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CITY OF CHICO and CITY OF CHICO
POLICE DEPARTMENT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

BOBBY WARREN; ANDY LAMBACH;
JONATHON WILLIAMS; MICHAEL
SAMUELSON; TRACY MILLER;
TONA PETERSEN; CAROL BETH
THOMPSON; CHRISTA STEVENS,

Plaintiffs,

vs.

CITY OF CHICO; CITY OF CHICO
POLICE DEPARTMENT,

Defendants.

) Former Case No.: 2:21-cv-00640-MCE-DMC

) **DEFENDANTS' NOTICE OF MOTION**
) **AND MOTION FOR RELIEF FROM A**
) **FINAL JUDGMENT OR ORDER**
) **PURSUANT TO FRCP RULE 60(b)(5) AND**
) **60(b)(6); MEMORANDUM OF POINTS**
) **AND AUTHORITIES; DECLARATIONS OF**
) **MARK SORENSEN, ERIK GUSTAFSON,**
) **STEVE STANDRIDGE, SGT. PAUL**
) **RATTO, AMBER ABNEY-BASS, AND**
) **JOHN LAM**

) **[Request for Judicial Notice filed concurrently**
) **under separate cover]**

) **Hearing on Motion**

) Date: October 30, 2024

) Time: 10:00 a.m.

) Ctrm: 7

) Judge: Hon. Morrison C. England, Jr.

) Complaint Filed: April 11, 2021

) Case Closed: January 14, 2022

**TO THE HON. MORRISON C. ENGLAND, JR. AND TO ALL PARTIES AND THEIR
COUNSEL:**

PLEASE TAKE NOTICE THAT on October 30, 2024, at 10:00 a.m., or as soon thereafter as counsel may be heard by the above-entitled Court, located at 501 I Street, Sacramento, CA 95814, in Courtroom 7, before Senior United States District Judge Morrison C. England, Jr., Defendants CITY OF CHICO and CITY OF CHICO POLICE DEPARTMENT (collectively, “Defendants”) will and hereby do move the Court, pursuant to FRCP Rule 60(b)(5) and 60(b)(6), for relief from the Stipulated Order re Settlement, Dismissal and Continuing Jurisdiction entered on January 14, 2022, which incorporates and approves the Settlement Agreement in *Warren, et al. v. City of Chico, et al.*, Case No. 2:21-cv-00640-MCE-DMC (hereinafter “Settlement Agreement”).

This motion is brought on the following grounds:

(1) the Ninth Circuit’s decision in *Martin v. Boise*, which formed the principal basis for this Court’s issuance of the TRO and Preliminary Injunction, which in turn led directly to the Settlement Agreement, was overruled by the U.S. Supreme Court on June 28, 2024 in *Grants Pass v. Johnson*;

(2) the Settlement Agreement’s preconditions to the City’s enforcement of its ordinances prohibiting camping on public property are no longer required under the Supreme Court’s ruling in *Grants Pass v. Johnson*;

(3) the Settlement Agreement’s preconditions to the City’s enforcement of its camping ordinances have proven to be completely unworkable and ineffective;

(4) the notice procedures contained in the Settlement Agreement are so lengthy and cumbersome that they effectively prevent the City from taking timely enforcement action to preserve and protect public property, private property and the health and safety of homeless people living in encampments, as well as the general public;

(5) the impediments to the City’s enforcement of its camping ordinances have resulted in the degradation of the City’s public spaces through the accumulation of garbage, human waste, pet droppings, fires, water contamination and the spoliation of the City’s parklands, trails and waterways;

1 (6) the impediments to the City's enforcement of its camping ordinances have resulted in a
2 deterioration of the downtown business community and the quality of life in residential
3 neighborhoods;

4 (7) the conditions that prevailed when the Settlement Agreement was signed no longer exist in
5 the City;

6 (8) the City has fulfilled and will continue to fulfill its obligations toward the City's homeless
7 population;

8 (9) the Stipulated Order has been satisfied; and

9 (10) the allocation of City personnel and financial resources required by the Settlement
10 Agreement has impaired, and continues to impair, the City's ability to maintain the health and safety of
11 the community at large; and

12 (11) in view of all that has been accomplished and all that has changed, applying the Stipulated
13 Order prospectively is no longer equitable.

14 The Motion is based on this Notice of Motion and Motion, the accompanying
15 Memorandum of Points and Authorities, the Declarations of Mark Sorensen, Erik Gustafson,
16 Steve Standridge, Sgt. Paul Ratto, Amber Abney-Bass and John Lam, the Request for Judicial
17 Notice filed concurrently with this Notice of Motion, the pleadings, records and files in this case,
18 and upon such other evidence and argument as may be presented to the Court prior to the Court's
19 decision on this Motion.

20 DATED: August 31, 2024

Respectfully submitted,

21 Stephen T. Owens
22 Eric G. Salbert
23 Christy M. Garcia
ALVAREZ-GLASMAN & COLVIN

24 /s/ Stephen T. Owens
25 Attorneys for Defendants
CITY OF CHICO and CITY OF CHICO
26 POLICE DEPARTMENT
27
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 By this motion, made pursuant to FRCP Rule 60(b)(5) and (b)(6), the City of Chico and the
4 City's Police Department ("the City") seek relief from the Stipulated Order re Settlement, Dismissal
5 and Continuing Jurisdiction entered on January 14, 2022. (ECF No. 153.)

6 As this Court will recall, that Order reflected an attempt by the City, the Plaintiffs and this
7 Court to address the pervasive problem of homelessness in Chico, while allowing the City to fulfill its
8 responsibility to maintain public health and safety throughout the community at large. Much good has
9 since been accomplished under the terms of the Order.

10 However, much has changed during the two and a half years since the Stipulated Order was
11 entered: The City's approach to the homelessness issue has changed; millions of dollars in public
12 funds have been spent to construct and operate hundreds of additional shelter spaces; the applicable
13 law governing the City's camping ordinances has changed; and the unsheltered population in the City
14 has substantially decreased in size.

15 It has also become clear that the cumbersome notice and enforcement procedures in the
16 Settlement Agreement incorporated in the Stipulated Order are unworkable in practical application.

17 It is for this reason that the City seeks relief from the Stipulated Order under FRCP Rule
18 60(b)(5) and (b)(6), which allow the Court to grant relief from a final judgment or order "on just
19 terms" if "the judgment has been satisfied, released, or discharged," or "it is based on an earlier
20 judgment that has been reversed or vacated," or "applying it prospectively is no longer equitable"
21 (Rule 60(b)(5)) or for "any other reason that justifies relief." (Rule 60(b)(6)).

22 For the reasons set forth below, the City respectfully submits that its request for relief meets all
23 the foregoing grounds, but most particularly the grounds that:

- 24 (1) the judgment that led directly to the imposition of the TRO and the Preliminary Injunction
25 against the City (*Martin v. Boise*), which compelled the City to enter into the Stipulated
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Order, was overruled by the Supreme Court in the *Grants Pass* decision (FRCP Rule 60(b)(5)); and that

(2) applying the Stipulated Order’s injunctive provisions prospectively is no longer equitable in light of all the changed circumstances described below. (FRCP Rule 60(b)(5).)

For starters, the City has done its part under the Settlement Agreement (hereinafter, the “Agreement”). Indeed, the City has gone above and beyond what the Agreement required: Whereas the City was obligated to build only **50** tiny homes, called “Pallet Shelters,” the City constructed **177 Pallet Shelters**, with two beds in each. (ECF No. 153-1, 6:19-26; Declaration of Mark Sorensen, ¶¶ 6, 7.) The Pallet Shelters can accommodate **354 people**. All of the Shelters contain:

- A **privacy lock** on each entrance door and all windows
- A **continuous source of electricity**
- At least one **interior lighting fixture**
- **Electrical heating and air conditioning** equipment
- At least **one smoke and carbon monoxide alarm**
- At least **one GFCI-protected electrical outlet**.

(Sorensen Decl., ¶ 7.)

The Pallet Shelters are organized in pod communities of approximately 50 Pallet Shelters per pod, with each pod separated from the other pods by space or actual barriers to facilitate the feeling of smaller communities within the site. (*Ibid.*, ¶ 8.) Certain pods are designated as being for certain populations of homeless persons. (*Id.*)

Each pod has:

- **Potable water stations**
- **Toilets** (at least 3 for every 50 occupants)
- **Handwashing stations** (at least 2 for every 50 occupants)
- **Shower/Bathing facilities**
- **Hot running water**

1 (Id., ¶ 9.)

2 The City also provides, for every occupant:

- 3 • **Three meals, plus snacks, every day**
- 4 • **Kitchen areas with microwaves** for preparing food
- 5 • **Laundry services** that allow each occupant to do at least one load of laundry per week
- 6 • **Covered receptacles for garbage and kitchen waste**, which are emptied regularly
- 7 • **Hospitality tents and common areas**, consisting of at least one 30 by 60-foot shade
- 8 tent, with tables and seating under the shade tent
- 9 • **Private meeting space** for meeting with Service Providers
- 10 • **Bike parking** for each occupant to store one bike and one bike trailer
- 11 • **Pet run area** for each occupant to safely and securely exercise a reasonable number of
- 12 pets
- 13 • **Personal property storage**
- 14 • **Outdoor lighting** to allow occupants to safely travel throughout the Pallet Shelter
- 15 Housing Site at any time of day or night
- 16 • **Designated Smoking Area**

17 (Id., ¶ 10.)

18 Occupants of the Pallet Shelter are not required to share a Shelter with another person, but when a
19 Pallet Shelter has two beds, an occupant may choose to share the Shelter with a spouse, partner, family
20 member and/or friend who is also a homeless person. An occupant may also share a Pallet Shelter with a
21 caregiver if the occupant requires a live-in caregiver due to a disability. (Id., ¶ 12.)

22 And yet, even with all of the foregoing amenities, **there is an average of 28 Pallet Shelters**
23 **available, but unoccupied, every night.** (Id., ¶ 16.) Indeed, as of the filing of this Motion, there are a
24 total of 57 available and unoccupied beds in City-operated or City-affiliated shelters, which does not
25 include other shelters in Chico, such as Sabbath House or the Renewal Center, both of which offer
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shelter, meals and many other amenities to the homeless. (*Id.*, ¶ 43; Declaration of Amber Abney-Bass, ¶¶ 9-13.)

Moreover, in addition to the 177 Pallet Shelters, shelter for the homeless is available at the **Torres Community Shelter**, which is a low-barrier shelter funded by the City that can serve up to 160 individuals nightly. Individuals seeking shelter must be over the age of 18, and not be a registered sex offender or arsonist. The Shelter is open 24 hours a day, 7 days a week, and provides breakfast, lunch and dinner. Other amenities include toiletries, showers, clothing, vouchers to Independent Living Services, laundry, telephone message services and a mail receiving address. Supportive services provided include case management to homeless persons in an effort to help them obtain permanent employment and housing, and secure necessary benefits. (Sorensen Decl., ¶ 14.)

There is an average of 39 beds available, but unused, every night at the Torres Shelter. (*Id.*, ¶ 17.)

Indeed, according to the City's records, there has never been a single night since the Pallet Shelter opened in April 2022 when all of the available shelter beds operated by or in conjunction with the City were fully occupied. (*Id.*, ¶ 44.)

The City also operates an **Alternative Camping Site** and maintains two additional sites, if needed, located on the northwest and southeast corners of Eaton Road and Cohasset Road, to be used by homeless individuals deemed by the City's Outreach and Engagement staff to be ineligible for the Pallet Shelter or the Torres Shelter. The original Alternative Camping Site accommodates 50 individuals, the second site accommodates 24 people and the third site accommodates 25 people.

In 2022, the City established an Outreach and Engagement Team ("O&E Team") in cooperation with a local non-profit organization. The O&E Team consists of staff trained to conduct individualized assessments and placement of homeless individuals in appropriate shelters and social services, as well as City public works staff who clean up unsafe conditions threatening the public health and safety. (Abney-Bass Decl., ¶ 6.) Since its formation, the O&E Team has conducted 603 individual assessments of homeless persons with the goal of offering adequate emergency shelter as an alternative

1 to their current living conditions. Eligible shelter referrals include the Torres Community Shelter, the
2 Pallet Shelter, or the Alternative Site. (*Id.*, ¶ 8.)

3 The City has modified its applicable ordinances and has invested, and continues to invest, a
4 significant amount of its budget in addressing the needs of its homeless population and the handling of
5 their personal property. (Sorensen Decl., ¶¶ 22-27; Declaration of Erik Gustafson, ¶ 16.)

6 In view of the foregoing, it can no longer be credibly claimed, in August 2024, that people who
7 continue to camp on Chico’s sidewalks, pathways, bike lanes and in its parks do so because they have
8 no other place to go. The simple fact is that some people refuse to use available shelter, even when it is
9 safe, clean, free and offered with a wide range of amenities, including free meals. (Ratto Decl., ¶ 16;
10 Abney-Bass Decl., ¶¶ 15-18.)

11 The problem is obviously not unique to Chico. Indeed, Governor Newsom has recognized that
12 this is a statewide issue and has demanded that cities take steps to clean up their streets and sidewalks
13 or face the loss of state funds to which they would otherwise be entitled:

14 **WHEREAS** it is imperative to act with urgency to address dangerous
15 encampments, which subject unsheltered individuals living in them to
16 extreme weather, fires, predatory and criminal activity, and widespread
17 substance use, harming their health, safety, and well-being, and which also
18 threaten the safety and viability of nearby businesses and neighborhoods and
19 undermine the cleanliness and usability of parks, water supplies, and other
20 public resources; and ...

21 **WHEREAS** in June 2024 the Supreme Court overturned Ninth Circuit
22 Court of Appeals precedent that restricted the government’s authority to
23 enforce laws regulating encampments, recognizing that jurisdictions may
24 tailor their enforcement practices to reflect policy-driven approaches to
25 addressing homelessness; ...

