

**EXHIBIT 1**

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## **CLASS CLAIMS SETTLEMENT AGREEMENT AND GENERAL RELEASE**

This Settlement Agreement and General Release (the “Agreement”) is made by and between Defendants the City of Laguna Beach (the “City”) and the Laguna Beach Police Department (the “L.B.P.D.”) (collectively, “Defendants”), on the one hand, and Plaintiffs and Class Representatives Michael Newman (“Mr. Newman”), Richard Owens (“Mr. Owens”), and David Sestini (“Mr. Sestini”) (collectively, “Plaintiffs,” and together with Defendants, the “Parties”), on behalf of themselves and a class of others similarly situated, as described more fully below, with reference to the following facts:

A. From and continuously since November 2009, the City has established, funded and contracted for the operation of an Alternative Sleeping Location (the “ASL”) to provide a temporary overnight sleeping facility for individuals experiencing homelessness within the City of Laguna Beach. As used in this Agreement, the term “ASL” shall include any similar temporary overnight sleeping facility that the City may in the future decide to operate in place of and/or in addition to the existing Alternative Sleeping Location.

B. On August 20, 2015, Kenneth Glover, David Sestini, Douglas Frederes Jr., Jeffrey Aiken, and Katrina Aune filed a class action complaint entitled *Kenneth Glover et al. v. City of Laguna Beach et al.*, in the United States District Court for the Central District of California, Case No. 8:15-cv-01332-AG-DFM (the “Action”), alleging that an alleged “homelessness program” operated by Defendants was inadequate and inaccessible to homeless individuals with disabilities, and thereby violating Title II of the Americans with Disabilities Act (“ADA Claim”), Section 504 of the Rehabilitation Act of 1973 (“RA Claim”), the Eighth and Fourteenth Amendments of the U.S. Constitution and California Constitution, Art. I sec. 17 (“Cruel and Unusual Punishment Claim”), and the Fourteenth Amendment of the U.S. Constitution and California Constitution, Art. I sec. 7 (“Substantive Due Process Claim”). On September 25, 2015, Defendants filed an answer to the complaint, denying the material allegations and asserting affirmative defenses.

C. On October 16, 2015, Kenneth Glover, David Sestini, Douglas Frederes Jr., Jeffrey Aiken, Katrina Aune, John Miller, and Lisa Holbrook filed a First Amended Complaint in the Action. On October 30, 2015, Defendants filed an answer to the First Amended Complaint, denying the material allegations and asserting affirmative defenses.

D. On November 23, 2015, Kenneth Glover, David Sestini, Douglas Frederes, Jr., Jeffrey Aiken, Katrina Aune, John Miller, and Lisa Holbrook filed a Motion for Preliminary Injunction and a Motion for Provisional Class Certification for the sole purpose of seeking a preliminary injunction. Defendants filed papers in opposition to the motions. On February 10, 2016, the Court denied the Motion for Preliminary Injunction and consequently found it unnecessary to address the Motion for Provisional Class Certification.

E. On May 4, 2016, Kenneth Glover, David Sestini, Douglas Frederes Jr., Jeffrey Aiken, Katrina Aune, John Miller, Lisa Holbrook, Richard Owens, James Scott Rudolph, and Michael Newman filed a Second Amended Complaint in the Action. On June 2, 2016, Defendants filed an answer to the Second Amended Complaint, denying the material allegations and asserting affirmative defenses.

F. On August 1, 2016, Jeffrey Aiken, Katrina Aune, Douglas Frederes Jr., Kenneth Glover, Lisa Holbrook, John Miller, and James Scott Rudolph filed a Stipulation for Dismissal, dismissing their individual claims against Defendants.

G. On June 27, 2016, Mr. Sestini, Mr. Newman, and Mr. Owens filed a Motion for Class Certification. Defendants filed papers in opposition to the motion.

H. On October 31, 2016, the Parties filed cross-motions for summary judgment. Plaintiffs moved for summary judgment on their ADA Claim, RA Claim, and Cruel and Unusual Punishment Claim. Defendants moved for summary judgment on Plaintiffs' ADA Claim, RA Claim, Cruel and Unusual Punishment Claim, and Substantive Due Process Claim. Plaintiffs and Defendants each filed papers in opposition to the other's motion.

I. On June 23, 2017, the Court granted, in part, Plaintiffs' Motion for Class Certification, certifying for purposes of Plaintiffs' ADA Claim and RA Claim only (the "Class Claims") a class under Federal Rule of Civil Procedure 23(b)(2) of "[a]ll homeless persons who reside or will reside in the geographic area of Laguna Beach who have a mental and/or physical disability as defined under section 504 of the Rehabilitation Act and Americans with Disabilities Act and who have been, or are likely to be, cited for violations of California Penal Code section 647(e), Laguna Beach Municipal Code section 8.30.030 and/or Laguna Beach Municipal Code section 18.05.020" (the "Class"). The Court denied Plaintiffs' request to certify a class in connection with Plaintiffs' Cruel and Unusual Punishment Claim and Substantive Due Process Claim (the "Individual Claims").

J. On June 25, 2017, the Court issued an Order granting in part and denying in part the Parties' motions for summary judgment. The Court denied Plaintiffs' motion for summary judgment as to their Cruel and Unusual Punishment Claim, and granted Defendants' motion for summary judgment on Plaintiffs' Cruel and Unusual Punishment Claim and Substantive Due Process Claim. The Court granted Plaintiffs' motion for summary judgment as to their ADA Claim and RA Claim in part, ruling that Defendants' failure to utilize a van with ramps or lifts to transport individuals to and from the ASL violates the Americans with Disabilities Act and the Rehabilitation Act. The Court denied Plaintiffs' motion for summary judgment as to the remainder of their ADA Claim and RA Claim, and denied Defendants' motions for summary judgment as to Plaintiffs' ADA Claim and RA Claim, on grounds that factual disputes existed as to these claims.

K. On July 27, 2017, the Parties, through their counsel, participated in a settlement conference presided over by the Hon. Douglas F. McCormick, which followed several previous settlement conferences between the Parties.

L. As a result of the July 27, 2017 settlement conference and subsequent discussions between the Parties, Defendants and Plaintiffs, on behalf of themselves and the Class with respect to the Class Claims, have reached an agreement to settle all claims in this Action on the terms set forth in this Agreement (the "Class Claims Settlement"), subject to Court approval.

M. Attorneys with the American Civil Liberties Union-Southern California and the law firm of Paul Hastings LLP, counsel for Plaintiffs and the Class ("Class Counsel"), have analyzed and evaluated the merits of the claims made against Defendants in the Action, and the impact of

this Agreement on the Class. Based upon their analysis and their evaluation of a number of factors, and recognizing the substantial risks of continued litigation, including the possibility that the Action, if not settled now, might not result in any additional relief whatsoever for the Class, Class Counsel is satisfied that the terms and conditions of this Agreement are fair, reasonable and adequate and that the Class Claims Settlement and this Agreement are in the best interests of the Class.

N. The Parties now wish to memorialize the terms of their Class Claims Settlement and specify the conditions precedent in respect of which this Agreement becomes effective.

O. The Parties are simultaneously entering into a separate Individual Claims Settlement Agreement to memorialize the terms of their agreement to settle the Individual Claims asserted by Plaintiffs in the Action.

NOW, THEREFORE, the Parties agree as follows:

**1. Approval Pursuant to Fed. R. Civ. P. 23(b)(2)**

Defendants and Plaintiffs agree to seek approval of the Class Claims Settlement pursuant to Federal Rule of Civil Procedure 23(b)(2) by application to the Court. Class Counsel shall request prompt judicial approval of the Class Claims Settlement, and each of the Parties shall cooperate in obtaining prompt entry of an Approval Order.

**2. Conditions Precedent**

This Agreement is subject to the conditions precedent that (a) the Court issues an order approving the Class Claims Settlement, (b) the Parties file a Joint Stipulation of Dismissal of the Action Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) (the "Joint Stipulation") in relation to such Class Claims Settlement, and (c) either the time for appealing the Court's order approving the Class Claims Settlement expires or all appeals of that order are finally resolved. This Agreement shall become effective on the date that the foregoing three conditions precedent have occurred (the "Effective Date"). In the event the Court declines to approve the Class Claims Settlement, the Parties do not file a Joint Stipulation, or the approval of the Class Claims Settlement is overturned on appeal, this Agreement shall be null and void, all parties shall be released from any duties or obligations hereunder, and the parties hereto shall be in the same position as they were prior to the execution of this Agreement.

