-2029 Planning  
19 Period.

20 43. The Attorney General representing both the People and HCD in this action executes  
21 this release in his, her, or their official capacity and releases only claims belonging to the  
22 Attorney General and HCD.

23 44. The Parties agree that Petitioners are prevailing parties for purposes of cost recovery,  
24 so that individual Petitioners may seek litigation costs, including attorney's fees, from the  
25 Respondents. The individual Petitioners agree to meet and confer with Respondents in an effort to  
26 reach a resolution on the issue of litigation costs and attorneys' fees. Only if such a meet-and-  
27 confer is unsuccessful will individual Petitioners seek litigation costs and fees from the Court.  
28

1 Any such motion for an award of attorneys' fees and costs shall be due 90 days from the date of  
2 entry of this Judgment, unless such time is further extended by a stipulation approved by the  
3 Court, or by a court order. Respondents reserve the right to file a motion to tax costs or otherwise  
4 oppose any award of attorneys' fees and costs the individual Petitioners may seek from the Court.

5 45. This Judgment may be enforced only by the Parties hereto.

#### 6 **MISCELLANEOUS PROVISIONS**

7 46. Nothing in this Judgment shall be construed as relieving the City of the obligation to  
8 comply with all local, state, and federal laws, regulations, or rules.

9 47. If any portion of this Judgment is held invalid by operation of law, the remaining  
10 terms of this Judgment shall not be affected and shall remain in full force and effect.

11 48. The terms of this Judgment shall be governed by the laws of the State of California.

12 49. This Judgment contains the complete agreement entered into by the Attorney General,  
13 HCD, and the City related to the conduct at issue. No promises, representations, or warranties  
14 other than those set forth in this Judgment have been made by the Attorney General, HCD, or by  
15 the City. This Judgment supersedes all prior communications, discussions, or understandings  
16 regarding the City's alleged conduct.

17 50. The Judgment may be modified by a stipulation of the Parties as approved by the  
18 Court, or by court proceedings resulting in a modified judgment of the Court.

19 51. Any failure by any party to this Judgment to insist upon the strict performance by any  
20 other party of any of the provisions of this Judgment shall not be deemed a waiver of any of the  
21 provisions of this Judgment, and such party, notwithstanding such failure, shall have the right  
22 thereafter to insist upon the specific performance of any and all of the provisions of this  
23 Judgment.

24 52. The use of headings in this Judgment is only for ease of reference, and the headings  
25 have no legal effect and are not to be considered part of this Judgment.

26 53. Jurisdiction is retained by the Court, under Code of Civil Procedure section 664.6, for  
27 the purpose of enabling any party to the Judgment to apply to the Court at any time for such  
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1 further orders and directions as may be necessary or appropriate for the construction or carrying  
2 out of this Judgment for enforcement of compliance herewith, and for the punishment of  
3 violations hereof, if any.

4 54. The Parties agree and represent that any persons signing a stipulation for entry of this  
5 Judgment are authorized by proper authorities to execute such stipulation on their behalf.

6 55. This Judgment may be executed in counterparts, and a facsimile or digital signature in  
7 pdf format shall be deemed to be, and shall have the same force and effect as, an original  
8 signature.

9 56. All notices shall be provided in writing to the following via email and overnight mail.

10 For Respondents/Defendants:

11 Damian A. Northcutt  
12 Best Best & Krieger LLP  
2855 E Guasti Rd, Ste 400  
13 Ontario, CA 91761-1252

14 For Petitioners:

15 Anthony L. Kim  
Inland Counties Legal Services  
3500 Porsche Way, Ste. 200  
16 Ontario, CA 91764

17 Ugochi Anaebere-Nicholson  
18 Craig D. Castellane  
Michael Rawson  
19 The Public Interest Law Project  
449 15<sup>th</sup> Street, Suite 301  
20 Oakland, CA 94612

21 For Intervenors:

22 David Pai  
CA Department of Justice, Office of the Attorney General  
1515 Clay St, Fl. 20  
23 Oakland, CA 94612

24 Thomas Kinzinger  
CA Department of Justice, Office of the Attorney General  
25 300 S. Spring Street, Ste. 1702  
26 Los Angeles, CA 90013

1 Any Party may update its designee or address by sending written notice to the other Party  
2 informing them of the change.

3 57. The Clerk is ordered to enter this Judgment forthwith.  
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**APPROVAL BY COURT**

APPROVED FOR FILING and SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_,  
2023.

\_\_\_\_\_  
Judge of the Superior Court

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