26 **NOW, THEREFORE, I, GAVIN NEWSOM**, Governor of the State of
27 California, in accordance with the authority vested in me by the State
28 Constitution and statutes of the State of California, do hereby issue the
following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) Agencies and departments subject to my authority shall adopt policies,
generally consistent with California Department of Transportation’s

Maintenance Policy Directive 1001-R1, to address encampments on state property, including through partnerships with other state and local agencies, and shall prioritize efforts to address encampments consistent with such policy. Such policies shall include the following:

- a. Whenever feasible, site assessment in advance of removal operations to determine whether an encampment poses an imminent threat to life, health, safety or infrastructure such that exigent circumstances require immediate removal of the encampment.
 - b. Where exigent circumstances exist, as much advance notice to vacate as reasonable under the circumstances.
 - c. Where no exigent circumstances exist, posting of a notice to vacate at the site at least 48 hours prior to initiating removal.
 - d. Contacting of service providers to request outreach services for persons experiencing homelessness at the encampment.
 - e. Collection, labeling, and storage for at least 60 days of personal property collected at the removal site that is not a health or safety hazard.
- 2) ...
- 3) **Local governments are encouraged to adopt policies consistent with this Order and to use all available resources and infrastructure**, including resources provided by the State’s historic investments in housing and intervention programs where appropriate and available, **to take action with the urgency this crisis demands to humanely remove encampments from public spaces, prioritizing those encampments that most threaten the life, health, and safety of those in and around them.**

Executive Order N-1-24 issued by California Governor Gavin Newsom, July 25, 2024 (bolding added; attached as Exhibit A to the City’s Request for Judicial Notice).

In more recent statements, the Governor has threatened to redirect state funds away from local agencies that do not act expeditiously in response to his Executive Order quoted above.

The City is prepared to comply with the Governor’s directives, but what is lacking is any way to induce or, if necessary, to compel, individuals who, for a variety of reasons and excuses, simply will not use any of the available shelters and instead *choose* to camp on public property where it is not permitted. Most attorneys are diligent and follow the rules, but for those who aren’t, the court can resort to sanctions to compel compliance. Most drivers are careful and conscientious, but for those

1 who aren't, there are fines and license suspensions to compel compliance with traffic laws.
2 Unfortunately, under the Settlement Agreement in this case, the City simply has no practical, effective
3 way to clear encampments from public spaces in a timely way and no means to prevent the re-
4 establishment of the encampment by the same individuals, even when there is a surplus of unused
5 shelter spaces available.

6 As this Court presciently noted in its Memorandum and Order Imposing Preliminary Injunction
7 filed on July 8, 2021, at footnote 4:

8 As straight-forward as the Martin analysis plays out in application of
9 the law to the facts of this case, the Court understands the practical
10 ramifications for the community are much more complex. **Indeed, the**
11 **concerns raised in the dissent from the denial of rehearing en banc**
12 **appear to have come to fruition in Chico.** See id. 920 F.3d at 594 (“Such a
13 holding leaves cities with a Hobson’s choice: They must either undertake an
14 overwhelming financial responsibility to provide housing for or count the
15 number of homeless individuals within their jurisdiction every night, or
16 abandon enforcement of a host of laws regulating public health and
17 safety.”); id. at 596 (“I fear that the panel’s decision will prohibit local
18 governments from fulfilling their duty to enforce an array of public health
19 and safety laws. Halting enforcement of such laws will potentially wreak
20 havoc on our communities. As we have already begun to witness, our
21 neighborhoods will soon feature ‘[t]ents ... equipped with mini refrigerators,
22 cupboards, televisions, and heaters, [that] vie with pedestrian traffic’ and
23 ‘human waste appearing on sidewalks and at local playgrounds.’”) (footnotes and citations omitted). **The impact on local governments was a**
24 **foregone conclusion under Martin.**

25 (ECF No. 110, 6:22-28; bolding added.)

26 As this Court noted, the concerns raised in the dissent from the denial of rehearing en banc in *Martin*
27 v. *Boise* have indeed “come to fruition in Chico.”

28 However, in light of the tremendous efforts and expense the City has expended in addressing
the needs of its homeless population since the Settlement Agreement was adopted, the Supreme
Court’s reversal of the *Martin* decision, the reduction in the number and sizes of the encampments in
Chico, and the unworkability of the enforcement provisions contained in the Settlement Agreement,

the City now seeks relief from the Agreement and the Order into which it is incorporated. (ECF Nos. 153, 153-1.)

The City emphasizes that it does **not** intend to walk away from its commitments under the Order or to jettison the very substantial financial and social investment it has already made to address the homelessness issue, nor does it seek an order allowing it to do so.

Instead, the City seeks *limited relief* that would allow all City pre-enforcement and enforcement of Anti-Camping Ordinances and Regulations in accordance with local, state, and federal laws, including the *Grants Pass* decision.

The City has communicated to Plaintiffs' counsel and to the community at large that the City will commit to the following:

- Continue funding and operating the Pallet Shelter (subject to reasonable site rules) through at least the end of the Settlement Agreement term in early 2027, at which time the then-sitting City Council may determine (with public input) the future of the Pallet Shelter; and
- Continue to maintain one (1) alternate site at a location of the City's choosing (subject to reasonable site rules) until at least the end of the 2024 calendar year.

II. MEET AND CONFER EFFORTS

Before filing this motion, the Chico City Attorney engaged in good faith negotiations with Plaintiffs' counsel regarding the unworkability of the enforcement provisions of the Settlement Agreement and the consequent need to either fashion a new agreement or eliminate numerous restrictions on the City's ability to enforce its anti-camping ordinances. The last written response from Plaintiffs' counsel was received by the City's counsel on July 22, 2024. Those meet and confer discussions did not result in a resolution of the City's concerns. (Declaration of John Lam, ¶¶ 3-11.)

III. RETENTION OF JURISDICTION AND FRCP RULE 60(b)(5) and (6)

Although dismissed on January 14, 2022, this Court retained jurisdiction for a period of five years. (ECF No. 153 [Stipulated Order re: Settlement, Dismissal, and Continuing Jurisdiction], ¶ 3.)

Accordingly, this motion for relief from the Stipulated Order seeks relief from the Settlement Agreement incorporated into that Order, pursuant to FRCP Rule 60(b)(5) and (b)(6), which state as follows:

(b) GROUNDS FOR RELIEF FROM A FINAL JUDGMENT, ORDER, OR PROCEEDING. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

...

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

Even though the lack of an efficacious enforcement mechanism in the Settlement Agreement has been a serious problem from the outset, it was only after the Supreme Court’s decision in *City of Grants Pass v. Johnson*, 603 U.S. __ (June 28, 2024) that an opportunity for the City to seek relief from the Stipulated Order arose. That is, of course, because *Grants Pass* overruled the Ninth Circuit’s decision in *Martin v. Boise*, 920 F. 3d 584 (2019), in which that court had ruled that the Eighth Amendment’s Cruel and Unusual Punishments Clause barred Boise from enforcing its public-camping ordinance against homeless individuals who lacked “access to alternative shelter.” *Id.*, at 615. The Ninth Circuit found that such “access” was lacking whenever ““there is a greater number of homeless individuals in a jurisdiction than the number of available beds in shelters.”” *Id.*, at 617.

Martin provided the legal foundation for the Plaintiffs’ Eighth Amendment claims in this case and upon which the TRO and the Preliminary Injunction were principally based. As this Court stated in its July 8, 2021 Memorandum and Order issuing the Preliminary Injunction:

This Circuit has previously held that ordinances such as [Chico’s anti-camping ordinances] are not enforceable, unless there is enough practically available shelter within the City for all unhoused individuals. Martin v. City of Boise, 920 F.3d 584, 617 (2019) (holding “that ‘so long as there is a greater number of homeless individuals in [a jurisdiction] than the number of available beds [in shelters],’ the jurisdiction cannot prosecute homeless individuals for ‘involuntarily sitting, lying, and sleeping in public.’”)

(quoting Jones v. City of Los Angeles, 444 F.3d 1118, 1138 (9th Cir. 2006)).

...

Since Chico's ordinances prohibit homeless persons from resting on all public property and there is not enough practically-available shelter within the City, Plaintiffs have shown a likelihood of success under Martin, such that the City cannot resort to arresting people or imposing criminal penalties like fines on homeless persons in violation.

(ECF No. 110, 4:10-17; 6:7-11.)

IV. THE LENGTHY, CUMBERSOME PROCESS OF NOTICING THE SPECIFIC ENCAMPMENT SITE TO BE CLEARED, COUNTING THE OCCUPANTS, ASSESSING EACH INDIVIDUAL'S SUITABILITY AND WILLINGNESS TO ENTER A PARTICULAR SHELTER, AND RESOLVING PLAINTIFFS' OBJECTIONS PRIOR TO CLEANING UP HAZARDOUS ENCAMPMENTS, WITHOUT ANY MEANS TO PREVENT THE SAME ENCAMPMENT FROM POPPING UP AGAIN NEARBY HAS LED TO A FRUITLESS "WHACK-A-MOLE" SITUATION

Under the Settlement Agreement, the City is limited to clearing only three (3) enforcement areas at once, no matter how many encampments may exist on public property at any given time. (ECF No. 153-1, 12:5-17:11.) There are or have usually been more than three homeless encampments on public property in various locations throughout the City simultaneously. (Ratto Decl., ¶ 12.)

Therefore, the restrictions contained in the Settlement Agreement require the Target Team officers to coordinate with the members of the City's O&E Team of local non-profit social service workers and homeless shelter staff, as well as the City's Public Works staff, to determine which three of the several simultaneously existing homeless encampments are the most hazardous and/or filthy and therefore most urgently in need of being cleared. (*Ibid.*) This triage process requires discussion and agreement between numerous individuals representing different agencies, followed by the coordination of schedules and resources. (*Id.*)

After that has been accomplished, the City must engage in a seventeen (17) day process of counting, noticing, evaluating, and assessing each homeless individual residing in each of the three

1 encampments selected for cleanup. (ECF No. 153-1, 12:5-17:11; Ratto Decl., ¶ 13; Sorensen Decl.,
2 ¶ 39.) That process consists of:

- 3 • counting the number of homeless individuals residing in the enforcement area,
- 4 • confirming that there are sufficient available and unoccupied shelter beds at the Pallet
5 Shelter and Torres Shelter as of that date,
- 6 • providing notice to every homeless individual then residing in the enforcement area,
- 7 • providing notice of the number and location of available shelter spaces available at that
8 time,
- 9 • providing notice to Plaintiffs' counsel at Legal Services of Northern California,
- 10 • conducting an individualized assessment and evaluation of every homeless individual
11 residing in the enforcement area to determine if any of the available shelter spaces are
12 "appropriate" for each person, and
- 13 • offering each homeless person shelter in a space appropriate for each individual. (*Ibid.*)

14 Thereafter, the seventeen (17) day enforcement process can be delayed if the City receives
15 objections from Plaintiffs' counsel at Legal Services of Northern California ("LSNC"). (Ratto Decl.,
16 ¶ 13; Sorensen Decl., ¶¶ 39-40.) Indeed, most enforcement actions are delayed beyond the 17-day
17 period due to a number of factors, including objections by LSNC, limitations on City staff, or the lack
18 of equipment needed to clean up the encampment. (Ratto Decl., ¶ 13; Sorensen Decl., ¶¶ 39-42.)

19 **Of very great importance is the fact that, even after a particular encampment has been**
20 **cleared, the Settlement Agreement provides no prohibition or sanction for those who refuse the**
21 **shelter space offered to them and then move right back to the public space that was just cleared**
22 **or immediately adjacent to that space to re-establish the encampment that was just cleared.**

23 (ECF No. 153-1; Ratto Decl., ¶¶ 10-11, 14; Sorensen Decl., ¶¶ 36-38.)

24 For this reason, despite the City's expenditure of millions of dollars and its ongoing efforts to
25 address the problems associated with homeless encampments, a sort of "cat and mouse" or "whack-a-
26 mole" game has taken hold in the City in which those individuals who are unwilling to accept the
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City's offers of public shelter move to another nearby location just outside the immediate enforcement area, which can be as little as several feet away, setting up a new encampment within hours. This cycle repeats itself over and over, without any lasting resolution. (Ratto Decl., ¶¶ 10-11, 14; Sorensen Decl., ¶¶ 36-38.)

As an example of the repetitive, cyclical nature of the current situation, the following locations have been cleared by the City multiple times since the Settlement Agreement became effective:

- (a) Little Chico Creek has been cleared of homeless encampments at least four (4) times, including on July 18, 2022, November 29, 2022, October 26, 2023, and again very recently on July 25, 2024;
- (b) Bidwell Park has been cleared of homeless encampments at least four (4) times, on March 20, 2023, February 23, 2024, May 23, 2024, and then again on July 25, 2024;
- (c) The bike path north of East 20th Street leading to the Teichert Ponds has been cleared at least twice, first on January 2, 2024 and again a little over a month later, on February 23, 2024;
- (d) The Triangle Property near Pine and Cypress Streets has been cleared at least twice, on November 29, 2022 and June 24, 2024;
- (e) City Plaza has been cleared at least twice, on May 23, 2022 and April 8, 2024;
- (f) The area commonly known as Lost Park has been cleared at least twice, on May 23, 2022 and May 2, 2024;
- (g) The area commonly known as Annie's Glen has been cleared at least twice, on May 23, 2022 and July 25, 2024;
- (h) The area along Martin Luther King Jr. Parkway near 20th Street has been cleared at least twice, on February 16, 2023 and April 4, 2024;
- (i) The Comanche Creek Greenway has been cleared at least twice, on July 18, 2022 and again on May 28, 2024; and
- (j) The Humboldt Neighborhood near Windchime Park has been cleared at least twice, once

on October 26, 2022 and then again a month later, on November 29, 2022.
(Ratto Decl., ¶¶ 10-11, 14.)

Since the opening of the Pallet Shelters, the Torres Center and the Alternative Sites, many previously homeless people now have, and are using, safe shelters in Chico. (Sorensen Decl., ¶¶ 7, 42-43.) However, there remains a hard core of individuals who resolutely refuse to avail themselves of any of the available shelters and do all they can to avoid the assessment and placement process. (Abney-Bass Decl., ¶¶ 15-18; Ratto Decl., ¶ 16.) After the Settlement Agreement became effective, the percentage of homeless people in Chico's encampments who refuse to accept offers of available shelter at the Pallet Shelter or the Torres Shelter has increased sharply. (*Id.*)

So, notwithstanding the fact that the City has spent \$12,991,027 since the Order became effective in January 2022 to address its homelessness issue, the City's plazas, parks, bike paths, creeks, etc. remain cluttered with tents, tarps, sleeping bags and all manner of paraphernalia belonging to a relatively small population of people who affirmatively refuse to enter one of the several available shelters. (Sorensen Decl., ¶ 26.) After the *Grants Pass* decision, the City would not be constrained in the enforcement of its anti-camping ordinances, but for the Stipulated Order. In light of the truly Herculean efforts and substantial expenditures the City has made and continues to make—\$6,000,000 per year in operating costs (Sorensen Decl., ¶ 27)—it is fundamentally inequitable for the City and its residents to remain constrained *prospectively* by an injunction that is no longer necessary, effective or supported by current circumstances or the applicable law.