**3. Plaintiffs' and Defendants' Covenants**

A. Within 30 days following the Effective Date:

(1) The City agrees that the Laguna Beach City Council will adopt a resolution, affirming its commitment to end homelessness in the City of Laguna Beach, expressing support for the County of Orange's 10-Year Plan to End Homelessness, encouraging the County to fully fund and implement the plan, and encouraging other municipalities within Orange County to express a similar commitment with regard to their own communities and support for the County's plan. The City has prepared the draft resolution attached hereto as **Exhibit A** and agrees to adopt a final resolution substantially in the form of that exhibit. The City agrees that Plaintiffs'

counsel may republish and utilize the final resolution in any of their future communications with regard to the issue of homelessness in Orange County.

(2) The City agrees that one or more of its Councilmembers will write and submit an op-ed article to be considered for publication by the Orange County Register, affirming the commitment of the City of Laguna Beach to end homelessness in the City of Laguna Beach, expressing the City's support for the County of Orange's 10-Year Plan to End Homelessness, encouraging the County to fully fund and implement the plan, and encouraging other municipalities within Orange County to express a similar commitment with regard to their own communities and support for the County's plan.

(3) Class Counsel will write and submit an op-ed article to be considered for publication by the Orange County Register, commending the City and the Friendship Shelter (the current operator of the ASL) for establishing the shelter, for resolving this litigation, for their ongoing efforts to serve individuals experiencing homelessness, and for their commitment to end homelessness within the City of Laguna Beach.

B. The City agrees to continue to designate a full-time City employee to serve as the City's "ADA Coordinator" whose responsibilities include ensuring that the City's programs, services, and activities relating to individuals experiencing homelessness, including the operation of the ASL, are ADA-compliant.

(1) In carrying out the duties of the assignment, the City's ADA Coordinator may consult with other City officials and employees and outside contractors as the ADA Coordinator deems warranted. The City will ensure that its ADA Coordinator, together with those with whom he or she consults, will have knowledge of and/or experience or familiarity with the subjects and skills identified in the United States Department of Justice's 2006 ADA Best Practices Tool Kit for State and Local Government (listed under the heading "An Effective ADA Coordinator" in that document).

(2) In addition to the other responsibilities assigned to such person, the City's ADA Coordinator, together with those with whom he or she consults, will be responsible for:

(a) responding to requests for disability-related information, referrals, accommodations, or complaints relating to programs, services, or activities for individuals experiencing homelessness;

(b) developing, implementing, and applying ADA policies, procedures, and best practices for City of Laguna Beach entities and vendors related to programs, services, or activities for individuals experiencing homelessness;

(c) facilitating inter-departmental communication among the City Manager, the Director of Public Works, the City Attorney, and the Manager of Human Resources, and communication with and between City entities and vendors involved in administering programs, services, and activities by or for the City for individuals experiencing homelessness with respect to ADA issues;

(d) monitoring City entities and vendors on ADA requirements in relation to City programs, services, and activities (including those provided for the City by vendors) operated by or for the City for individuals experiencing homelessness;

(e) acting as a liaison with regard to accessibility-related concerns between individuals with disabilities experiencing homelessness and those City employees and/or vendors providing programs, services, or activities by or for the City to or for individuals experiencing homelessness, mediating and resolving disputes relating to requests for reasonable modifications, and otherwise receiving and communicating concerns and recommendations in relation to changes that might make such programs, services, or activities more readily accessible to individuals with disabilities experiencing homelessness;

(f) supervising and/or overseeing the final resolution of all denials of requests for modifications relating to City programs, services, or activities (including those provided for the City by vendors) for individuals with disabilities experiencing homelessness;

(g) overseeing and/or investigating disability-related complaints in relation to City programs, services, or activities (including those provided for the City by vendors) for individuals experiencing homelessness;

(h) making announced and unannounced visits to the ASL and conducting inspections of programmatic and structural accessibility;

(i) reviewing a random sampling of not less than 25% of Final Notices of Determination issued by the ASL in response to requests for accommodations;

(j) considering and deciding all complaints made by ASL guests (as used in this Agreement, the term "ASL guest" shall include, where applicable, all individuals who request or receive services from the ASL, including without limitation individuals who stay overnight at the ASL on any given night) to the ADA Coordinator or his or her designee concerning the accessibility of the ASL, including all appeals from decisions by ASL staff to deny a request for an accommodation, to offer an alternative accommodation to the one requested, or to substantially modify or terminate an accommodation previously granted; and

(k) preparing and making publicly available bi-annual reports for the first two years, and then annual reports thereafter, summarizing the number of denials of requests for accommodations made by ASL guests, the number of complaints made by ASL guests to the ADA Coordinator or his or her designee concerning the accessibility of the ASL, including the number of appeals to the ADA Coordinator or his or her designee of decisions by ASL staff to deny a request for an accommodation, to offer an alternative accommodation to the one requested, or to substantially modify or terminate an accommodation previously granted; the outcomes of those complaints and appeals; the number of appeals by ASL guests from a decision by the ADA Coordinator or his or her designee to the City Manager or his or her designee; and the outcomes of those appeals.

(3) The City agrees to provide adequate funding and support for ongoing training of the ADA Coordinator. The City agrees that the ADA Coordinator shall receive

ongoing training on the requirements of Title II of the ADA, and in particular on program access and accommodation and needs related to mental health and intellectual disabilities.

C. Within 30 days following the Effective Date, the City shall ensure that its grievance procedure for ASL guests to file, and the ASL's staff and/or the City's ADA Coordinator to resolve, complaints that the ASL or its services are not readily accessible to individuals with physical and/or mental disabilities and/or that the ASL or its services have discriminated against such persons on the basis of disability is consistent with the procedure described in **Exhibit B**. The City agrees that the grievance procedure described in **Exhibit B** may be used by ASL guests to seek to address any decision to deny access to or suspend or terminate services of the ASL on the ground that such decision was based on conduct that is symptomatic of a mental or physical disability and that the decision is not permitted by 28 C.F.R. § 35.131 (which applies to the current illegal use of drugs by individuals with disabilities), 28 C.F.R. §35.139 (which applies to individuals with disabilities who pose a direct threat to the health or safety of others), or any other applicable law. The City shall periodically review the grievance procedure described in **Exhibit B**, including consideration of any matters that may from time to time be presented by Class Counsel, and make such revisions to its grievance procedure, if any, as may be required to comply with the Americans with Disabilities Act.

D. Within 30 days following the Effective Date, the City shall post a notice at the ASL, in a form the City determines appropriate in its sole discretion but which shall be visible and legible and at a minimum address and be consistent with the matters set out in **Exhibit B** attached hereto (the "Reasonable Accommodations Notice"). Within 30 days following the Effective Date, the City shall post its existing ADA notice and grievance procedure at the L.B.P.D.

E. Within 60 days following the Effective Date, but no earlier than July 1, 2018, the City shall, in consultation with the operator of the ASL, more formally memorialize existing operating guidelines to guide ASL staff in providing reasonable accommodations to ASL guests to the extent necessary to comply with the Americans with Disabilities Act and the Rehabilitation Act. These operating guidelines shall reflect the following in addition to such other matters deemed appropriate by the City:

(1) ASL staff will proactively offer to provide reasonable accommodations to users of the ASL when the need for such accommodation is known or obvious and where such accommodations would not fundamentally alter the nature of the ASL and/or its services and would not constitute an undue administrative or financial burden.

(2) The ASL staff will have available a non-exclusive "menu" of possible reasonable accommodations. This menu should address those disabling conditions that are most common among users of the ASL. This menu will make clear that reasonable accommodations not specifically listed can and will be granted and implemented when determined appropriate and effective so long as an accommodation would not fundamentally alter the nature of the ASL and/or its services and would not constitute an undue administrative or financial burden. The City shall give due consideration to any comments provided by Class Counsel before the menu is first developed for use by ASL staff as well as any future comments provided by Class Counsel about the menu.