V. THE DANGERS AND DAMAGES THAT HAVE ARISEN AS A DIRECT RESULT OF THE CITY'S INABILITY TO TAKE TIMELY ACTION TO CLEAR ILLEGAL ENCAMPMENTS

A. Illegal and Uncontrolled Fires

After the Camp Fire destroyed Paradise in 2018 and the Park Fire that burst out in Chico's Bidwell Park on July 24, 2024, quickly becoming one of the largest wildfires in California history, it is common knowledge that fire is an ever-present danger in Chico. Indeed, one of the most serious dangers to public safety in Chico are illegal, uncontrolled fires.

1 Homeless encampments pose a high risk of fire to the City’s greenways, parks, open spaces,
2 bridges, electrical systems, infrastructure, and residential, commercial and other structures for a
3 variety of reasons. (Declaration of Steve Standridge, ¶ 3.) First, individuals living in homeless
4 encampments frequently use open fires for cooking, heating, and light. These fires are often poorly
5 monitored or completely unattended, improperly contained, incompletely extinguished, or located near
6 flammable materials, including volatile vegetation, wooden bridges, and other combustible (or
7 vulnerable) structures. (*Ibid.*) Numerous uncontrolled and significant fires have originated in homeless
8 encampments in Chico. (*Id.*) Second, residents at encampments frequently tap into electrical wiring
9 using makeshift connections and overloaded power strips that have led to numerous electrical fires.
10 (*Id.*) Third, encampments often have a significant accumulation of flammable materials, including
11 tents, plastic tarps, blankets, personal belongings, trash and general debris, which can rapidly fuel and
12 intensify fires in and around the encampments. (*Id.*) Fourth, the crowded and cluttered nature of
13 encampments, along with their often remote or hidden locations, frequently impedes Fire Department
14 access, making it difficult to respond quickly to emergencies and conduct firefighting operations
15 effectively and safely. (*Id.*)

16 Moreover, fires in homeless encampments pose a significant risk to the individuals living there.
17 (Standridge Decl., ¶ 4.) The lack of proper fire safety measures, smoke alarms, adequate tools for fire
18 suppression, personnel, equipment, and apparatus, makes it challenging to alert residents and control
19 fires before they spread. (*Ibid.*) Encampment fires in Chico have often spread to nearby structures,
20 vegetation, and other areas, putting the surrounding community at serious risk. (*Id.*)

21 An area of particular concern for the City is the Lindo Channel. (Standridge Decl., ¶ 5.) Lindo
22 Channel is a seasonal waterway that serves as a flood control channel. It runs through built out and
23 urbanized areas of the City and also carries water during periods of heavy rain. (*Ibid.*) However,
24 during the summer and other dry periods, Lindo Channel has a considerable amount of volatile
25 vegetation within the channel and along its banks. (*Id.*) These conditions make Lindo Channel a
26 popular location for homeless encampments because of its close proximity to commercial centers. (*Id.*)
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1 The encampments located in Lindo Channel are largely hidden from public view but are surrounded
2 by thick and receptive fuel sources that make it difficult for Fire Department personnel to access when
3 responding to fires in the Channel. (*Id.*) Moreover, Lindo Channel is surrounded by homes. Homeless
4 encampments in Lindo Channel pose a significant fire threat to the surrounding residential and
5 commercial area. (*Id.*) There have been several fires that originated in Lindo Channel homeless
6 encampments within the past 6 years. (*Id.*)

7 On June 2, 2022, at or near 1505 Springfield Drive, near Teichert Ponds, the Fire Department
8 responded to a vegetation fire with explosions heard that originated in a large homeless encampment.
9 The fire was suppressed and held from spreading to nearby residential and commercial properties. (*Id.*,
10 ¶ 6.)

11 On July 12, 2022, at or about 898 Chestnut St., the Fire Department responded to a homeless
12 encampment fire that involved multiple aerosol can explosions, a number of propane tanks, large piles
13 of abandoned plastic, cardboard, and paper material and general debris. (*Id.*, ¶ 7.)

14 On January 5, 2024, the Fire Department responded to a fire at Cohasset and East Eaton Roads
15 that originated in a homeless encampment. Fire Department personnel extinguished the fire and found
16 a male transient who had sustained 3rd degree burns to his back, buttocks, legs, and arms. (*Id.*, ¶ 8.)

17 On January 9, 2024, the Fire Department responded to a fire at Cohasset Road and Mangrove
18 Avenue, which was caused by a transient cooking in a shopping cart under a bridge. (*Id.*, ¶ 9.)

19 On April 29, 2024, the Fire Department responded to a fire at a commercial building located at
20 650 Rio Lindo Avenue. The Fire Department's investigation determined that the fire was caused by a
21 faulty 110-volt electrical plug illegally added to a 60-amp breaker panel located on the exterior of the
22 building in an attempt to steal electricity. The Fire Department's investigation concluded that the fire
23 was probably caused by transients living in a nearby encampment. (*Id.*, ¶ 10.)

24 On May 27, 2024, at 650 Mangrove Avenue, the Fire Department responded to a fire at a
25 commercial structure. It was determined that a transient from a nearby encampment was actively
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1 igniting flammable materials and throwing them into an opening in the exterior of the commercial
2 building created for roof drainage downspouts. (*Id.*, ¶ 11.)

3 On June 4, 2024, the Fire Department extinguished a fire at a homeless encampment located
4 under the Cohasset Road Bridge over the Sycamore Creek. The fire originated as a rubbish fire at the
5 camp and caused significant damage to the underside of the bridge. (*Id.*, ¶ 12.) That recent fire cost the
6 City at least \$166,490 to repair the damage to the bridge, not including the City's emergency
7 personnel response costs, cleanup, and engineering time. (Sorensen Decl., ¶ 33.)

8 **In 2022, the Chico Fire Department identified 39 (confirmed) and 6 (suspected)**
9 **homeless/transient-caused fires.** (Standridge Decl., ¶ 13.) **In 2023, the Fire Department identified**
10 **17 (confirmed) and 10 (suspected) homeless/transient-caused fires.** (*Id.*) **To date in 2024, the Fire**
11 **Department has identified 21 (confirmed) and 7 (suspected) homeless/transient-caused fires.** (*Id.*)

12 **B. Criminal Activity**

13 In addition to fires, Chico's homeless encampments spawn a continuing flow of criminal activity.
14 (Sorensen Decl., ¶ 31.)

- 15 • On August 1, 2021, just under four months after the City was enjoined from enforcing its anti-
16 camping ordinances, one homeless person stabbed another homeless person in the heart at the
17 Comanche Creek Greenway, resulting in the victim's death. (*Ibid.*)
- 18 • In January 2022, a homeless person attacked an elderly man while he was taking out his trash,
19 causing a broken hip and abrasions. (*Id.*)
- 20 • On June 29, 2022, a homeless man was arrested for evading law enforcement personnel after
21 shooting into a vehicle. (*Id.*)
- 22 • On July 26, 2022, two homeless persons robbed another homeless person at gunpoint and were
23 found to be in possession of fentanyl and heroin when caught. (*Id.*)
- 24 • On August 9, 2022, a homeless man threatened customers in a store and broke a police
25 officer's nose before being arrested. (*Id.*)

- On January 12, 2023, two homeless men started fighting outside City Place, one being arrested for assault with a deadly weapon and the other for violation of probation and public intoxication. (*Id.*)
- On February 3, 2023, two occupants of the Torres Shelter engaged in a fight, one being arrested for a parole violation stemming from his beating of a 91-year-old man to death. (*Id.*)
- On February 21, 2023, Chico police arrested a homeless resident of an encampment who had three outstanding felony warrants, who fought with the officers and attempted to stab one officer. (*Id.*)
- In March 2022, a homeless man was arrested after being found in possession of a stolen phone and attempting to flee. (*Id.*)
- On April 13, 2022, firefighters had to extinguish a fire that caused millions of dollars in damages to a railroad; the origin of the fire was determined to be a homeless person's warming fire. (*Id.*)
- On June 4, 2022, Chico police discovered a deceased homeless person in a tent in the Lindo Channel waterway. (*Id.*)
- In October 2022, police arrested an individual selling drugs at a homeless encampment who was in possession of two grams of fentanyl and had three outstanding arrest warrants from another county. (*Id.*)
- On July 14, 2023, seven or eight pit bulls escaped from a homeless encampment and attacked a man and a woman nearby, causing severe injuries to the man. (*Id.*)

C. Serious Threats to Public Health and Safety

In 2022, the City cleared and disposed of approximately **539 tons of trash and debris** from homeless encampments located on public property. (Declaration of Erik Gustafson, ¶ 8.) In 2023, the City cleared and disposed of approximately **612 tons of trash and debris** from homeless encampments located on public property. (*Ibid.*, ¶ 9.) In 2024 through the date of this Declaration, the

1 City has cleared and disposed of **approximately 171 tons of trash and debris** located on public
2 property. (*Id.*, ¶ 10.)

3 Cleaning up large homeless encampments is a complex and challenging process, often revealing
4 a wide range of items and materials such as the following: discarded or abandoned personal
5 belongings, including sleeping bags, tents, tarps, makeshift shelters, mattresses, and pillows;
6 household items; construction materials; trash and debris; human waste consisting of improvised
7 toilets, buckets, or areas used to collect human waste; drug paraphernalia consisting of hypodermic
8 needles, pipes, bongs, torches, jet lighters, and other items associated with drug use; hazardous
9 materials consisting of containers with unknown chemicals, possibly used for cooking drugs or other
10 hazardous activities; and stolen property including bicycles, shopping carts, and tools. (*Id.*, ¶ 11.)

11 Moreover, homeless encampments have significant environmental impacts, endangering the
12 health of the homeless individuals residing in the encampments and also the public generally. (*Id.*,
13 ¶ 12.) For example, human waste, chemicals, and drug paraphernalia are a threat to the public health,
14 safety, and welfare. Homeless encampments cause considerable damage to vegetation, trampling of
15 plants, cutting of trees, and other damage to the natural environment. Moreover, homeless
16 encampments pollute water sources such as nearby creeks, rivers, or lakes with trash, debris,
17 chemicals, and human waste. (*Id.*)

18 Cleaning up these encampments requires a coordinated effort by the O&E Team and the
19 expenditure of substantial City resources and staff time. (*Id.*, ¶ 14.) Each cleanup operation involves
20 extensive planning and execution, often spanning several days or weeks, depending on the size and
21 scope of the encampment. (*Id.*) Before any cleanup operation begins, staff must conduct an initial
22 assessment of the encampment. This includes identifying the number of individuals residing in the
23 encampment, the area covered, the volume of waste, and any potential health and safety hazards. The
24 actual cleanup involves removing personal belongings, trash, hazardous materials, and waste.
25 Specialized equipment, including trucks, dumpsters, and protective gear, is required. (*Id.*)

1 In 2022, the City utilized approximately 3,134.5 hours of City worker time to clean up homeless
2 encampments. In 2023, the City utilized approximately 3,376 hours of City worker hours on the
3 cleanup of homeless encampments in the City. In 2024 through the date of this Declaration, the City
4 has utilized approximately 1,660 hours of City worker hours on the cleanup of homeless
5 encampments. (*Id.*, ¶ 15.)

6 The frequent fires, criminal activities and cleanup operations associated with homeless
7 encampments place a great strain on the City's financial and personnel resources, and divert services
8 from the community at large. (Standridge Decl., ¶ 14; Gustafson Decl., ¶ 17; Ratto Decl., ¶¶ 10, 11,
9 14, 18; Sorensen Decl., ¶¶ 32, 34.) A great many of these serious risks and problems could be
10 prevented if the City were able to move in a timely way to clear hazardous encampments, as the law
11 now allows every other city in the United States to do.

12 **VI. THE CITY'S REVISED PRACTICES REGARDING THE PERSONAL PROPERTY OF** 13 **HOMELESS PERSONS**

14 In its July 8, 2021 Memorandum and Order Imposing Preliminary Injunction, the Court
15 expressed concern regarding the City's handling of the personal property of individuals living in
16 homeless encampments being cleared. (ECF No. 110, 3:25-28.)

17 In response to the Court's concerns, the City Council amended the Municipal Code to set forth a
18 clear statutory protocol for handling, cataloging, storing and providing notice of the location and
19 procedure for retrieving items collected by the City during encampment cleanups. (Gustafson Decl.,
20 ¶ 16 [quoting the complete text of Municipal Code § 9.20.055 "Property removal"].)

21 **VII. THIS COURT HAS THE EQUITABLE DISCRETION TO GRANT THE CITY THE** 22 **LIMITED RELIEF IT SEEKS ON "JUST TERMS"**

23 A motion for relief from a judgment under Rule 60(b) is addressed to the discretion of the court.
24 *Savarese v. Edrick Transfer & Storage, Inc.*, 513 F.2d 140, 146 (9th Cir. 1975). By its terms, the Rule
25 is remedial in nature and relief from a judgment or order is to be administered upon equitable principles.
26 *Di Vito v. Fidelity & Deposit Co. of Md.*, 361 F.2d 936, 939 (7th Cir. 1966).

27 Moreover, in light of the remedial nature of the Rule, relief is to be liberally granted:

28 "Rule 60(b) is remedial in nature and therefore must be liberally applied

(e.g., *Butner v. Neustadter* (9th Cir. 1963) 324 F.2d 783, 786; 7 J. Moore, Fed. Prac., ¶ 60.10[7], [9]; ¶ 60.18[8]).”
Schwab v. Bullock’s Inc., 508 F.2d 353, 355 (9th Cir. 1974).

Reviewing the case law, Wright & Miller concurs. 11 Wright & Miller, Federal Practice & Procedure § 2857 (2024). Rule 60 must be given a liberal construction. *Patapoff v. Vollstedt’s Inc.*, 267 F.2d 863, 865 (9th Cir. 1959).

Further, because relief from a judgment is to be granted on “just terms,” the Court has the discretion to impose conditions it deems fit, with the moving party then having the choice either of complying with the conditions or allowing the judgment to stand. 11 Wright & Miller, Federal Practice & Procedure § 2857 (2024).

Applying these fundamental principles to the Order entered on January 14, 2022 (ECF No. 153), for all the reasons explained in this Motion, it is no longer equitable for the injunctive relief contained in that Order to be applied prospectively to the City for the next two and a half years. More specifically, it is no longer equitable that the City’s ability to protect and preserve the public and health and safety, not to mention the quality of life in the City, be stymied by an unworkable, bureaucratic, overly complicated process before it can take even the most basic steps to clear out dangerous, unsanitary encampments on public property. It is relief from that failed process that the City seeks pursuant to the last grounds stated in Rule 60(b)(5), which has particular applicability to injunctions:

This is based on the historic power of a court of equity to modify its decree in the light of changed circumstances.

As Justice Cardozo said in *United States v. Swift & Company*:

We are not doubtful of the power of a court of equity to modify an injunction in adaptation to changed conditions, though it was entered by consent. * * * Power to modify the decree was reserved by its very terms, and so from the beginning went hand in hand with its restraints. If the reservation had been omitted, power there still would be by force of principles inherent in the jurisdiction of the chancery. A continuing decree of injunction directed to

1 events to come is subject always to adaptation as events
2 may shape the need.

3 Wright & Miller, Federal Practice & Procedure § 2886 (2024), quoting United States v. Swift &
4 Company, 286 U.S. 106 (1932).

5 On this motion, the City seeks only very limited relief and only of a prospective nature: That is,
6 to be entitled to enforce its anti-camping regulations in accordance with local, state and Federal law.
7 This relief should be granted under the last clause of Rule 60(b)(5).

8 Unlike many of the cases decided under Rule 60(b), there was no mistake or default that led to
9 the entry of the judgment from which the City seeks limited relief. Instead, this Court applied the law
10 applicable in the Ninth Circuit in 2021, but that law, grounded in *Martin v. Boise* and its analysis of
11 the Eighth Amendment, has now been overturned. It would be fundamentally unfair for the City to
12 struggle along for another two and a half years under the terms of a Preliminary Injunction whose legal
13 underpinnings were so soundly swept away two months ago by the *Grants Pass* decision. Relief
14 should also be granted based on the second ground set forth in Rule 60(b)(5), that the Order was based
15 on an earlier judgment that has been reversed or vacated.

16 Finally, the City seeks relief under Rule 60(b)(6), “for any other reason that justifies relief.” In
17 *Adams v. Merrill Lynch Pierce Fenner & Smith*, 888 F.2d 696 (10th Cir. 1989), the District Court ruled
18 that the U.S. Supreme Court’s decision in a different case had changed the relevant case law to such an
19 extent that it created an extraordinary situation and so warranted relief from the judgment in the
20 *Adams* case under Rule 60(b)(6). That decision was affirmed by the 10th on appeal.

21 **VIII. THIS COURT WILL CONTINUE TO RETAIN JURISDICTION UNTIL JANUARY**
22 **2027 TO ADDRESS ANY FUTURE ISSUES**

23 The City does not seek to alter the term of the Order pursuant to which this Court retains
24 jurisdiction over this matter and the parties until January 2027.

1 DATED: August 31, 2024

Respectfully submitted,

2 Stephen T. Owens
Eric G. Salbert
3 Christy M. Garcia
ALVAREZ-GLASMAN & COLVIN
4

5 /s/ Stephen T. Owens
Attorneys for Defendants
CITY OF CHICO and CITY OF CHICO
6 POLICE DEPARTMENT
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DECLARATION OF MARK SORENSEN

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1. I am over the age of 18 years. The facts stated herein are personally known to me and, if called as a witness, I could and would testify competently to the truth of those facts based on my personal knowledge.

3. As City Manager, I am the chief executive officer of the City and the head of the administrative branch of the City government. Pursuant to Section 701 of the City Charter, “The city manager shall be responsible to the council for the administration of all units of the city government under the city manager's jurisdiction and for carrying out policies adopted by the council. The city manager shall be charged with the preservation of the public peace, welfare, health, the safety of persons and property, the enforcement of law and the development and utilization of the city's resources.”

5. By virtue of my position and responsibilities, I have been deeply involved in the City's implementation of the terms of the *Warren v. Chico* Settlement Agreement signed in January 2022 (the "Settlement Agreement"). The City has never admitted any wrongdoing in its

1 enforcement of its ordinances restricting camping on public property or in the Settlement
2 Agreement. However, in view of the legal precedent created by the Ninth Circuit's decision in
3 *Martin v. Boise*, the preliminary injunction imposed on the City in the *Warren* case following
4 the *Martin* decision, and the ongoing costs of the *Warren* litigation, the City Council believed
5 there was no realistic alternative to the Settlement Agreement.

6 6. Since the Settlement Agreement was signed, the City has endeavored, in the utmost
7 good faith, to uphold and fulfill its obligations under the Agreement.

8 7. Specifically, the City constructed 177 tiny homes, with two beds in each home, with
9 a capacity of 354 people, at 2280 Dr. Martin Luther King Jr. Parkway, Chico (now called
10 "Genesis", formerly known and commonly referred to as the "Pallet Shelter"). The **Pallet**
11 **Shelter** is located on a City-owned site and is surrounded by perimeter fencings. The homes
12 range in size up to 64 square feet and each of them contains:

- 13 • A **privacy lock** on each entrance door and all windows
- 14 • A **continuous source of electricity**
- 15 • At least one **interior lighting fixture**
- 16 • **Electrical heating and air conditioning** equipment
- 17 • At least **one smoke and carbon monoxide alarm**
- 18 • At least **one GFCI-protected electrical outlet**.

19 8. The Pallet Shelters are organized in pod communities of approximately 50 Shelters
20 per pod, with each pod separated from the other pods by space or actual barriers to facilitate the
21 feeling of smaller communities within the site. Certain pods are designated as being for certain
22 populations of homeless persons.

23 9. Each pod has:

- 24 • **Potable water stations**
- 25 • **Toilets** (at least 3 for every 50 occupants)
- 26 • **Handwashing stations** (at least 2 for every 50 occupants)
- 27 • **Shower/Bathing facilities**
- 28 • **Hot running water**

10. The City also provides, for every occupant:

- **Three meals, plus snacks, every day**
- **Kitchen areas with microwaves** for preparing food
- **Laundry services** that allow each occupant to do at least one load of laundry per week
- **Covered receptacles for garbage and kitchen waste**, which are emptied regularly
- **Hospitality tents and common areas**, consisting of at least one 30 by 60-foot shade tent, with tables and seating under the shade tent
- **Private meeting space** for meetings with Service Providers
- **Bike parking** for each occupant to store one bike and one bike trailer
- **Pet run area** for each occupant to safely and securely exercise a reasonable number of pets
- **Personal property storage**
- **Outdoor lighting** to allow occupants to safely travel throughout the Housing Site at any time of day or night
- **Designated Smoking Area**

11. Other services offered at the City-operated Pallet Shelter include voluntary case management and benefits navigation through the Butte County Department of Employment and Social Services, and voluntary mental health services and crisis intervention through the Butte County Department of Behavioral Health. Weekly visits from an Ampla Health mobile unit and veterinary services are provided, and recent infrastructure improvements include two new sanitary (restroom/shower) units and asphalt paving of the driveway entrance.

12. Occupants of the Pallet Shelter site are not required to share a Pallet Shelter with another person, but when a Pallet Shelter has two beds, an occupant may choose to share the Pallet Shelter with a spouse, partner, family member and/or friend who is also a homeless person. An occupant may also share a Pallet Shelter with a caregiver if the occupant requires a live-in caregiver due to a disability.

1 13. Occupants of the Pallet Shelter site are not required to attend any religious
2 services or meetings or enroll in any classes.

3 14. In addition to the Pallet Shelter, the City is home to the privately-run **Torres**
4 **Community Shelter**, located at 101 Silver Dollar Way, Chico, near Costco. The Torres Shelter
5 is a low-barrier shelter that serves up to 160 individuals nightly. Individuals seeking shelter must
6 be over the age of 18, and not be a registered sex offender or arsonist. The Shelter is open 24
7 hours a day, 7 days a week, and provides free breakfasts, lunches and dinners. Other amenities
8 include toiletries, showers, clothing vouchers, laundry, telephone message services and a mail
9 receiving address. Supportive services provided include case management to guests in an effort
10 to help them to obtain necessary benefits and secure permanent employment and housing.

11 15. Pursuant to Section 10.b of the Settlement Agreement, the City is required to notify
12 Plaintiffs' counsel that the number of available Pallet Shelters and beds available at the Torres
13 Shelter is equal or greater than the number of homeless persons living in any homeless
14 encampment on public property that the City wishes to clear.

15 16. The average number of available Pallet Shelters based on all enforcement notices (28
16 notices) sent to Plaintiff's counsel since the effective date of the Settlement Agreement to the
17 date of this Declaration is an average of 28 Pallet Shelters.

18 17. The average number of available but unused beds at the Torres Shelter based on all
19 enforcement notices (28 notices) sent to Plaintiffs' counsel since the effective date of the
20 Settlement Agreement is 39 beds per night.

21 18. The City also operates one (1) Alternative Camping Site and maintains two (2)
22 additional sites, if needed, located on the northwest and southeast corners of Eaton Road and
23 Cohasset Road to be utilized by homeless individuals deemed by the City's Outreach and
24 Engagement staff to be ineligible for the Pallet Shelter or the Torres Shelter. The original
25 Alternative Camping Site accommodates 50 individuals, the second site accommodates 24
26 people, and the third site accommodates 25 people.

27 19. Pursuant to the Settlement Agreement, the City may direct homeless persons to
28 relocate from public properties to the Pallet Shelter, Torres Shelter or Alternative Camping Sites.

1 However, there are other homeless shelters in Chico that the City has been unable to incorporate
2 into the Settlement Agreement, including, but not limited to, the Sabbath House and the Renewal
3 Center.

4 20. In 2022, the City created an Outreach & Engagement Team (“O&E Team”)
5 consisting of staff of local non-profit organizations, City public works staff, and City law
6 enforcement officers. O&E Team members are trained to conduct individual assessments, place
7 homeless individuals in appropriate shelters, refer individuals to appropriate social services, and
8 clean up encampments. The O&E Team is accompanied by law enforcement officers during
9 these assessments in accordance with the Settlement Agreement which allows their presence in
10 the general location but requires that they remain far enough away to ensure privacy.

11 21. Since its establishment, the O&E Team has assessed 602 homeless individuals,
12 providing referrals to either the Pallet Shelter, the Torres Shelter, or the City’s Alternative
13 Camping Sites.

14 22. To relocate the BMX race track at what is now the Pallet Shelter, and to prepare the
15 land for creation of the Pallet Shelter, the City spent \$166,178 from its General Fund and
16 \$536,956 of its American Rescue Plan Act (“ARPA”) fund. Butte County provided the City with
17 \$1.7 million for the acquisition and installation of 177 shelter units using ARPA funding.
18 Thereafter, the City’s initial setup costs for the Pallet Shelter included a further \$1,085,107 from
19 its ARPA fund, \$175,384 from its General Fund, and \$152,925 from its Community
20 Development Block Grant CARES Act funds. In addition, the City’s initial setup costs for its
21 Alternative Sites amounted to \$53,801, paid from the City’s General Fund.

22 23. Some of the foregoing setup costs included: \$655,773 for electrical work; \$409,210
23 for grading; \$174,129 for soil treatment; \$60,140 for security cameras; \$39,150 for site design;
24 \$36,680 for modular buildings (not shelter units), furniture and painting; \$27,000 to connect to
25 the sewer system; \$24,827 for Pacific Gas & Electric costs; \$22,000 for fencing; \$11,867 for
26 storage units; and \$1,500 for shade tenting. The City also spent \$791,561 to set up and operate
27 the resting site located at the municipal airport that was shut down shortly after the *Warren*
28 litigation commenced.

1 24. The initial estimates of the annual operating costs of the Pallet Shelter were: \$6,000
2 for potable water; \$155,280 for restroom rentals; \$338,830 for laundry/shower services; \$25,428
3 for waste disposal; \$216,000 for security services; \$76,000 for lighting and utilities; \$2,980 for
4 pest control; and \$9.55 per person each day for food. However, the actual costs for the 2023
5 calendar year ended up being: \$422,490 for staffing; \$4,242,306 for contract services including
6 food, laundry, showers and site operation; and \$26,072 for utilities.

7 25. From January 1, 2022, through July 31, 2024, the City's actual expenditures for the
8 operations of the Pallet Shelter and Alternative Sites were: \$6,137,356 for contracted services;
9 \$1,105,958 for salaries; \$460,681 for utilities; \$120,571 for materials and supplies, and \$506,721
10 for other expenses.

11 26. Stated differently, the City's total General Fund expenditures since the effective date
12 of the Settlement Agreement in January 2022 through July 31, 2024 were **\$8,331,287**. Adding
13 the initial setup costs from paragraph 23 above to the operating costs paid through July 31, 2024,
14 yields a total in capital expenditures and operating costs amounting to **\$12,991,027** from all
15 funding sources.

16 27. In addition to the capital investment and operating costs of the Pallet Shelter, the
17 Torres Center and the Alternative Sites, the City spends at least \$6,000,000 per year for personnel
18 costs associated with pre- and post-enforcement compliance requirements. These costs include
19 massive costs associated with conducting homeless counts, individualized assessments, noticing,
20 equipment, labor, disposal costs for homeless encampment cleanup, property storage, and staff
21 time for key City departments such as the Police Department, Fire Department, Public Works,
22 City Administration, and the City Attorney's Office in connection with pre- and post-
23 enforcement compliance and dispute resolution proceedings that arise during the implementation
24 of the Settlement Agreement.