(3) In ascertaining whether a need for a reasonable accommodation exists and, if so, the possible reasonable accommodations that will be made available, ASL staff will require disability-related information from persons requesting an accommodation only where such information is needed to verify that the person has a disability, that the accommodation sought is reasonably related to that disability and necessary to allow the person to access the ASL or its services, and/or that the requested accommodation would not fundamentally alter the nature of the ASL and/or its services and would not constitute an undue administrative or financial burden. ASL staff will not require persons with known or obvious conditions that clearly require the provision of a reasonable accommodation to obtain or provide documents verifying their disability. If a person's disabling condition or other circumstances, such as a move from out of state, make it difficult to obtain documentation verifying the disability, the need for the accommodation is not apparent, and the individual lacks supporting documentation, ASL staff will provide assistance obtaining the documentation by connecting the person with appropriate professionals, such as doctors, other medical professionals, social workers, or rehabilitation providers, or will use information obtainable via readily available resources to assess the needs of such person to receive a reasonable accommodation, which may include the Vulnerability Index - Service Prioritization Decision Assistance Tool if determined to be relevant and appropriate.

(4) Individuals provided access to the ASL shall, upon their initial entry to the ASL, be informed about the right of ASL guests with disabilities to request and be granted reasonable accommodations that would not fundamentally alter the nature of the ASL and/or its services and would not constitute an undue administrative or financial burden, and about how they can request reasonable accommodations. Such individuals shall also be informed about the Reasonable Accommodations Notice permanently posted at the ASL. ASL staff will consider requests for reasonable accommodations on an individualized basis. If the ASL staff identifies the availability of more than one reasonable accommodation that would appropriately meet the need of a person making a request, ASL staff will give consideration to the requesting person's preference.

(5) All written materials provided to ASL guests shall be consistent with the provisions of this Agreement and shall be available, upon request, in alternate and/or accessible formats appropriate for persons with disabilities (and preferably in a format suitable for each requester given his or her condition).

(6) The time taken by ASL staff to respond to a request for a reasonable accommodation shall not be so long as to by itself rise to the level of a denial of meaningful access to such services. When a decision by ASL staff on a request for a reasonable accommodation is unreasonably delayed, the ASL will work with the individual making the request and consider providing temporary measures in advance of its formal determination unless doing so would fundamentally alter the nature of the ASL shelter and/or shelter-related services or would constitute an undue administrative or financial burden.

(7) Any ASL guest can request a reasonable accommodation by contacting any ASL staff member and specifying the policy, procedure, or condition that the individual would like modified and the reason that the requested modification is necessary to allow the individual to access the ASL or its services. The staff member will consider any such request and will issue a written Final Notice of Determination to the individual in the event the ASL denies



the request. The ASL staff shall provide a copy to the City's ADA Coordinator of all Final Notices of Determination within a reasonable time after those notices are issued. ASL staff will respond to a request for a reasonable accommodation within a reasonable and appropriate time frame, taking into account all relevant factors, including but not limited to the time and effort required to verify the requesting person's disability and need for the requested accommodation, the nature of the disability, and the effect of failing to immediately provide the reasonable accommodation on the individual's ability to meaningfully access and benefit from relevant ASL services.

(8) A decision to deny a request for an accommodation, to offer an alternative accommodation, or to substantially modify or terminate an accommodation previously granted will be documented in a Final Notice of Determination, which will include: (a) the name and title of the ASL staff member(s) making the determination; (b) an explanation of the determination and the basis for that determination; (c) a description of any document(s) reviewed in assessing the request; (d) the date of the request and the date of the decision; and (e) a statement of the ASL guest's rights to timely appeal the determination by submitting a complaint to the ADA Coordinator, instructions on how to do so.

(9) ASL staff will not retaliate or otherwise make any adverse determination about access to the ASL or its services as a result of an individual's request for a reasonable accommodation.

F. The City will cause advertised municipal job openings and, to the extent made known to the City, community volunteer opportunities to be posted at the ASL.

G. Within 60 days following the Effective Date, but no earlier than July 1, 2018, the City, in consultation with the operator of the ASL, the ADA Coordinator, and any City officials or employees or outside contractors that the ADA Coordinator deems warranted, will implement modifications to the current process for determining which individuals will be given overnight access to the ASL. The goals of these modifications will be to ensure consistent access to the ASL for those individuals experiencing homelessness in Laguna Beach who satisfy the current "Locals" criteria; to reduce uncertainty regarding whether a particular individual will be provided overnight access to the ASL, and particularly uncertainty that occurs in the evening; to increase the number of individuals placed in more sustainable housing situations; to prioritize access and service to vulnerable individuals experiencing homelessness in Laguna Beach, including those experiencing chronic homelessness; and to increase the number of individuals that the ASL serves. The City, in consultation with the operator of the ASL and the ADA Coordinator or his or her designee, will adopt a pilot program to achieve these goals. The pilot program's initial process for allocating overnight access will include the following:

(1) A certain number of beds shall be reserved for individuals satisfying the current "Locals" criteria;

(2) All remaining beds, with the exception of the up to five (5) beds described below in subsection (3), shall be reserved for a new category of "enrolled" persons who (a) would be determined using best practices prioritizing need, chronicity, and vulnerability, and (b) would be granted a bed for a specified period of time not to exceed thirty (30) days subject to being extended by the operator of the ASL for additional periods of thirty (30) days based on the

enrolled person's individual circumstances, current plan to obtain housing, and efforts to carry out such plan;

(3) Up to five (5) beds would be set aside for individuals not qualifying as a "local" or "enrolled" person, to be determined by the Laguna Beach Police Department or the operator of the ASL;

(4) With the exception of the up to five (5) beds described above in subsection (3), all determinations with respect to access to the ASL shall be confirmed and/or made by 1:00 p.m., recognizing the priority of "local" and "enrolled" persons;

(5) The ASL will stay open for three hours during the day for drop-in day services (showers, bathroom, laundry, clothing, food) for any homeless individuals, whether or not staying overnight at the ASL, during which case management services would be provided, and at the conclusion of which all determinations with respect to beds for that evening would be made and announced (these new daytime drop-in hours will replace the current evening drop-in hours);

(6) ASL services would be provided from 5:00 p.m. to 10:00 a.m. daily, and only those individuals qualifying as a "local" or "enrolled" person or persons otherwise selected for beds would be allowed on the premises; and

(7) The City, in consultation with the operator of the ASL, the ADA Coordinator, and any City officials or employees or outside contractors that the ADA Coordinator deems warranted, will review the pilot program on a periodic basis to evaluate the goals of the pilot program, to assess the pilot program's effectiveness at accomplishing the goals of the program, and to consider whether the pilot program should be modified to better accomplish its goals. Should the City, after consultation with the operator of the ASL, the ADA Coordinator, and any City officials or employees or outside contractors that the ADA Coordinator deems warranted, determine that the pilot program should be modified to better accomplish those goals, the City shall provide reasonable advance notice of any modifications in writing to ASL guests.

H. The City agrees to require the operator of the ASL to make available the following accommodations to those whose disabilities require them:

(1) The City agrees to have available a limited number of cots at the ASL sufficient in the reasonable discretion of the operator of the ASL, but no fewer than four (4), to accommodate the needs of those individuals with physical disabilities who sleep within the ASL and are determined by the operator of the ASL to require such accommodation. If at some point the ASL staff believe that more than four (4) cots are required, ASL staff will coordinate with the City to ensure that the number of cots is sufficient.

(2) Within 60 days following the Effective Date, the City, in consultation with the operator of the ASL, agrees to adopt a pilot program for a period of not less than 150 days under which the operator shall make available for use on an as-needed basis a limited number of ADA-compliant private or semi-private sleeping areas either at the ASL or in another facility or facilities, or both, at the discretion of the operator of the ASL. The number of such areas shall be sufficient in the reasonable discretion of the operator of the ASL to accommodate the

needs of those ASL guests with mental or physical disabilities who are determined by the operator to require such accommodation, but no fewer than three (3).

(a) If the operator of the ASL decides to offer the semi-private areas described in this Section 3.H.(2) at the ASL, the areas (e.g., in the form of sheets or short-height barriers separating the sleeping spaces on 3 sides) will be arranged in such a manner that ASL staff shall have reasonable visibility into them at all times so that ASL staff may monitor individuals using those spaces for any and all health or safety issues, including the use of drugs or alcohol. The Parties acknowledge that providing the semi-private sleeping areas described in this Section 3.H.(2) at the ASL may reduce the total number of individuals who are ultimately able to sleep at the ASL on any given night.

(b) If the operator of the ASL decides to offer the semi-private areas described in this Section 3.H.(2) at a facility or facilities other than the ASL, individuals who require such accommodation will be offered the option to be accommodated in and transported to such alternative facility or facilities instead of sleeping at the ASL following such determination. Such individuals shall not be subject to eligibility or access criteria at the alternative facility or facilities that are more strict than such criteria for entry to and staying overnight at the ASL.

(c) After the initial 150-day period, the City, in consultation with the operator of the ASL, will review the pilot program and may determine to continue providing the semi-private sleeping areas described in this Section 3.H.(2), or some variation thereof, or may cease providing such areas based on a determination that providing such areas fundamentally alters the nature of the ASL or its services, imposes an undue financial or administrative burden on the City or the operator of the ASL, or is not feasible or beneficial for any other reason. The City agrees to notify Class Counsel of any decision to cease providing the semi-private sleeping areas described in this Section 3.H.(2), including the reason for such decision and basis therefor.

(3) The City agrees to make available at the ASL access to electrical outlets for operating and charging disability-related equipment.

(4) The City agrees to make available at the ASL refrigeration for medication.

(5) Nothing in this Section 3.H will be construed to limit the reasonable accommodations otherwise made available to ASL guests pursuant to any reasonable accommodation policy or practices.

I. Within 30 days following the effective date, the City shall require the operator of the ASL to post a notice of rules and expectations at the ASL, in a form that the City and the operator of the ASL determine appropriate in their sole discretion but which shall be visible and legible and address and be consistent with the matters set out in **Exhibit C** attached hereto. The City agrees that the City and the operator of the ASL will apply ASL rules in such a manner that they comply with the Americans with Disabilities Act, the Rehabilitation Act, any regulations promulgated thereunder, any other similar law or regulation, and this Agreement, including by ensuring that no decision to deny access to or suspend or terminate services of the ASL is based

on conduct that is symptomatic of mental or physical disability unless either (1) it is permitted by 28 C.F.R. § 25.131 (which applies to the current illegal use of drugs by individuals with disabilities), 28 C.F.R. § 25.139 (which applies to individuals with disabilities who pose a direct threat to the health or safety of others), or any other applicable law, or (2) allowing such conduct would fundamentally alter the nature of the ASL shelter and/or shelter-related services or would constitute an undue administrative or financial burden. Subject to the City's agreement in the preceding sentence, Plaintiffs agree that the rules and expectations set forth in **Exhibit C** are consistent with the Americans with Disabilities Act, the Rehabilitation Act, any regulations promulgated thereunder, any other similar law or regulation, and this Agreement. The City may modify the rules and expectations from time-to-time upon reasonable advance written notice to ASL guests of the modifications, but Plaintiffs' agreement in this Section 3.I that the rules and expectations set forth in **Exhibit C** are consistent with the Americans with Disabilities Act, the Rehabilitation Act, any regulations promulgated thereunder, any other similar law or regulation, and this Agreement shall not preclude a challenge to any new or amended rule, requirement, or expectation adopted by the City.

J. In addition to the ASL staff's ongoing efforts to connect ASL guests with appropriate services, including mental health services, the City agrees to require ASL staff to consider all available reasonable options for responding to challenging conduct by an ASL guest that may be symptomatic of a disability in a manner that protects the safety and wellbeing of all ASL guests and staff. Such options will be dependent on an individualized assessment of the specific facts and circumstances of each situation and may include, but are not limited to, encouraging the ASL guest to go for a walk until he or she is more calm; talking calmly with the resident in a location away from the incident; coordinating with outreach workers/case managers; facilitating a discussion between the involved ASL guests in order to help the residents reconcile after all involved parties have calmed down; transporting the ASL guest to the Orange County Behavioral Health outpatient clinic (south region); contacting the Crisis Assessment Team/Psychiatric Emergency and Response Team (which provides around-the-clock mobile field services to individuals in behavioral health crises), along with a police response if needed; involuntary commitment for evaluation; and exiting the individual from the ASL and ASL grounds, either for a specific time period or on an indefinite basis. The City further agrees that ASL staff should consider contacting the Crisis Assessment Team/Psychiatric Emergency and Response Team in circumstances in which the ASL staff concludes that the symptomatic conduct provides the basis for exiting an individual from the ASL and ASL grounds, in order to transfer that individual to a higher level of care, if such contact is determined to be appropriate for the conduct at issue and a timely response is feasible under the circumstances presented.

K. At any time on or after the Effective Date, the City agrees that any individual who is at that time indefinitely prohibited from accessing the ASL may contact ASL staff to request that ASL staff reconsider his or her eligibility for obtaining services from the ASL. After the Effective Date, the City will post a public notice on the exterior bulletin board at Laguna Beach City Hall stating that anyone who is at that time indefinitely prohibited from accessing the ASL may contact ASL staff to request that ASL staff reconsider his or her current eligibility for obtaining services from the ASL. The notice will specify that individuals will benefit from the rights of ASL guests established in **Exhibit C** to this Agreement and that they may use the grievance process outlined in **Exhibit B** to this Agreement to address their most recent exclusion from the ASL. The process for seeking to regain access to the ASL will include a requirement that

the individual (a) meet with the ASL's program manager and such other ASL staff members as may be appropriate in light of the circumstances that resulted in the decision to require the individual to leave the ASL, (b) demonstrate personal responsibility for the past conduct at issue, (c) demonstrate insight into the circumstances leading to the decision to require the individual to leave the ASL, (d) identify efforts he or she has taken to address those circumstances such that the conduct that resulted in the individual being asked to leave the ASL will not recur, and (e) demonstrate that renewed access to the ASL is not reasonably likely to pose a direct threat to the health and safety of one or more staff members, guests, or other individuals. If the individual seeking re-entry has a known, obvious, or documentable disability which, in the reasonable judgment of ASL staff, makes it impossible for the individual to express insight into or responsibility for his or her conduct, ASL staff will accommodate that individual in the process of reconsidering his or her eligibility for ASL services, including by eliminating the requirements in clauses (b) and (c) in this Section 3.K. The City agrees that the ASL staff will provide individuals timely and reasonable notice in writing of the decision whether to permit the individual to regain access to ASL services. This notice will also advise the individual of his or her ability to file a complaint with the ADA Coordinator pursuant to Section 3.C. Plaintiffs agree that, absent materially new circumstances (such as entry into a treatment program or a new decision by ASL staff to prohibit the individual's access to the ASL), each individual is entitled to engage in the process described in this Section 3.K. for reassessing his or her eligibility only one time, though ASL staff shall retain the discretion to reassess any individual's eligibility for access to the ASL at any time under any circumstances. The City agrees that this process for seeking to regain access will not apply to any individual indefinitely prohibited from accessing the ASL after the effective date in the event the ADA Coordinator has determined such prohibition was improper, in which case the individual will regain access directly.

L. Plaintiffs agree that the City is not required to permit all persons granted a place to sleep at the ASL the ability to enter and exit the ASL at will during sleeping hours. The City agrees to require the operator of the ASL to maintain and continue its practices for making individualized determinations to allow persons with disabilities to exit and reenter in appropriate circumstances and pursuant to appropriate conditions, including for those whose disability causes them to require such an accommodation.

M. The City agrees to require the operator of the ASL to maintain policies, and to post the same, relating to the use of the bathrooms at the ASL, which shall specifically address bathroom access time for individuals whose disabilities cause them to require such an accommodation.

N. The City agrees to encourage the operator of the ASL to continue to provide case management services for individuals experiencing homelessness in Laguna Beach. The City also agrees to continue its efforts to obtain grant funding and other financial support for the provision of such services, and to support the similar efforts of the operator of the ASL.