25 28. The substantial public funds diverted to compliance with the Settlement Agreement
26 come at a significant opportunity cost to the City, as those funds cannot be used for other vital
27 public services and programs, such as childcare facilities, permanent affordable housing, health
28 care, economic development, water, sewer, and broadband infrastructure, adding police and fire

1 personnel, the construction and repair of public streets and roads, restoration of Bidwell Park
2 that was devastated by the recent Park Fire, and other public works infrastructure. Presently, the
3 City has several important projects to which it would like to allocate more funding. For example,
4 many of the roads in the City require costly repairs, but cannot be fully remediated due to the
5 extent of the problem and the cost of such maintenance work. In fact, each of the following
6 capital improvement projects relate to improving vehicular traffic because related infrastructure
7 is in need of maintenance: 2024 Road Rehabilitation, 2024 Pavement Preservation, 2025 Road
8 Rehabilitation, 2025 Pavement Preservation, Bruce Road Reconstruction, Downtown Chico
9 Complete Streets, Eaton/SR-99 Roundabout (Southbound), Esplanade Corridor Safety and
10 Accessibility Improvements, Guynn Avenue Bridge Replacement, Hegan Lane Congestion
11 Relief, North Cedar Street Rehabilitation, North Esplanade Reconstruction, Notre Dame
12 Boulevard Bridge, P-18 Sewer Trunkline, Pomona Avenue Bridge Replacement, Salem Street
13 Bridge Replacement, and SR-99 Corridor Bikeway Facility (Phase 5).

14 29. In addition, the Chico Police Department is significantly below the national average
15 for police officers per 1,000 residents. The Police Department currently stands at 109 funded
16 Police Officer/Park Ranger positions, resulting in a ratio of 1.1 officer per 1,000 residents, which
17 is significantly less than the state and national averages of 2.3 officers per 1,000 residents. If the
18 funds currently being diverted to implement the Settlement Agreement were available, the City
19 would be able to increase the number of fully funded Police Officer/Park Ranger positions,
20 which would reduce response times, increase patrols, and improve the overall coverage
21 throughout the City. Additional funding would result in more resources for officer training,
22 improvements in equipment and technology, and improvement of facilities and law enforcement
23 infrastructure that would better serve the community.

24 30. The remaining homeless encampments throughout the City constitute serious threats
25 to public health and safety. Since January 2022, the Department of Public Works has removed
26 more than 2.64 million pounds of trash, countless syringes and cleaned up human waste from
27 homeless encampments located on public property. In the year 2022 alone, the City cleared and
28 disposed of 539 tons of trash and debris from homeless encampments located on public property.

1 In the year 2023, the City cleared and disposed of 612 tons of trash and debris from homeless
2 encampments located on public property. In 2024 through the date of this Declaration, the City
3 cleared and disposed of approximately 171 tons of trash and debris located on public property.

4 31. Homeless encampments are also associated with criminal behavior. On August 1,
5 2021, just under four months after the City was enjoined from enforcing its anti-camping
6 ordinances, one homeless person stabbed another homeless person in the heart at the Comanche
7 Creek Greenway, resulting in the victim's death. In January 2022, a homeless person attacked
8 an elderly man while he was taking out his trash, causing a broken hip and abrasions. On June
9 29, 2022, a homeless man was arrested for evading law enforcement personnel after shooting
10 into a vehicle. On July 26, 2022, two homeless persons robbed another homeless person at
11 gunpoint and were found to be in possession of fentanyl and heroin when caught. On August 9,
12 2022, a homeless man threatened customers in a store and broke a police officer's nose before
13 being arrested. On January 12, 2023, two homeless men started fighting outside City Place, one
14 being arrested for assault with a deadly weapon and the other for violation of probation and
15 public intoxication. On February 3, 2023, two occupants of the Torres Shelter engaged in a fight,
16 one being arrested for a parole violation stemming from his beating of a 91-year-old man to
17 death. On February 21, 2023, Chico police arrested a homeless man who had three outstanding
18 felony warrants, who fought with the officers and attempted to stab one officer. In March 2022,
19 a homeless man was arrested after being found in possession of a stolen phone and attempting
20 to flee. On April 13, 2022, firefighters had to extinguish a fire that caused millions of dollars in
21 damages to a railroad; the origin of the fire was determined to be a homeless person's warming
22 fire. On June 4, 2022, Chico police discovered a deceased homeless person in a tent in the Lindo
23 Channel waterway. In October 2022, police arrested an individual selling drugs at a homeless
24 encampment who was in possession of two grams of fentanyl and had three outstanding arrest
25 warrants from another county. On July 14, 2023, seven or eight pit bulls escaped from a homeless
26 encampment and attacked a man and a woman nearby, causing severe injuries to the man.

27 32. The criminal incidents originating in homeless encampments strain the Police
28 Department's resources and challenge its ability to effectively maintain public safety across the

1 entire community by diverting our City's limited police resources away from other public safety
2 needs, adversely impacting police response times and the overall effectiveness of Police
3 Department services.

4 33. On May 4, 2022, firefighters extinguished a vegetation fire cause by homeless
5 persons who had built a campfire. In June 2022, a homeless person lit a candle in their tent in
6 Teichert Ponds which resulted in the ignition of multiple propane tanks that burned the homeless
7 encampment. Another three homeless persons' tents were destroyed by fire on July 11, 2022. On
8 September 21, 2023, firefighters had to put out a fire that started in a homeless encampment in
9 southern Chico and approached Highway 99, a main arterial thoroughfare. On June 4, 2024, the
10 Fire Department extinguished a fire at a homeless encampment located under the Cohasset Road
11 Bridge over Sycamore Creek. The fire damaged the underside of the Cohasset Road Bridge,
12 costing the City at least \$166,490 to repair the fire damage. This amount does not include the
13 City's emergency personnel response costs, clean-up, and engineering time.

14 34. Fires originating at homeless encampments in the City place a strain on our Fire
15 Department's resources, diverting attention and Fire Department personnel away from other
16 critical public safety needs. Moreover, these incidents often require an immediate and substantial
17 response because they frequently occur in remote areas or areas surrounded by vegetation,
18 consuming time, equipment, and personnel that could be utilized for broader community
19 protection. This ongoing demand not only endangers those within the encampments but also
20 impacts the overall safety of the community, as resources are stretched thin and response times
21 are impaired.

22 35. Homeless encampments have also adversely impacted Downtown Chico. Despite the
23 Settlement Agreement, numerous homeless encampments have sprung up in Downtown Chico
24 and been cleared by the City's Outreach & Engagement Team, only for the encampments to
25 move to other nearby areas in Downtown Chico.

26 36. For example, on July 20, 2023, the City gave notice of its intention to clear the
27 homeless encampment located at the northeastern half of Depot Park in Downtown Chico. Depot
28 Park is a rectangular-shaped neighborhood park adjacent to the Chico Amtrak Station and Depot

1 Park Museum, the southwestern portion of which could not be cleared because the park was
2 being occupied by more homeless persons than the Settlement Agreement permits the City to
3 move. The City ended up clearing 24.155 tons of rubbish and trash from the northeastern half of
4 Depot Park. On August 14, 2023, the City noticed the southwestern portion of Depot Park for
5 cleanup and clearance. However, the City's efforts were significantly disrupted. During the
6 City's cleanup of the second half of Depot Park, many homeless persons moved their tents and
7 tarps to the sidewalk on the perimeter of the urban park at the instruction of their legal counsel.
8 This caused the homeless to be confused as to whether they could refuse offers of shelter and
9 stay on the sidewalk at the park or were required to leave the park altogether. Further, those
10 homeless persons jeopardized their own safety by remaining in an area where the City was
11 operating heavy equipment to move a large amount of garbage and debris. By the time the City
12 was able to clean the entirety of the park, it had cleared 28.77 tons of rubbish.

13 37. Recognizing that many homeless persons were simply moving to different public
14 properties rather than accept the City's offers of available shelter, the City began recording the
15 movements of homeless persons in subsequent cleanup operations. On November 20, 2023, the
16 City noticed a cleanup operation for a section of the bike path between East Avenue and Burnap
17 Avenue. Expecting that many of those homeless individuals would ignore efforts to conduct the
18 individualized assessments required by the Settlement Agreement and offers of shelter, and
19 would instead move to a northern section of the same bike path, the City video recorded the fact
20 that no individuals were camping along the northern section on December 4, 2023, prior to the
21 conclusion of that cleanup. By the end of the operation, the City had cleared 5.92 tons of rubbish
22 and debris. Thereafter, the City recorded whether any individuals remained along the bike path
23 and found that at least six homeless persons from the southern section of bike path had simply
24 moved their encampment to the northern section of bike path between Burnap Avenue and Eaton
25 Road, necessitating an additional cleanup operation despite the fact that all six individuals had
26 already had the opportunity to be assessed and offered shelter, but had refused to participate.

27 38. Each time the City needs to address public health and safety issues such as attempting
28 to provide for those who avoid the benefits of shelter or relocate persons away from fire-prone

1 areas, it is currently required to follow the procedures in the Settlement Agreement necessitating
2 the City wait seventeen (17) days before sheltering individuals and cleaning the public property
3 they were at. Further, Plaintiffs' counsel may object to a cleanup operation within the first seven
4 (7) days of receiving notice of such action, which progresses to a further seven-day (7-day) notice
5 to homeless persons at an area noticed for clearing, followed by a seventy-two-hour (72-hour)
6 notice to the same homeless persons. For example, Plaintiffs' counsel objected in July 2022 that
7 the City should not be permitted to proceed with a cleanup operation at Comanche Creek, a
8 greenway that was then-occupied by approximately one hundred and seven (107) homeless
9 persons immediately adjacent to propane company Coast Gas, on the basis that homeless persons
10 should be permitted to choose which shelter to enter despite that the Settlement Agreement
11 contains no such provision. Moreover, residing at any shelter away from a propane business is
12 likely safer than living outside and creating campfires next to such a flammable substance.

13 39. In August 2022, Plaintiffs' counsel also objected to the City's cleanup operation at
14 Little Chico Creek, arguing that the creek should not constitute one "public property" because it
15 ran through a public park where the concentration of homeless persons was higher than
16 elsewhere along the creek. Despite that the City has never run out of shelter space during a
17 cleanup operation, the City's efforts along Little Chico Creek were broken into multiple
18 operations over the course of several months. Plaintiffs' counsel next objected to the City taking
19 any action unless it were required to complete the interactive process associated with any
20 reasonable accommodation request a homeless person might make *before ever entering the*
21 *shelter the homeless person might want to complain about*; ultimately, the City was not required
22 to resolve all such requests before a homeless person entered shelter.

23 40. On November 30, 2022, the City notified Plaintiffs' counsel that it would be
24 conducting a cleanup operation in the waterway known as Lindo Channel and requested
25 expedited enforcement due to forecasted rain that could threaten the welfare of the homeless
26 persons living in the channel. Plaintiffs' counsel refused to agree to an immediate operation
27 unless the City offered shelter without being able to clear the location despite the fact that the
28 City counted nineteen homeless individuals in Lindo Channel and there were thirty-seven (37)

1 open Pallet Shelter units and twenty-five (25) available beds at the Torres Shelter.

2 41. In January 2023, Plaintiffs' counsel objected to the City's clearing of the waterway
3 known as Teichert Ponds on the basis that the City might not have enough shelter for all homeless
4 persons at that location. However, the City had counted thirty-four (34) people living in the area,
5 twenty-nine (29) open Pallet Shelter units, and twenty-two (22) beds available at the Torres
6 Shelter. The City needed to clear Teichert Ponds at that time because of heavy rainfall
7 threatening the safety of the very homeless persons living there, yet this cleanup operation was
8 divided into two efforts. Unfortunately, the above objections unreasonably and significantly
9 delayed the City's efforts to house homeless persons and clean public properties.

10 42. My office keeps a daily count of the available shelter beds in the City; the figures are
11 published each day on the City's website at [https://chico.ca.us/City-Services/Housing--](https://chico.ca.us/City-Services/Housing--Homelessness/Shelter-Bed-Availability/index.html)
12 [Homelessness/Shelter-Bed-Availability/index.html](https://chico.ca.us/City-Services/Housing--Homelessness/Shelter-Bed-Availability/index.html), along with the phone number and address
13 of each shelter location.

14 43. As of today's date, August 30, 2024, the following shelter spaces are available and
15 unoccupied in the City of Chico:

- 16 • **Genesis (Pallet Shelter)**, located at 2280 Dr Martin Luther King Jr Pkwy: **27**
17 **pallet shelters available;**
- 18 • **Torres Shelter**, located at 101 Silver Dollar Way: **27 open beds;**
- 19 • **Jesus Center**, located at 2255 Fair Street: **Women's shelter—1 open bed;**
20 **Men's shelter—1 open bed;**
- 21 • **Jesus Center Renewal Center South**, 2218 Fair Street: **1 open bed for Seniors**

22 Thus, today there are 57 available and unoccupied shelter beds in the City.

23 44. According to the City's records, there has never been a single day since the Pallet
24 Shelter opened in April 2022 when all of the available shelter beds operated by or in conjunction
25 with the City were fully occupied.

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

3 Executed on this 30th day of August 2024, at Chico, California.

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5 Mark Sorensen

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DECLARATION OF ERIK GUSTAFSON

DECLARATION OF ERIK GUSTAFSON

I, Erik Gustafson, declare as follows:

1. I am over the age of 18 years. The facts stated herein are personally known to me and, if called as a witness, I could and would testify competently to the truth of those facts based on my personal knowledge.

2. I am the Director of Public Works – Operations & Maintenance Department and I have served in that capacity for 9 years overseeing critical public works divisions within the City of Chico such as the Wastewater Treatment Facility, Right-of-Way & Street Cleaning Maintenance, Parks & Open Spaces, Street Trees & Public Plantings, Traffic Safety, Underground, Fleet Services, Building & Facilities Maintenance, Airport, and Outreach and Engagement / Encampment Clean-Up (“O&E Team”).

3. I am responsible for overseeing the cleanup and maintenance of public spaces, including areas where homeless encampments have been set up. I have been in this position since 2015 and have direct oversight of staff involved in these cleanup efforts.

4. The Right-of-Way & Street Cleaning Maintenance Division is responsible for maintaining City streets, alleys, shoulders, storm drains, curb/gutters, and sidewalks and is further responsible for street sweeping, removing roadway hazards and debris, abating weeds in the City rights-of-ways, maintaining bike paths, and maintaining storm water collection systems.

5. The Parks & Open Spaces Division is responsible for operating and maintaining Bidwell Park (Sycamore Pool, Cedar Grove, One Mile and Five Mile Recreation Areas, and Middle and Upper Park), Depot Park, Lindo Channel, Teichert Ponds, greenways and preserves, which includes a total of approximately 6,400 acres.

6. The Building and Facilities Maintenance Division is responsible for operating and maintaining over 33 municipal buildings and facilities containing well over 400,000 square feet of usable indoor space, including landscaping and public parking structures. Facilities include the Municipal Services Center, Old Municipal Building, City Council Chambers, Fire Station Nos. 1 through 5, Fire Training Center, Police facilities, Animal Shelter, historic Chico Depot, Stansbury House, City Plaza, and Children’s Playground.