O. The City agrees to ensure that, consistent with current practices, the operator of the ASL maintains and continues to provide training for its staff on the following general subject matters: the identification of individuals experiencing homelessness with behavioral health and other disabilities; understanding the common symptomatic behaviors stemming from mental illness; how to interact with clients with behavioral health issues/mental illness, including

communication, de-escalation, and harm reduction tactics; mental health intervention; the Recovery Model; Housing First models; and basic compliance with the Americans with Disabilities Act and the Rehabilitation Act of 1973, including the provision of reasonable accommodations to persons with disabilities.

P. The City agrees that any vehicles it furnishes to provide transportation to and from the ASL have a ramp or lift, so as to facilitate use and access by persons with disabilities. To the extent that the pilot program described in Section 3.G above, or a similar access policy that allows only those individuals qualified or otherwise selected for beds to be on the premises of the ASL after 5:00 p.m., is not implemented or is terminated, the City shall provide bus passes to facilitate transportation to other shelters or available overnight accommodations for any persons present at the ASL after 7:00 p.m. who do not gain access to the ASL; or, in the alternative and in the City's sole discretion, the City may allow use of the vehicle or vehicles referenced in this Section 3.P or some other accessible vehicle for that purpose.

Q. The City agrees that the L.B.P.D. will revise its Policy 464 ("Homeless Persons") and Training Bulletin # 09-06 as set forth in **Exhibits D and E**, respectively. The L.B.P.D. reserves the right to revise its Policy 464 and Training Bulletin #09-06 in the future at its sole discretion and in a manner that is consistent with applicable legal requirements, including any applicable requirements imposed by the ADA and RA.

R. The City agrees to consider the establishment of further policies and training bulletins for the L.B.P.D. relating to identification and interaction with individuals with disabilities experiencing homelessness, including how to identify people with behavioral health issues, understanding the common symptomatic behaviors stemming from mental illness and the secondary traumas associated with mental illness, tactics for interacting with people with behavioral health issues including tactics to handle those interactions to avoid their getting out of control and de-escalating high tension interactions, scenario based role playing to practice the application of de-escalation tactics, knowledge of governmental and community based mental health, substance abuse resources, and government and community-based benefits programs that may help people with disabilities, and how to connect individuals with disabilities to those resources as an alternative to citation or arrest. Plaintiffs agree that this Agreement does not obligate the City or the L.B.P.D. to adopt any such policies or training bulletins.

#### **4. Acknowledgments Concerning Current and Future Operation of the ASL**

A. The Parties acknowledge that nothing in this Agreement is intended nor shall be construed or applied as a representation or suggestion that the City, the current operator of the ASL, or both are not already in compliance with some or all of the provisions of Section 3 above.

B. The Parties acknowledge that nothing in this Agreement is intended nor shall be construed or applied as an obligation of the City to continue funding or causing the operation of the ASL, or any particular service or program provided at the ASL. In the event the City determines, in its sole discretion, to cease funding and operation of the ASL, or any particular service or program provided at the ASL, all provisions of this Agreement specific to the operation

of the ASL, or any particular service or program provided at the ASL as may be applicable, shall be of no further force or effect.

**5. Release of Class Claims**

A. Plaintiffs, on behalf of themselves and the Class, hereby absolutely, fully and forever release, relieve, waive, relinquish, and discharge Defendants and successors, predecessors, related governmental entities, departments, representatives, assigns, agents, officers, directors, and employees of the Defendants, any and each of them (collectively, the "Released Parties"), of, and from, (i) any and all Class Claims and (ii) any and all claims, demands, obligations, losses, costs, expenses (including attorneys' fees), and causes of action for equitable relief and any monetary relief incidental to such equitable relief relating to acts or omissions arising after the date of execution of this Agreement that are based upon any allegation, assertion, or contention substantially similar to any allegation, assertion, or contention made by Plaintiffs in connection with their Class Claims.

B. Plaintiffs, on behalf of themselves and the Class, and Defendants, acknowledge their intention that, upon execution by the Parties of this Agreement and occurrence of the Conditions Precedent specified in Section 2, this Agreement, except as expressly provided for herein, shall be effective as a full and final accord and satisfaction and settlement of and as a bar to the ADA Claim and RA Claim.

**6. Non-Admission of Liability by Any Party**

Plaintiffs, on behalf of themselves and the Class, acknowledge that Defendants are entering into this Agreement in order to terminate all aspects of the Action in an orderly and amicable manner, and agree that neither the signing of this Agreement nor any covenant or term in this Agreement will constitute, and should not be construed as, an admission that Defendants have done anything wrong, have any liability to the Class, or that the Class have suffered any harm. Defendants acknowledge Plaintiffs are entering into this Agreement to terminate Plaintiffs' Class Claims in an orderly and amicable manner, and agree that neither the signing of this Agreement nor any covenant or term in this Agreement will constitute, and should not be construed as, an admission by Plaintiff Class that Defendants would have no liability to Plaintiff Class or that Plaintiff Class would not prevail on the merits of their Class Claims if they were to continue to litigate those claims; but this acknowledgement shall in no way limit or restrict the releases provided for in Section 5 above.

**7. Consultation With Attorney; Knowing and Voluntary Waiver**

Plaintiffs, on behalf of themselves and the Class, and Defendants acknowledge that they have consulted with an attorney before signing this Agreement. In particular, Plaintiffs and Defendants represent, understand, and agree that they have thoroughly discussed this Agreement and their rights with their own attorneys to the full extent they wished to do so before signing this Agreement and that they may be waiving legal claims by signing this Agreement.

**8. Ownership and Non-Assignment of Claims**

Plaintiffs, on behalf of themselves and the Class, represent and agree that they are the lawful owners of all rights, title, and interest in and to any of the claims, and have not assigned or transferred, or attempted to have assigned or transferred, to any person or entity, any of the claims that they have released in this Agreement.

**9. Governing Law**

This Agreement shall be interpreted and enforced pursuant to the laws of the State of California, except that federal law governs interpretation of Section 14 of this Agreement ("Retention of Jurisdiction").

**10. Disputes Under Settlement Agreement**

Neither Plaintiffs, the Class, nor Defendants shall seek to enforce the terms of this Agreement through a motion to enforce without first: (1) notifying counsel for the other parties in writing of any alleged breach of the Agreement and the factual basis for such allegation, and (2) attempting to resolve the dispute through an informal and good faith discussion. If, twenty-one (21) calendar days after written notification, the Parties have not reached a mutually satisfactory resolution of the dispute, then any party may request a conference with United States Magistrate Judge Douglas F. McCormick to address the dispute. If, after a conference with Judge McCormick, the Parties have not reached a mutually satisfactory resolution of the dispute, then any party may file a motion with the Court to enforce the term of the Agreement that is the subject of the dispute.

**11. Severability**

If the releases in Section 5 of this Agreement are found to be invalid or unenforceable, then the remainder of this Agreement shall be null and void. Other than the releases in Section 5 above, the provisions of this Agreement are severable, and if any other provision of the Agreement is found to be invalid or unenforceable, the other provisions shall remain fully valid and enforceable.

**12. Execution in Counterparts**

This Agreement may be executed in counterparts and separate signature pages.

**13. Entire Agreement**

This Agreement is the entire agreement among Plaintiffs, the Class, and Defendants. It includes all of the terms, promises, representations, and understandings made by the parties in relation to Plaintiffs' Class Claims, and it supersedes any earlier written or oral representations, understandings, or agreements between the parties in relation to Plaintiffs' Class Claims. The parties represent and agree that no promises, statements, or inducements have been made to them which caused them to sign this Agreement other than those which are expressly stated in this Agreement. This Agreement may not be amended, modified, or waived in any way except by a writing signed by all parties.



**14. Retention of Jurisdiction**

The Court shall retain jurisdiction to enforce the terms and conditions of this Agreement.

**15. Attorneys' Fees and Costs**

In the event the Court approves this Agreement and the Class Claims Settlement, the Parties agree that they will pay all their own costs and attorneys' fees in connection with the Action, including without limitation this Agreement. Notwithstanding the foregoing, if an action to enforce this Agreement is filed in compliance with Section 10 above, then the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs from any Party that a court finds to have breached this Agreement and further finds that the breaching Party did not make good-faith efforts to comply with this Agreement. However, in no event shall any Party be entitled to recover any attorneys' fees or costs incurred in the attempt by the Parties to reach a mutually satisfactory resolution to the dispute, including any fees or costs incurred to prepare for or attend any meeting with Judge McCormick, as described in Section 10 above.

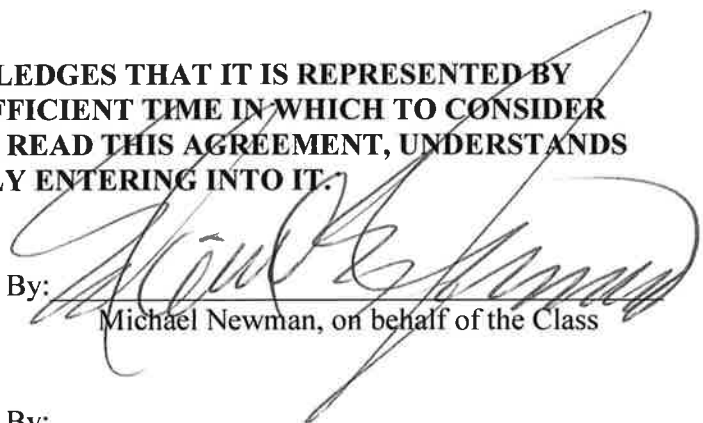
**16. Authority to Execute**

Plaintiffs, on behalf of the Class, and Defendants represent that the person signing this Agreement has the authority to do so on that party's behalf. In addition, all parties represent that they have the authority to enter into the promises and agreements set forth in this Agreement.

**EACH PARTY ACKNOWLEDGES THAT IT IS REPRESENTED BY COUNSEL, HAS HAD SUFFICIENT TIME IN WHICH TO CONSIDER THIS AGREEMENT, HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND IS VOLUNTARILY ENTERING INTO IT.**

Dated: March 22, 2018

By:

  
Michael Newman, on behalf of the Class

Dated: March \_\_, 2018

By:

Richard Owens, on behalf of the Class

Dated: March \_\_, 2018

By:

David Sestini, on behalf of the Class

Dated: March \_\_, 2018

The City of Laguna Beach and the Laguna Beach Police Department

By:

John Pietig  
City Manager

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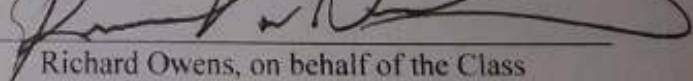
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Dated: March \_\_, 2018

By: \_\_\_\_\_  
Michael Newman, on behalf of the Class

Dated: March 23, 2018

By:   
Richard Owens, on behalf of the Class

Dated: March \_\_, 2018

By: \_\_\_\_\_  
David Sestini, on behalf of the Class

Dated: March \_\_, 2018

The City of Laguna Beach and the Laguna Beach Police Department

By: \_\_\_\_\_  
John Pietig  
City Manager

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Dated: March \_\_, 2018

By: \_\_\_\_\_  
Michael Newman, on behalf of the Class

Dated: March \_\_, 2018

By: \_\_\_\_\_  
Richard Owens, on behalf of the Class

Dated: March 21, 2018

By: \_\_\_\_\_  
David Sestini, on behalf of the Class

Dated: March \_\_, 2018

The City of Laguna Beach and the Laguna Beach Police Department

By: \_\_\_\_\_  
John Pietig  
City Manager

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15. **Attorneys' Fees and Costs**

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Dated: March \_\_, 2018

By: \_\_\_\_\_  
Michael Newman, on behalf of the Class

Dated: March \_\_, 2018

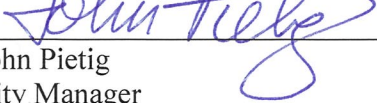
By: \_\_\_\_\_  
Richard Owens, on behalf of the Class

Dated: March \_\_, 2018

By: \_\_\_\_\_  
David Sestini, on behalf of the Class

Dated: March 23, 2018

The City of Laguna Beach and the Laguna Beach Police Department

By:  \_\_\_\_\_  
John Pietig  
City Manager

APPROVED AS TO FORM AND CONTENT:

Dated: March 26, 2018

AMERICAN CIVIL LIBERTIES UNION – SOUTHERN  
CALIFORNIA

By: 

Peter Eliasberg

Attorneys for Plaintiffs and the Class

Dated: March 27, 2018

PAUL HASTINGS LLP

By: 

David M. Hernand

Attorneys for Plaintiffs and the Class

Dated: March     , 2018

RUTAN & TUCKER, LLP

By: \_\_\_\_\_

Phillip D. Kohn

Attorneys for Defendants

Dated: March 23, 2018

O'MELVENY & MYERS LLP

By: 

Michael Yoder

Attorneys for Defendants

APPROVED AS TO FORM AND CONTENT:

Dated: March \_\_\_, 2018

AMERICAN CIVIL LIBERTIES UNION – SOUTHERN  
CALIFORNIA

By: \_\_\_\_\_  
Peter Eliasberg  
Attorneys for Plaintiffs and the Class

Dated: March \_\_\_, 2018

PAUL HASTINGS LLP

By: \_\_\_\_\_  
David M. Hernand  
Attorneys for Plaintiffs and the Class

Dated: March 23, 2018

RUTAN & TUCKER, LLP

By: \_\_\_\_\_  
  
Philip D. Kohn  
Attorneys for Defendants

Dated: March \_\_\_, 2018

O'MELVENY & MYERS LLP

By: \_\_\_\_\_  
Michael Yoder  
Attorneys for Defendants

## **EXHIBIT A**

### **Draft City Council Resolution**

WHEREAS, the City of Laguna Beach is committed to addressing issues relating to homelessness within the City of Laguna Beach and County of Orange (the “County”) as a whole;

WHEREAS, homelessness has been, and is expected to continue to be, a growing condition in the County;

WHEREAS, the City of Laguna Beach has been, and expects to continue to be, a leader among municipalities in the County in efforts to address homelessness;

WHEREAS, the City of Laguna Beach believes that a comprehensive approach implemented by the County and its municipalities offers the best prospect for addressing homelessness in the County;

WHEREAS, the City of Laguna Beach recognizes that the provision of sufficient affordable housing, transitional housing, and permanent supportive housing are important components of an effective plan to address homelessness;

WHEREAS, in 2012, the County of Orange developed a Ten-Year Plan to End Homelessness that emphasizes “placing persons who are homeless in safe and affordable permanent housing as an immediate response to their crisis,” but the plan has not yet been adequately funded or implemented; and

WHEREAS, the City of Laguna Beach believes that funding and implementation of the County’s Ten-Year Plan to End Homelessness would assist homeless individuals in the County and facilitate the plan’s goal of ending homelessness in the County;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Laguna Beach does hereby reaffirm its commitment to addressing issues relating to homelessness within the City of Laguna Beach and County of Orange as a whole.

BE IT FURTHER RESOLVED that the City Council of the City of Laguna Beach supports the County’s Ten-Year Plan to End Homelessness and encourages the Board of Supervisors of the County of Orange to fully fund and implement the County’s Ten-Year Plan to End Homelessness.

BE IT FURTHER RESOLVED that the City Council of the City of Laguna Beach encourages other Orange County municipalities to support the County’s Ten-Year Plan to End Homelessness, and to consider working in tandem with the County and other municipalities to address issues relating to homelessness.



## **EXHIBIT B**

### **Reasonable Accommodation Notice**

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), neither the City nor its Alternative Sleeping Location (the "ASL") will discriminate against qualified individuals with disabilities on the basis of disability. In particular, the City and the ASL will make reasonable modifications to policies and procedures to ensure that people with disabilities have an equal opportunity to enjoy access to the ASL and its services. Note, however, that the ASL is not required to take any action, including granting accommodations, temporary or otherwise, that would fundamentally alter the nature of the ASL or its services, or that would impose an undue financial or administrative burden.