1 7. The Outreach & Engagement and Encampment Cleanup Division (O&E) is
2 responsible for engaging, assessing and assisting in relocating people from encampments on City
3 property to appropriate shelter. This Division is also responsible for cleaning up debris left
4 behind from relocations and is a supporting resource to the Parks Division and other Operations
5 and Maintenance Divisions.

6 8. In the year 2022, the City cleared and disposed of approximately 539 tons of trash
7 and debris from homeless encampments located on public property.

8 9. In the year 2023, the City cleared and disposed of approximately 612 tons of trash and
9 debris from homeless encampments located on public property.

10 10. In 2024 through the date of this Declaration, the City cleared and disposed of
11 approximately 171 tons of trash and debris located on public property.

12 11. Cleaning up large homeless encampments can be a complex and challenging process,
13 often revealing a wide range of items and materials such as the following:

14 a) discarded or abandoned personal belongings such as sleeping bags, tents, tarps,
15 makeshift shelters, mattresses, and pillows;

16 b) household items;

17 c) construction materials;

18 d) trash and debris;

19 e) human waste consisting of improvised toilets, buckets, or areas used to collect or
20 deposit human waste;

21 f) drug paraphernalia consisting of hypodermic needles, syringes, pipes, bongs,
22 torches, jet lighters, and other items associated with drug use;

23 g) hazardous materials consisting of containers with unknown chemicals, possibly
24 used for cooking drugs or other hazardous activities; and

25 h) stolen property including bicycles, shopping carts, and tools.

26 12. Homeless encampments have significant environmental impacts endangering the
27 health of the homeless individuals residing at homeless encampments but also the public
28 generally. For example, human waste, chemicals, and drug paraphernalia are a threat to the

1 public health, safety, and welfare. Homeless encampments cause considerable damage to
2 vegetation, trampling plants, cutting of trees, and cause other damage to the natural environment.
3 Moreover, homeless encampments pollute water sources such as nearby creeks, rivers, or lakes
4 contaminated with trash, debris, chemicals, and human waste.

5 13. In 2022, the City recovered 50 stolen shopping carts from homeless encampments.
6 In 2023, the City recovered 315 shopping carts from homeless encampments. In 2024 through
7 the date of this Declaration, the City has recovered 69 stolen shopping carts from homeless
8 encampments.

9 14. Cleaning up these encampments requires a coordinated effort by the O&E Team and
10 the expenditure of substantial City resources and staff time. Each cleanup operation involves
11 extensive planning and execution, often spanning several days or weeks, depending on the size
12 and scope of the encampment. Before any cleanup operation begins, staff must conduct an initial
13 assessment of the encampment. This includes identifying the number of individuals residing in
14 the encampment, the area covered, the volume of waste, and any potential health and safety
15 hazards. The actual cleanup involves removing personal belongings, trash, hazardous materials,
16 and waste. Specialized equipment, including trucks, dumpsters, and protective gear, is required.

17 15. In 2022, the City utilized approximately 3,134.5 hours of City worker time to clean-
18 up homeless encampments in the City. In 2023, the City utilized approximately 3,376 hours of
19 City worker hours on the cleanup of homeless encampments in the City. In 2024 through the
20 date of this Declaration, the City has utilized approximately 1,660 hours of City worker hours
21 on the cleanup of homeless encampments in the City.

22 16. After an encampment has been cleared, the personal property that is not, or cannot
23 be, taken away by the occupants of the encampment, as well as any personal property that is not
24 claimed by any of the current occupants, is handled as required under the terms of the Settlement
25 Agreement and consistent with Ordinance No. 2567, which was adopted by the City Council on
26 September 7, 2021, amending the Chico Municipal Code to add section 9.20.055 as follows:

27 **9.20.055 Property removal.**
28

1 City employees as designated by the City Manager may remove personal
2 property unlawfully stored or found on public property as outlined in Section
3 9.20.050 as follows:

4 A. Written notice shall be posted at the location whereupon any personal
5 property, including camp facilities and camp paraphernalia, is unlawfully
6 stored. Such written notice shall advise of the violation of Section 9.20.050
7 and provide warning that property not removed within twenty-four (24) hours
8 shall be deemed abandoned and subject to removal and possible destruction.

9 B. City Personnel may remove any personal property unlawfully stored or
10 remaining on public property after the posting period has expired. City
11 personnel shall offer the person claiming ownership of the personal property,
12 if any, a shelter space, as defined by Section 9.20.020.

13 C. Personal property which poses an imminent threat to public health or
14 safety, is contraband or which is evidence of a crime shall not be subject to
15 the above notice requirements and shall be removed immediately by City
16 personnel or police and stored or destroyed according to the provisions
17 below.

18 D. At the time of removal of unlawfully stored or remaining personal property,
19 City personnel shall conspicuously post and date a notice either at the exact
20 location from which the personal property was removed or at another nearby
21 location giving the following information:

- 22 1. A general description of the personal property removed;
- 23 2. The date and approximate time the personal property was removed;
- 24 3. A statement that the personal property has been stored in violation of
25 Section 9.20.050;
- 26 4. The address where removed personal property will be located,
27 including a telephone number and the internet website of the city through
28 which a person may receive information as to impounded personal
property;
5. A statement that impounded personal property may be discarded if not
claimed within ninety days after impoundment.

E. Following removal of unlawfully stored or remaining personal property, City
personnel shall do the following:

1. Maintain an inventory identifying the personal property, where the
personal property is approximately located, and a reasonable estimate of
value for such personal property;
2. Place the removed personal property in containers labeled in a manner
facilitating identification by City personnel and owner and which
reasonably protect such property from damage and theft;
3. Store removed personal property in an area designated by City for a
period of 90 days.

1 F. Personal property stored by the City which is claimed within ninety (90)
2 calendar days from removal shall be released to the person claiming ownership
3 provided that person identifies the property and the approximate location where
4 the property was left.

5 G. Personal property which remains unclaimed after ninety (90) calendar days is
6 deemed intentionally abandoned and may be summarily abated and destroyed.

7 17. The substantial staff time required for homeless encampment cleanups significantly
8 impacts the City's ability to perform other essential maintenance and operations tasks. The
9 diversion of staff and resources towards these cleanups often results in delays in routine
10 maintenance, reduced service levels in other areas, and increased overtime costs.
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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on this 30th day of August 2024, at Reno, Nevada.

4 Erik Gustafson
Erik Gustafson (Aug 30, 2024 12:38 PDT)
5 Erik Gustafson
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DECLARATION OF STEVE STANDRIDGE

DECLARATION OF STEVE STANDRIDGE

I, Steve Standridge, declare as follows:

1. I am over the age of 18 years. The facts stated herein are personally known to me and, if called as a witness, I could and would testify competently to the truth of those facts based on my personal knowledge.

2. I am the Fire Chief of the City of Chico Fire Department ("Fire Department"). I have held this position since 2018 and have been Fire Department for 6 years. As Fire Chief, I am responsible for overseeing all fire prevention, fire suppression, and emergency response activities within the City of Chico. My duties include ensuring the safety of the public and the effective functioning of the Fire Department.

3. Based on my experience and observations, homeless encampments pose a high risk of fire to the City's greenways, parks, open spaces, bridges, electrical systems infrastructure, and residential, commercial and other structures for a variety of reasons. First, individuals living in homeless encampments frequently use open fires for cooking, heating, and light. These fires are often poorly monitored or unattended to, properly contained, incompletely extinguished, or located near flammable materials (including volatile vegetation, wooden bridges, and other combustible (or vulnerable) structures), which has caused numerous uncontrolled and significant fires. Second, residents at encampments tap into electrical wiring using makeshift connections and overloaded power strips that have led to electrical fires. Third, encampments often have a significant accumulation of flammable materials, including tents, plastic tarps, blankets, personal belongings, trash and general debris, which can rapidly fuel and intensify fires in and around encampments. Fourth, the crowded and cluttered nature of encampments, along with their often remote or hidden locations, frequently impedes Fire Department access, making it difficult to respond quickly to emergencies and conduct firefighting operations effectively and safely.

4. Fires in homeless encampments pose a significant risk to the individuals living there. The lack of proper fire safety measures, smoke alarms, adequate access for fire suppression, personnel, equipment, and apparatus, which makes it challenging to alert residents and control fires before they spread. Encampment fires in Chico have often spread to nearby structures,

1 vegetation, and other areas, putting the surrounding community at serious risk.

2 5. An area of particular concern for the City is the Lindo Channel. Lindo Channel is a
3 seasonal waterway that serves as a flood control channel. It runs through built out and urbanized
4 areas of the City and also carries water during periods of heavy rain. However, during the
5 summer and other dry periods, Lindo Channel has a considerable amount of volatile vegetation
6 within the channel and along its banks. These conditions make Lindo Channel a popular location
7 for homeless encampments because of its close proximity to commercial centers. The
8 encampments located in Lindo Channel are largely hidden from public view, but are surrounded
9 by thick and receptive fuel sources that make it difficult for Fire Department personnel to access
10 when responding to fires in the Channel. Moreover, Lindo Channel is surrounded by homes and
11 dried vegetation. Homeless encampments in Lindo Channel pose a significant fire threat to the
12 surrounding residential and commercial area. There have been several fires that originated in
13 Lindo Channel homeless encampments within the past 6 years.

14 6. On June 2, 2022, at or near 1505 Springfield Drive, Chico near Teichert Ponds, the
15 Fire Department responded to a vegetation fire with explosions heard that originated in a large
16 homeless encampment. The fire was suppressed and held from spreading to nearby residential
17 and commercial properties.

18 7. On July 12, 2022, at or about 898 Chestnut St., Chico, the Fire Department
19 responded to a homeless encampment fire that involved multiple aerosol can explosions, a
20 number of propane tanks, large piles of abandoned plastic, cardboard, and paper material and
21 general debris.

22 8. On January 5, 2024, the Fire Department responded to a fire at Cohasset Road and
23 East Eaton Road, Chico, that originated in a transient encampment. Fire Department personnel
24 extinguished the fire and found a male transient who had sustained 3rd degree burns to his back,
25 buttocks, legs, and arms who was then transported to the hospital.

1 9. On January 9, 2024, the Fire Department responded to a fire at Cohasset Road and
2 Mangrove Avenue, Chico, which was caused by a transient cooking in a shopping cart under a
3 bridge.

4 10. On April 29, 2024, the Fire Department responded to a fire at a commercial building
5 located at 650 Rio Lindo Avenue, Chico. The Fire Department's investigation determined that
6 the fire was caused by a faulty 110 volt electrical plug illegally added to a 60-amp breaker panel
7 located on the exterior of the building in an attempt to steal electricity. This Fire Department's
8 investigation concluded that the fire was probably caused by transients living in a nearby
9 encampment.

10 11. On May 27, 2024, at 650 Mangrove Avenue, Chico, the Fire Department responded
11 to a fire at a commercial structure. It was determined that a transient from a nearby encampment
12 was actively igniting flammable materials and throwing them into an opening in the exterior of
13 the commercial building created for roof drainage downspouts.

14 12. On June 4, 2024, the Fire Department extinguished a fire at a homeless encampment
15 located under the Cohasset Road Bridge over the Sycamore Creek. The fire originated as a
16 rubbish fire at a transient camp located under the Cohasset Road Bridge that caused significant
17 damage to the underside of the bridge.

18 13. In 2022, the Fire Department identified 39 (confirmed) and 6 (suspected)
19 homeless/transient-caused fires. In 2023, the Fire Department identified 17 (confirmed) and 10
20 (suspected) homeless/transient-caused fires. To date in 2024, the Fire Department has identified
21 21 (confirmed) and 7 (suspected) homeless/transient-caused fires. These fires, and the continuing
22 fire hazards and safety risks associated with homeless encampments in the City, pose a serious
23 threat to both the encampment residents, the broader community, municipal infrastructure, and
24 the City's parks and green spaces.

25 14. Responding to fires and medical emergencies in homeless encampments places a
26 substantial burden on the Fire Department and other emergency services. These recurring
27 encampment fires divert emergency resources from other critical incidents in the City. Fire
28 trucks, equipment, and emergency personnel that are required to respond to encampment fires

1 are often diverted from attending to traffic accidents, medical emergencies, structure fires and
2 other emergencies that occur in the City.

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

5 Executed on this 30th day of August 2024, at Chico, California.

6 
7 Steve Standridge

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DECLARATION OF PAUL RATTO

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1. I am over the age of 18 years. The facts stated herein are personally known to me and, if called as a witness, I could and would testify competently to the truth of those facts based on my personal knowledge.

3. Throughout the time referenced in this Declaration, I have supervised the Chico Police Department Target Team, which is the primary Police Department unit tasked with acting as the liaison between the Police Department and the homeless population in the City (“Target Team”). In that role, I have been responsible for the operations, management and oversight of the Target Team and the cleanup of homeless encampments within the City.

4. Target Team officers assist the City’s Outreach and Engagement Team, which consists of local non-profit social service workers and homeless shelter staff, along with the City’s Public Works staff (“O&E Team”). The O&E Team is trained to conduct individual assessments, connect homeless individuals with appropriate social services and shelters, and cleanup homeless encampments within the City.

5. The Target Team also provides the pre-enforcement notices required under the terms of the *Warren v. Chico* Settlement Agreement (“Settlement Agreement”) and provides security for the O&E Team while it performs individualized assessments and homeless encampment cleanup.

6. Since the Settlement Agreement became effective, the City has completed no fewer than 28 cleanup actions of homeless encampments located on public property, including those in parks, bike paths, underpasses, and other City-owned properties. These were carried out under my supervision and with my participation.

7. Based on my experience and observations, homeless encampments and those who reside in them are exposed to higher incidences of criminal activity than the general population of the City as a whole. This includes, but is not limited to, drug use and distribution (including

1 much higher levels of contaminated needles, syringes, torches and jet lighters [for heating
2 methamphetamine] and the like), assault, battery, rape, robbery, vandalism, and other forms of
3 violence. The presence of these encampments correlates directly with an increase in crime in
4 surrounding residential neighborhoods and commercial areas.