If you require a modification of policies or procedures to participate in the ASL, please contact any ASL staff member and specify the policy or procedure that you would like modified and the reason that the requested modification is necessary to allow you to access the ASL or its services. The staff member will consider your request and, if your request is not granted in full, will issue a written Final Notice of Determination to you, which will include the basis for the ASL's decision, a statement about your right to appeal that decision, and an explanation of how to appeal the decision to the person designated to serve as Laguna Beach's "ADA Coordinator." If you challenge the ASL staff's determination, a copy of the Final Notice of Determination will be provided to the ADA Coordinator.

The ASL will respond to your request for a reasonable accommodation within a reasonable and appropriate time, taking into consideration the time that may be required to prepare any Final Notice of Determination. The time taken by ASL staff to respond to your request for a reasonable accommodation shall not be so long as to by itself rise to the level of a denial of meaningful access to the ASL or its services.

When a decision on your request for an accommodation is unreasonably delayed, the ASL will work with you to provide a temporary accommodation unless doing so would itself fundamentally alter the nature of the ASL or its services or would impose an undue financial or administrative burden.

The ASL will not retaliate or otherwise make any adverse determination about access to the shelter or shelter services against any guest for requesting a reasonable accommodation.

If the ASL staff concludes that a reasonable accommodation previously provided to you is no longer reasonable or necessary, the ASL staff will offer to confer with you to discuss the continuing need for the accommodation. Following this discussion or offer to confer, if the ASL staff determines that the accommodation is no longer reasonable or necessary, the ASL staff will provide you Final Notice of Determination explaining the reasons for its decision.

If you have any complaint that the ASL is not accessible to you due to a disability, including any complaint that the ASL has denied a requested modification that is necessary to allow you to access the ASL or its services or has denied you access to or suspended or terminated your access to the services of the ASL by reason of any disability, please contact the City of Laguna Beach's ADA Coordinator by mail addressed to the following address:



Attn: ADA Coordinator  
City of Laguna Beach  
505 Forest Avenue  
Laguna Beach, CA 92651

If, because of a disability, you require an alternative means of filing complaints other than in writing, such as by personal interview or by a tape recording of the complaint, please contact the ADA Coordinator by telephone at (949) 497-0711, and an alternative means will be made available. An oral or written complaint should contain as much of the following as possible: information about the alleged discrimination or denial of modification, including your full name, phone number, email address, mailing address, and any frequent residence addresses, the date and description of the problem and specific modification requested, and the names or descriptions of any ASL staff members or other individuals involved in the alleged discrimination or denial of modification.

Note that this complaint can be submitted after the ASL issues a Final Notice of Determination concerning your request for a reasonable accommodation, but you are not required to await a Final Notice of Determination before filing a complaint and you are not limited to filing complaints only about accommodation requests or issues addressed in a Final Notice of Determination.

Your complaint should be submitted as soon as possible, but no later than 60 calendar days after the alleged violation. You should be aware that delays may make it more difficult for the complaint to be thoroughly evaluated because, for example, witnesses cannot be found.

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or his or her designee will attempt to meet with you to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or his or her designee will respond in writing, and where appropriate, in a format accessible to you, such as with large print, Braille, email, or audio tape. The response will explain the position of the City of Laguna Beach as it relates to the application of the ADA and offer options for substantive resolution of the complaint.

If you are dissatisfied with the response by the ADA Coordinator or his or her designee, you may appeal the decision to the City Manager or his or her designee within 45 calendar days after receipt of the response from the ADA Coordinator or his or her designee. You may submit your appeal by mail to the following address:

Attn: City Manager  
City of Laguna Beach  
505 Forest Avenue  
Laguna Beach, CA 92651

If, because of a disability, you require an alternative means of filing your appeal, such as by personal interview or by an audio recording of the complaint, please contact the City Manager's office by telephone at (949) 497-0704, and an alternative means will be made available. Within 15 calendar days after receipt of the appeal, the City Manager or his or her

designee will attempt to meet with you to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the City Manager or his or her designee will respond in writing, and, where appropriate, in a format accessible to you, with a final decision on your appeal.

All written complaints received by the ADA Coordinator or his or her designee, appeals to the City Manager or his or her designee, and responses from these two offices will be retained by the City of Laguna Beach for at least three years.

## **EXHIBIT C**

### **ASL Guest and Staff Expectations**

Note: For purposes of these expectations, "ASL guests" include all individuals who request or receive services from the ASL, including without limitation individuals who stay overnight at the ASL on any given night.

1. ASL guests and ASL staff members shall endeavor to treat each other with courtesy, dignity, and respect.
2. ASL guests shall be able to access services within the ASL free from discrimination on the basis of race, color, religion, national origin, language, culture, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, and status as a victim of an intra-family offense.
3. ASL guests shall be entitled to confidential treatment by the ASL staff of personal, social, legal, financial, educational, and medical records and information related to an ASL guest or any member of an ASL guest's family, in a manner consistent with the privacy and confidentiality requirements of applicable laws.
4. ASL guests shall, at a reasonable time and with reasonable prior notice, be permitted to view and copy, or have an authorized representative view and copy, the ASL's file(s) on that ASL guest that are maintained by ASL staff in the ordinary course of operating the ASL.
5. Upon request, ASL guests shall be provided with the name, job title, and responsibilities of any ASL staff member.
6. ASL guests shall be permitted to provide input and feedback to ASL staff members on their delivery of services. ASL staff shall offer a means for ASL guests to provide such input in an anonymous or confidential manner.
7. ASL guests shall be permitted to request reasonable accommodations for any claimed disability and to file complaints with, testify before, or provide information to the ASL and/or the Laguna Beach ADA Coordinator about the ASL's delivery of services or treatment of the ASL guest or other ASL guests.
8. ASL guests shall be given timely and reasonable notice in writing of any decision by ASL staff to not grant in full any request for reasonable accommodation for any claimed disability.
9. ASL guests shall be free from retaliation, punishment, or sanction for exercising any legal rights under the Americans with Disabilities Act or under any other federal, state, or local laws.

10. ASL staff members and authorized City personnel may search ASL guests for weapons, alcoholic beverages, and illegal drugs.
11. Pursuant to the Laguna Beach Municipal Code, smoking is prohibited in all enclosed and outdoor areas of the ASL or ASL grounds, including the parking lot.
12. In public areas, shirts and pants/shorts/skirts are mandatory at all times. Shoes are required except while sleeping. If guests do not have shoes, the ASL will provide them with shower slippers or flip-flops for use while at the ASL.
13. ASL guests will use the mat and area assigned to them by the ASL staff, and shall not attempt to reserve any mat or area for any other ASL guest.
14. Guest pets are not allowed in the ASL or on the ASL grounds. ASL guests who have a properly certified and registered service animal may have them in the ASL.
15. ASL guests are expected to be good neighbors and must comply with all federal, state, and local laws and ASL rules.
16. Tents and other similar structures or enclosures may not be erected or used in the parking lot.
17. ASL guests shall not remain in the ASL or on ASL property during the period between when the ASL closes in the morning and when the ASL opens in the evening, except during such times as the ASL is open to provide drop-in day services.
18. Subject to the legal requirements of the Americans with Disabilities Act, the Rehabilitation Act, and other applicable laws which may limit the circumstances in which a particular ASL guest may be exited, ASL staff on duty may exit an ASL guest from the ASL and ASL grounds, either for a specified period of time or on an indefinite basis, if the ASL staff in the exercise of reasonable discretion based on all relevant facts and circumstances, determines that the ASL guest has engaged in any of the following prohibited conduct:
  - any illegal activity in the ASL or on ASL grounds;
  - possession or present use of alcoholic beverages, illegal drugs, or weapons in the ASL or on ASL grounds;
  - any type of sexual activity in the ASL or on the ASL grounds;
  - threats or acts of violence directed to ASL staff members, other ASL guests, or other individuals in the ASL or on the ASL grounds;
  - behavior that materially interferes with, impairs or otherwise disrupts the ability of ASL staff members to effectively and efficiently operate the ASL and to maintain the ASL and ASL grounds in a safe and sanitary manner.ASL guests shall be given timely and reasonable notice in writing of any decision by ASL staff to deny, suspend, or terminate an ASL guest's opportunity to sleep overnight at the ASL based on a violation of these expectations.