5 8. In October 2022, police arrested an individual selling drugs at a homeless encampment
6 who was in possession of two grams of fentanyl and had three outstanding arrest warrants in
7 another county. These encounters sometimes escalate into confrontational situations, posing a
8 significant risk to the safety of both law enforcement officers and the individuals involved.

9 9. Based on my experience and observations, the high concentration of individuals living
10 in close quarters within these encampments also leads to frequent disputes and conflicts among
11 them. These disputes often escalate into violent altercations, resulting in calls for service that
12 require immediate police intervention.

13 10. Despite our efforts, the cleanup of homeless encampments has become akin to
14 playing a game of "whack-a-mole." Once the City clears one encampment, the individuals who
15 are displaced and unwilling to accept the offers of public shelter offered by the Target Team
16 often move to another nearby location just outside the immediate enforcement area, which can
17 be as little as several feet away, setting up a new encampment within hours. This cycle repeats
18 itself over and over, without any lasting resolution. Because the City's remedies are limited to
19 those individuals who remain in the noticed enforcement area, once an individual moves just a
20 few feet outside the boundaries of the enforcement area, the Settlement Agreement requires the
21 City to restart the enforcement process from the beginning, thus frustrating the City's efforts to
22 clear public property of homeless encampments.

23 11. As an example of the repetitive, cyclical nature of the current situation, the following
24 locations have been cleared by the City multiple times since the Settlement Agreement became
25 effective:

- 26 a) Little Chico Creek has been cleared of homeless encampments at least four (4)
27 times, including on July 18, 2022, November 29, 2022, October 26, 2023, and
28 again very recently on July 25, 2024;

- 1 b) Bidwell Park has been cleared of homeless encampments at least four (4) times,
2 on March 20, 2023, February 23, 2024, May 23, 2024, and then again on July 25,
3 2024;
- 4 c) The bike path north of East 20th Street leading to the Teichert Ponds has been
5 cleared at least twice, first on January 2, 2024 and again a little over a month later,
6 on February 23, 2024;
- 7 d) The Triangle Property near Pine and Cypress Streets has been cleared at least
8 twice, on November 29, 2022 and June 24, 2024;
- 9 e) City Plaza has been cleared at least twice, on May 23, 2022 and April 8, 2024;
- 10 f) The area commonly known as Lost Park has been cleared at least twice, on May
11 23, 2022 and May 2, 2024;
- 12 g) The area commonly known as Annie's Glen has been cleared at least twice, on
13 May 23, 2022 and July 25, 2024;
- 14 h) The area along Martin Luther King Jr. Parkway near 20th Street has been cleared
15 at least twice, on February 16, 2023 and April 4, 2024;
- 16 i) The Comanche Creek Greenway has been cleared at least twice, on July 18, 2022
17 and again on May 28, 2024; and
- 18 j) The Humboldt Neighborhood near Windchime Park has been cleared at least
19 twice, once on October 26, 2022 and then again a month later, on November 29,
20 2022.

21 12. Under the Settlement Agreement, the City is limited to clearing only three (3)
22 enforcement areas at once, no matter how many encampments may exist on public property at
23 any given time. In my experience, there are or have usually been more than three homeless
24 encampments on public property in various locations throughout the City simultaneously.
25 Therefore, the restriction contained in the Settlement Agreement requires the Target Team
26 officers to coordinate with the members of the City's Outreach and Engagement Team of local
27 non-profit social service workers and homeless shelter staff, as well as the City's Public Works
28 staff, to determine which three of the several simultaneously existing homeless encampments

1 are the most hazardous and/or filthy and therefore most urgently in need of being cleared. This
2 triage process requires discussion and agreement between numerous individuals representing
3 different agencies, followed by the coordination of schedules and resources.

4 13. After that has been accomplished, the City must engage in a seventeen (17) day
5 process of counting, noticing, evaluating, and assessing each and every homeless individual then
6 residing in each of the three encampments selected for cleanup. That process consists of:

- 7 • counting the number of homeless individuals residing in the enforcement area,
- 8 • confirming there are sufficient available and unoccupied shelter beds at the Pallott
9 Shelter and Torres Shelter as of that date,
- 10 • providing notice to each and every homeless individual then residing in the
11 enforcement area,
- 12 • providing notice to Plaintiffs' counsel at Legal Services of Northern California,
- 13 • conducting an individualized assessment evaluation of each and every homeless
14 individual residing in the enforcement area to determine if appropriate shelter
15 space is available and "appropriate" for each person; and
- 16 • offering each homeless person shelter in a shelter space appropriate for each
17 individual homeless person.

18 The seventeen (17) day enforcement process can be delayed if the City receives objections from
19 Plaintiffs' counsel at Legal Services of Northern California. In fact, most enforcement actions
20 are delayed beyond the 17-day period due to a number of factors, including objections by Legal
21 Services of Northern California, limitations on City staff, or the lack of equipment needed to
22 clean up the encampment.

23 14. Of very great significance is the fact that, even after a particular encampment has
24 been cleared, the Settlement Agreement provides no prohibition or sanction for those who refuse
25 the shelter space offered to them and then move right back to the public space that was just
26 cleared or immediately adjacent to that space, and re-establish the encampment that was just
27 cleared.

28 15. This repetitive cycle of cleanup and re-establishment of encampments has placed,

1 and continues to place, a substantial burden on the Chico Police Department in terms of the
2 ineffectual utilization of personnel, equipment, and financial resources. It not only strains our
3 resources but also creates anger and frustration among residents and businesses who are
4 impacted by the presence of these encampments, which render those areas of public property
5 unusable by other citizens of the City.

6 16. Since the Settlement Agreement went into effect, the number of unsheltered
7 individuals who refuse to accept offers of available shelter at the Pallet Shelter or the Torres
8 Shelter has increased significantly. The number of individuals who reject offers of available
9 social services has also increased significantly. The reasons cited for refusal to accept shelter
10 and services include rules and regulations regarding conduct and behavior, restrictions on drug
11 and alcohol use, and limitations on pet ownership.

12 17. The City's inability to permanently clear homeless encampments from public spaces
13 has led to serious, ongoing public safety and health problems. These problems include increased
14 calls and demands for police services related to disturbances in the encampments, violent
15 criminal activity, illegal drug use and distribution, fires and fire hazards, damage and destruction
16 of public property and parklands, obstructions of public bike paths, park trails, walkways and
17 sidewalks, the accumulation of garbage, public defecation and urination, and other unsafe and/or
18 illegal activities in and around the encampments.

19 18. The substantial staff time required for encampment cleanups significantly impacts
20 the City's law enforcement resources by diverting staff and equipment toward these cleanups,
21 thereby reducing service levels in other areas of the City and resulting in increased overtime
22 costs.

23 19. Based on my experience, a more comprehensive and sustainable approach is
24 necessary to address the problems caused by homeless encampments populated by individuals
25 who refuse the currently available shelter beds and other social services that we on the Target
26 Team offer them. Otherwise, the City will remain locked into an unending game of "whack-a-
27 mole," with no further progress toward a long-term solution. Now that the City has expended
28 very substantial financial and human resources to provide additional available shelter, the City

1 should be permitted to enforce its laws prohibiting illegal camping in public spaces. Otherwise,
2 the health and safety of the entire community, including the City's homeless population, will
3 continue to be endangered by illegal, ungoverned encampments.

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

3 Executed on this 30th day of August 2024, at Chico, California.

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5 Paul Ratto (Paul Ratto 11:54 PDT)

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DECLARATION OF AMBER ABNEY-BASS

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1. I am over the age of 18 years. The facts stated herein are personally known to me and, if called as a witness, I could and would testify competently to the truth of those facts based on my personal knowledge.

3. The Jesus Center is the largest operator of emergency shelter beds in the City of Chico, and also has a robust transitional housing program for participants to obtain housing after their time in shelter has ended.

5. Genesis is located on property owned by the City of Chico and includes perimeter fencing, handwashing stations, toilets, shade tents, waste receptacles, water service, a designated smoking area, secure bike storage, two pet runs, site lighting, and electrical service for climate controls in the 177 individual shelters. Other services include meals, showers, laundry, voluntary case management and benefits navigation through the Butte County Department of Employment and Social Services, and voluntary mental health services and crisis intervention through the Butte County Department of Behavioral Health. Weekly visits from an Ampla Health mobile unit and veterinary services are also provided. Recent infrastructure improvements include two additional sanitary (restroom/shower) units and asphalt paving of the driveway entrance.

1 6. The Jesus Center and the City staff have developed and maintained an Outreach &
2 Engagement team ("O&E Team") that connects with homeless individuals on a personal level
3 and conducts an individualized assessment to determine an appropriate shelter offering based on
4 the responses provided and the observations of the O&E Team. The O&E Team consists of Jesus
5 Center staff trained to conduct individualized assessments and placement of homeless
6 individuals in appropriate shelters and social services, as well as City public works staff who
7 clean up unsafe conditions threatening the public health and safety. The O&E Team is
8 accompanied by law enforcement personnel during each of these assessments in accordance with
9 the Settlement Agreement that allows their presence in the general location while remaining far
10 enough away to ensure privacy.

11 7. The O&E Team staff members who visit the homeless encampments and conduct the
12 individualized interviews report directly to me after each visit and provide detailed reports to me
13 on the results of each interview they conducted. I have personally participated in many of these
14 visits and individualized assessments.

15 8. As of the date of this Declaration, the O&E Team has conducted 603 individual
16 assessments of homeless persons with the goal of offering adequate emergency shelter as an
17 alternative to their current living conditions. Eligible shelter referrals could include the Torres
18 Community Shelter, Genesis (aka Pallet Shelter), or the Alternative Site.

19 9. The Jesus Center also operates the Sabbath House located at 2255 Fair Street, Chico.
20 Sabbath House is owned and operated by the Jesus Center and has served the City of Chico for
21 nearly 43 years. The Sabbath House is the only recovery focused, privately funded emergency
22 shelter program in Chico, with a capacity of 34 men and 24 women and is open twenty-four
23 hours a day, seven days a week.

24 10. The Sabbath House programs and services are designed to serve adults experiencing
25 homelessness. Those seeking shelter are able to access the Jesus Center by self-referral, referral
26 by law enforcement or clergy, or through local partnerships or community members. In addition
27 to shelter, the program provides three daily meals, case management, daily life skills classes,
28 vocational training opportunities, digital literacy classes, and on-site laundry and shower.

1 services. Through case management services, participants are able to receive resources, support
2 or referrals to obtain housing, advance educational goals, or secure employment.

3 11. Additional programs include a Medical Respite program in partnership with Enloe
4 Medical Center, and on-site counseling services provided by The Growing place, a local non-
5 profit organization.

6 12. Religious adherence, practice, or participation are not required in order to receive
7 any of the services the Sabbath House offers. All non-secular activities are truly optional for
8 shelter participants. Due to its proximity to local schools, the Sabbath House is unable to shelter
9 registered sex offenders. Out of an abundance of caution, arsonists are also excluded from
10 obtaining services at the Sabbath House.

11 13. The Jesus Center also operates the Renewal Center, which is another shelter in the
12 City of Chico located directly across the street from the Jesus Center at 2218 Fair Street, Chico.
13 The Renewal Center is an \$18 million non-congregate emergency facility that opened in
14 September 2023. The Renewal Center is a trauma-informed, low-barrier emergency shelter that
15 is generally divided into a northern section for families and a southern section designed for
16 seniors with a total of 100 shelter beds. In the southern section, the Renewal Center contains 15
17 private rooms with two beds and includes individual locking wardrobes to secure personal
18 belongings and a table with two chairs. Of those 15 rooms, 12 are for seniors, 3 are for a
19 recuperative care program in coordination with Enloe Health. This program provides shelter for
20 those who enter Enloe Health experiencing homelessness in our community and provides an
21 opportunity for safe healing and medication management. In the northern section, the Renewal
22 Center has 14 shelter units for families which contain up to five beds in each unit. Each family
23 unit contains its own in-unit kitchen, dining space and bathroom. The shelter has a large, shared
24 community room with lounge chairs, private lounge spaces with access to computers, a
25 television, two classrooms and access to an industrial kitchen area where cooking classes are
26 held. Additionally, the Renewal Center contains a large medical clinic operated by Ampla Health
27 with 10 examination rooms and an intake area. Through a partnership with First5 of Butte
28 County, the Renewal Center also hosts a Family Resource Center that focuses on early literacy,

1 offers parenting resources and administers a Positive Parenting Program. Three meals a day are
2 offered to Seniors in the shelter, while the family units have the facilities for guests to prepare
3 their own meals. At intake, a local church provides a large grocery kit that includes fresh produce,
4 meats, dairy and an abundance of other food items to help families settle in and provide for their
5 children until additional resources can be secured. Supportive services provided include case
6 management to guests in an effort to help them obtain permanent employment and housing, and
7 secure necessary benefits.

8 14. In February 2024, the Board of Directors of the Jesus Center voted unanimously to
9 support the City by coordinating with Jesus Center staff to place homeless persons at the Renewal
10 Center if agreed upon by Plaintiffs' counsel, Legal Services of Northern California.

11 15. Despite the efforts of the O&E Team and the amenities offered at Genesis and the
12 Torres Shelter, many homeless individuals continue to decline available shelter options or simply
13 refuse to participate in the assessment process altogether. After more than two years of efforts,
14 it is estimated that as many as half of the homeless persons encountered at any given location
15 designated for clearing have refused offers to enter any of the shelters in Chico.

16 16. Obtaining an accurate figure of the number of refusals is difficult because homeless
17 persons refuse shelter in various ways. Some will cooperate with the O&E Team who are
18 responsible for conducting assessments to determine the appropriate shelter for each homeless
19 individual, but then fail to enter the shelter to which that individual was referred by the O&E
20 Team. Other homeless people will affirmatively inform the O&E Team that they will not enter
21 any shelter, whether they engage in an assessment or not. Other homeless persons leave the
22 planned enforcement area as soon as they see O&E Team personnel entering the encampment
23 area to conduct the assessments for shelter that are required under the Settlement Agreement.

24 17. The O&E Team currently encounters a much higher percentage of unsheltered
25 individuals who were previously assessed and referred to a shelter than was the case before the
26 Settlement Agreement was implemented. For example, when the O&E Team first began
27 counting the number of previously assessed persons it encountered in an encampment designated
28 to be cleared in February 2023, it counted four (4) out of thirty-six (36) people as having been

1 previously assessed and referred to appropriate shelter. However, prior to the most recent
2 cleanup operation noticed on August 13, 2024 at Teichert Ponds, Big Chico Creek, and Bidwell
3 Park, the O&E Team counted eighteen (18) out of twenty-four (24) individuals—75% of the
4 people in the encampment—who had been previously assessed and referred to shelter. This is a
5 continuing trend that I have witnessed since the Settlement Agreement became effective.