## **EXHIBIT D**

### **Revised Laguna Beach Police Department Policy 464**

#### **Policy 464: Homeless Persons**

##### **464.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure that personnel understand the needs and rights of individuals experiencing homelessness and to establish procedures to guide officers during all contacts with homeless persons, whether consensual or for enforcement purposes. The Laguna Beach Police Department recognizes that members of the homeless community are often in need of special protection and services. The Laguna Beach Police Department will address these needs in balance with the overall mission of this department and consult with all other necessary City personnel, including the ADA Coordinator, to best achieve its mission. Therefore, officers will consider the following when serving members of the homeless community.

##### **464.1.1 POLICY**

It is the policy of the Laguna Beach Police Department to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of individuals experiencing homelessness, consistent with applicable laws and the California and United States Constitutions. Experiencing homelessness is not a crime and members of this department will not use homelessness as a sole basis for detention or law enforcement action.

##### **464.2 COMMUNITY OUTREACH OFFICER**

The Chief of Police will designate a member of this department as the Community Outreach Officer to, among other assignments, act as a liaison with members of the homeless community. The responsibilities of the Community Outreach Officer include the following:

- (a) Maintain and make available to all department employees information on assistance programs and other resources that are available to persons experiencing homelessness in Laguna Beach and in the County of Orange, including housing and physical and behavioral health or substance dependence services or treatment.
- (b) Meet and coordinate with the staff at the City's temporary overnight sleeping shelter and also meet with representatives of social services agencies and other organizations that render assistance to persons experiencing homelessness.
- (c) Remain abreast of the prevalence of the most common disabling conditions among individuals experiencing homelessness in Laguna Beach and the common signs and symptoms of those conditions.
- (d) Meet and coordinate with the City's ADA Coordinator and know how to refer individuals to the City's ADA grievance process in the event that they desire to make a complaint under such procedure.

(e) Remain abreast of laws dealing with the removal and/or destruction of the personal property of homeless persons, including:

1. Proper posting of notices of trespass and clean-up operations.
2. Proper retention of property after clean-up, including procedures for owners to reclaim their property in accordance with the Property and Evidence Policy and other established procedures.

(f) Be present during any major clean-up operation conducted by this department involving the removal of personal property of homeless persons to ensure that their rights are not violated.

(g) Develop training to assist officers in understanding current legal and social issues relating to the homeless.

#### 464.3 FIELD CONTACTS

Officers are encouraged to contact individuals experiencing homelessness for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest or citation. Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate. Officers should also be aware of City and department policies related to individuals with disabilities.

##### 464.3.1 OTHER CONSIDERATIONS

Members of the homeless community will receive the same level and quality of service provided to all other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
- (b) Provide homeless victims with victim/witness resources when appropriate.
- (c) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.
- (d) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Adult Abuse Policy.

(e) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.

(f) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

(g) Consider whether to refer the homeless individual to the Community Outreach Officer or other available City resources.

#### 464.5 MENTAL HEALTH AND INTELLECTUAL DISABILITIES

Some homeless persons may be individuals with one or multiple mental health or intellectual disability or disabilities. Federal law provides protections to these individuals. Officers shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (see the Crisis Intervention Incidents Policy). When a “mental illness commitment” is not warranted, the contacting officer should provide the homeless person with contact information for behavioral health assistance, services or treatment as appropriate. In these circumstances, officers may provide transportation to a mental health specialist, or otherwise take action to meet if requested by the person and approved by a supervisor.

#### 464.6 ECOLOGICAL ISSUES

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

## EXHIBIT E

Revised Laguna Beach Police Department Training Bulletin #18-0x (supersedes #09-06)

### LODGING ON PUBLIC PROPERTY [CPC 647(e)]

Notes: This Training Bulletin deals only with the enforcement of Penal Code Section 647(e) as to unauthorized lodging on **public property** only. That is, policies and practices relating to unauthorized lodging on private property remain the same.

In November of 2009, a temporary Alternative Sleeping Location (ASL) was opened by the City at 1900 Laguna Canyon Road (the ACT V Lot) before later being moved to its current location at 20652 Laguna Canyon Road. The ASL is intended to provide a temporary overnight sleeping area for individuals experiencing homelessness within the City limits as an alternative to beaches, parks and other City-owned public property.

Section 647(e) prohibits any person from lodging "in any building, structure, vehicle, or place whether public or private, without the permission of the owner or person entitled to the possession or in control of it." The following guidelines are designed to aid in the enforcement of Section 647(e):

- "Lodging" generally means that a person is establishing living accommodations or a place of temporary residence by staying in one place for an extended period of time.
- A key issue is the nature and extent of an individual's conduct that evidences an intent to make public property his or her "home."
- Merely sleeping on public property, without more, does not constitute lodging.
- The determination of whether an individual is lodging on public property is not limited to a particular time; it can occur during daylight hours as well as the evening.

Enforcement of the law and the protection of the health, safety and general welfare of the community are the primary objectives of law enforcement activities. At the same time, officers should be in a position to provide information and education to individuals not only about applicable federal, state and local regulations, but also concerning options that may be available to them, including facilities, services and programs for individuals experiencing homelessness.

During law enforcement action for suspected illegal lodging on public property or related laws, officers should consider the following matters, among others, when exercising their judgment and discretion in determining the appropriate response to a particular situation (e.g., a verbal warning, a written courtesy notice, a citation or arrest):

- What is the nature, location and duration of conduct involved (sitting, lying, sleeping, or resting on public property)?
- Is the individual known to the Police Department?
- Is the individual on the list of persons meeting the criteria for "local" access to the ASL?
- Has the individual received past warnings about lodging on public property?
- If so, what has been his or her response to such warnings?
- Is the individual aware of the ASL?
- If so, has the individual attempted to use the ASL?
- If so, has the individual been denied entry to the ASL?



- If so, why has entry been denied? (E.g., overcrowded, behavior, etc.)
- Has the individual attempted to locate other housing or shelter?
- Does the individual have family resources available?
- Is the individual in need of information concerning social services agencies, health services agencies or similar organizations?
- Has the individual been working with the Community Outreach Officer to avail himself or herself of facilities, services and programs for individuals experiencing homelessness?
- Has the individual made any contacts with County of Orange outreach workers, County of Orange mental health workers, or others who can connect them with such agencies or organizations?
- Is the individual a veteran and have they contacted the VA or VA outreach workers?
- Has the individual refused offers of assistance from service providers?
- Is the individual exhibiting conduct that displays an imminent threat either to himself or herself or to others?
- Has the individual been offered assistance through Project Homecoming?
- If so, has the individual refused assistance?

The types of situations an officer is likely to experience include:

- An individual illegally lodging out of ignorance of Section 647(e) and/or without knowledge of the ASL.
  - In such instances, the individual should generally be notified of the applicable laws and the existence of the ASL and should be directed to the ASL or other available resources and officers should exercise progressive enforcement actions to achieve compliance, including warning(s), citation and arrest, subject to the circumstances described below.
- An individual illegally lodging who the officer believes knows or should know about the availability of the ASL, but has refused to attempt to use the ASL.
  - In such instances, the officer should exercise progressive enforcement actions to achieve compliance, including warning, citation and arrest.
- An individual illegally lodging after attempting to use the ASL, but was turned away due to overcrowding (with appropriate documentation from the ASL).
  - In such instances, citation or arrest should be avoided, but officers may contact the individual to discuss possible alternative accommodations and programs.
- An individual illegally lodging after attempting to use the ASL, but was turned away due to failure to meet entry requirements, or has been removed due to violation of conduct rules.
  - In such instances, the officer should exercise progressive enforcement actions to achieve compliance, including warning, citation and arrest.

When contacting an individual suspected of violating Section 647(e), the officer should document the encounter. Reports should be completed when appropriate and all conversations should be recorded. Photographs should be taken of makeshift structures, shelters, tents, sleeping bags, luggage or other containers of belongings, and camping items. Names of complaining parties or witnesses, and any statements they might make, should be collected.

The rights and privileges enjoyed by residents, businesses and visitors shall be afforded to all individuals. The treatment of homeless individuals by law enforcement personnel is a sensitive and controversial topic, and officers shall provide the same professional, fair and appropriate level of response that is expected in all interactions.