6 18. Individuals who are the most receptive to being assessed and accepting shelter will
7 relocate from the homeless encampments while leaving behind those individuals who are the
8 least likely to accept shelter, or have left shelter voluntarily, or those who have been expelled
9 from a shelter due to behavioral problems.

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

12 Executed on this 30th day of August 2024, at Chico, California.

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14 Amber Abney-Bass
Amber Abney-Bass

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DECLARATION OF JOHN LAM

DECLARATION OF JOHN W. LAM

I, John Lam, declare as follows:

1. I am over the age of 18 years. The facts stated herein are personally known to me and, if called as a witness, I could and would testify competently to the truth of those facts based on my personal knowledge.

2. I am the City Attorney for the City of Chico (the “City”). I have held that position since October 17, 2023.

3. After the Supreme Court issued its decision in *City of Grants Pass v. Johnson*, 603 U.S. ____ (2024) (“*Grants Pass*”) on Friday, June 28, 2024, the City Council held a Special Closed Session Council Meeting on Tuesday, July 9, at which the *Warren v. City of Chico* Settlement Agreement (“Settlement Agreement”) was discussed.

4. On July 9, 2024, the City Council authorized me to communicate the City Council’s commitment to the terms set forth in Paragraph 8 of this Declaration and those contained in my July 15th letter to LSNC referred to in Paragraph 11 of this Declaration. As of the date of this Declaration, the City Council has not rescinded this authority or the City Council’s commitment thereto.

5. The next day, Wednesday, July 10, 2024, I contacted Plaintiffs’ counsel in the *Warren* case and asked for a telephone call to discuss the Settlement Agreement. I was told that Plaintiffs’ lead counsel, Cory Turner with Legal Services of Northern California (“LSNC”), was out of the office and would not be available until the following week.

6. On Monday, July 15, 2024 Mr. Turner and I conferred by Zoom. I informed him that, in view of the *Grants Pass* decision and the Supreme Court’s rejection of the Ninth Circuit’s decision in *Martin v. City of Boise*, 920 F. 3d 584 (2019) (“*Martin*”), the City was pausing its negotiations regarding the draft Implementation Agreement under the Settlement Agreement. I also informed Mr. Turner that the Settlement Agreement has been unworkable for the City in the same ways countless other cities in have experienced following the *Martin* decision, which have significantly constrained the City’s ability to timely address public health and safety issues on public property. Moreover, the Settlement Agreement’s underlying legal foundation is based on

1 *Martin*, which was resoundingly rejected by the Supreme Court in the *Grants Pass* decision.

2 7. I explained to Mr. Turner that, to more effectively protect the public's health, safety,
3 and peaceful enjoyment of adjoining private properties, the City must be able to employ a multi-
4 faceted approach in addressing the homelessness issue and be able to exercise reasonable
5 discretion to respond to these public health and safety issues. I further explained that the
6 Settlement Agreement's procedures prevent the City from responding quickly to protect those
7 living in the encampments and the greater community at large, while allowing homeless
8 encampments to unsafely relocate in nearby locations—a process that repeats over and over
9 without addressing the underlying issues.

10 8. For these reasons, the City proposed that the parties enter into a new agreement that
11 would supersede the Settlement Agreement with the following commitments by the City:

- 12 1. City agrees to continue funding and operating the Pallet Shelter (subject to
13 reasonable site rules) through at least the end of the Settlement Agreement term,
14 at which time the sitting City Council may determine (with public input) the
future of the Pallet Shelter.
- 15 2. City agrees to provide for one (1) alternate site at a location of the City's choosing
(subject to reasonable site rules) until at least the end of the 2024 calendar year.
- 16 3. All City pre-enforcement and enforcement of Anti-Camping Ordinances and
17 Regulations shall be consistent with local, state, and federal laws, including the
Grants Pass decision.

18 9. I explained that the terms of the City's proposed new agreement are consistent with
19 the City's desire for a multi-faceted approach to addressing homelessness by committing to
20 preserve the City-operated shelter sites, while eliminating the overly burdensome and
21 unworkable *Martin* restrictions. The Settlement Agreement's underlying legal foundation is
22 based on *Martin*, which was resoundingly rejected by the Supreme Court in the *Grants Pass*
23 decision.

24 10. I further informed Mr. Turner that if the parties cannot enter into a new settlement
25 agreement, the City would seek judicial relief pursuant to Rule 60 of the Federal Rules of Civil
26 Procedure.

27 11. I confirmed all of the foregoing discussion points in my July 15th letter to Mr. Turner,
28

1 a true and correct copy of which is attached as **Exhibit A**, which I sent to Mr. Turner shortly
2 after our Zoom conference of July 16, 2024.

3 12. On July 16, 2024, I received Mr. Turner's response, in which he rejected the City's
4 proposal and complained about not having sufficient time to consult with his clients. He stated
5 that he and his colleagues would "continue to take all reasonable action to communicate your
6 demands to our clients and then provide you with a response when we have been able to fully
7 assess it and discuss it with our clients." A true and correct copy of Mr. Turner's July 16 letter
8 is attached as **Exhibit B**.

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

11 Executed on this 30th day of August 2024, at Pasadena, California.

12
13 
14 John W. Lam

EXHIBIT A



ALVAREZ-GLASMAN & COLVIN

ATTORNEYS AT LAW

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City of Industry, CA 91746
Tel: 562.699.5500
Fax: 562.692.2244
www.agclawfirm.com

July 15, 2024

VIA EMAIL

Cory Turner
Special Assignment Attorney
LEGAL SERVICES OF NORTHERN CALIFORNIA
541 Normal Avenue
Chico, CA 95927
cturner@lsnc.net

Re: Warren, et al. v. City of Chico, et al. | USDC Case #: 2:21-cv-00640-MCE-DMC
Pause of Dispute Resolution Process Under Settlement Agreement and Post-*Grants Pass* Matters

Dear Mr. Turner:

This letter confirms the details of our telephone conversation this morning on July 15, 2024. Per our call, I informed Legal Services of Northern California (“LSNC”) that the City of Chico (“City”) is currently pausing its negotiations with respect to the draft Implementation Agreement under the *Warren v. Chico* Settlement Agreement (“Settlement Agreement”) in light of the *Johnson v. City of Grants Pass* (“*Grants Pass*”) decision. In addition, I also informed LSNC that the Settlement Agreement has been unworkable for the City in the same ways countless other cities in the Ninth Circuit have experienced following the *Boise v. Martin* decision and its progeny (“*Martin*”), which have significantly restrained the City’s ability to timely address public health and safety issues on public property. The Settlement Agreement’s underlying legal foundation is based on *Martin*, which was resoundingly rejected by the Supreme Court in the *Grants Pass* decision.

To more effectively protect the public’s health, safety, and peaceful enjoyment of adjoining private properties, the City must be able to employ a multi-faceted approach in addressing the homeless issue and be further able to exercise reasonable discretion to respond to these public health and safety issues. However, the Settlement Agreement’s procedures prevent the City from responding quickly to protect those living in the encampments and the greater community at large while allowing homeless encampments to unsafely relocate in nearby locations—a process that repeats over and over without addressing the underlying issues.

For the above reasons, the City proposed that the parties enter into a new agreement that would supersede the Settlement Agreement with the following commitments from the City:

1. City agrees to continue funding and operating the Pallet Shelter (subject to responsible site rules and regulations as determined by the City) through at least the end of the Settlement Agreement term, at which time the sitting City Council may determine (with public input) the future of the Pallet Shelter.
2. City agrees to provide for one (1) alternate site at a location of the City’s choosing

(subject to reasonable site rules and regulations as determined by the City) until at least the end of the 2024 calendar year.

3. All City pre-enforcement and enforcement of Anti-Camping Ordinances and Regulations shall be consistent with local, state, and federal laws including the recent *Grants Pass* decision.

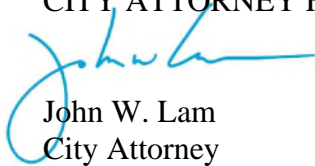
The terms of the new agreement are consistent with the City's desire for a multi-faceted approach to addressing homelessness by committing to preserve the City-operated shelter sites while eliminating the overly burdensome *Martin* considerations that have been rejected by the Supreme Court. I respectfully request that LSNC provide a response to me by 5:00 p.m. on Tuesday, July 16, 2024. If LSNC does not accept the City's offer to enter into a new agreement, the City will have no other choice but to seek judicial relief pursuant to Rule 60 of the Federal Rules of Civil Procedure.

Lastly, per our call, I will also notify Judge Delaney of the City's decision to pause the dispute resolution process while the City seeks judicial relief outside the Settlement Agreement.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

ALVAREZ-GLASMAN & COLVIN
CITY ATTORNEY FOR THE CITY OF CHICO



John W. Lam
City Attorney

cc: Mark Sorensen, City Manager, City of Chico
Kate Wardrip, Managing Attorney, Legal Services of Northern California
Matthew Bowen, Attorney, Legal Services of Northern California

EXHIBIT B

Sent via email only to: JLam@agclawfirm.com

July 16, 2024

John W. Lam, City Attorney
City of Chico
Alvarez-Glasman & Colvin
13181 Crossroads Pkwy North
Suite 400 - West Tower
City of Industry, CA 91746

Re: Warren, et al. v. City of Chico, et al., 2:21-cv-00640-MCE-DMC

Dear Mr. Lam:

We received your July 15, 2024, letter in which the City demands Plaintiffs agree to dissolve the Settlement Agreement in *Warren v. Chico* (“Settlement Agreement”) and replace it with a new agreement based on the *City of Grants Pass v. Johnson* decision (“*Grants Pass*”). Your letter also insists that Plaintiffs respond by 5 p.m. on July 16 and states the City will “seek judicial relief pursuant to Rule 60 of the Federal Rules of Civil Procedure” if Plaintiffs do not agree.

As an initial matter, we cannot respond to the City’s demand within one business day, just as the City could not do so if we placed such a demand on you and your clients. We must review the City’s proposal with Plaintiffs, most of whom are unhoused, and it takes time for us to reach them. Further, *Grants Pass* has been on appeal since the initiation of the *Warren* lawsuit and the Supreme Court decision itself came out over two weeks before we received your letter. Your demand to respond in one business day is arbitrary and unreasonable.

While we strongly disagree with your contention that *Grants Pass* warrants massive changes to the Settlement Agreement, we can and do agree to engage in a good faith discussion of the City’s proposed changes to the settlement agreement pursuant to the Settlement’s Dispute Resolution process in Paragraph 16 and the Stipulated Order Re: Settlement, Dismissal, and Continuing Jurisdiction. ECF 153 at p. 4 and ECF 153-1 at p. 21.

Your letter and your July 15 email to the court make clear that the City does not intend to follow the Settlement Agreement’s dispute resolution process. Yet you offer no legal authority or argument for this position. If the City has a dispute regarding “implementation, enforcement and/or modification of this Agreement,” the City is required to engage in the dispute resolution process under Paragraph 16 of the Settlement Agreement. ECF 153 at p. 4 and ECF 153-1 at p. 22. This process grants Magistrate Judge Delaney sole jurisdiction and authority to oversee such a demand. ECF 153 at p. 4 and ECF 153 at p. 4. The City must first “attempt to meet and confer informally” with Plaintiffs regarding their demand to modify the enforcement procedures in the

Settlement Agreement. ECF 153-1 at p. 22. If the Parties are unable to resolve the City's proposal informally, then at that point the City may request an informal conference with Judge Delaney, followed by a motion if the issue is not resolved. *Id.* Prior to our call on Monday morning, you told us you were not initiating the dispute resolution.

To begin the dispute resolution process, the City should send us the details of its proposed revised settlement agreement so that we have sufficient information and understanding to discuss with our clients. At this point, we have a mere three sentences in which you assert are the terms of the City's new proposed settlement agreement.

The Settlement Agreement was the result of seven months of good faith negotiations between the Parties from July 2021 to January 2022, while all sides were aware of the pending appeals in *Grants Pass*. The Agreement resulted in the dismissal of this case on January 14, 2022, before any discovery and before any of the claims in Plaintiffs' First Amended Complaint, including the multiple claims *not* based on the Eighth Amendment, could be fully litigated. We have found no legal authority, and you have provided none, to support the City's assertion that the *Grants Pass* decision, alone, allows it to void the existing agreement and write a new one. If you have any legal authority to support your decision, we invite you to share it with us so that we may have a good faith discussion of the City's proposal.

Your letter also states that these demands are necessary because "the Settlement Agreement's procedures prevent the City from responding quickly to protect those living in the encampments and the greater community at large while allowing homeless encampments to unsafely relocate in nearby locations—a process that repeats over and over without addressing the underlying issues." Your letter does not, however, provide any facts to support these vague and conclusory statements. As you know, the number and size of encampments has decreased significantly post-settlement, and the Parties were successfully using the dispute resolution process in Paragraph 16 of the Settlement Agreement to address issues with implementation. The process was working as the Parties intended. As a result of negotiations dating back to September 2023, it appeared just last month that both sides were about to reach an Implementation Agreement to address the City's concerns stated in your letter regarding people relocating, improve the process for entering the Genesis Pallet Shelter Site, and improve the health and safety conditions at the Alternate Site at Eaton Road and Cohasset Road. Unfortunately, the City now plans to walk away from our agreement. On behalf of our clients, Legal Services of Northern California remains open to meeting and conferring regarding the Implementation Agreement.

We ask that you confirm by July 19th that the City will engage in the dispute resolution process to discuss its proposed modifications to the Settlement Agreement. If we do not hear from you by that time, we will assume the City does not intend to follow this process and we will notify the Court of the City's violation of the Settlement Agreement.

In the meantime, we will continue to take all reasonable action to communicate your demands to our clients and then provide you with a response when we have been able to fully assess it and discuss it with our clients. We invite the City to continue the process we had almost resolved to enter into an Implementation Agreement that would benefit both Parties and all members of the community.

Sincerely,

Cory Turner
Special Assignment Attorney
Legal Services of Northern California
Direct Line: (530) 592-4209
Fax: (530) 345-6913
Email: cturner@lsnc.net

cc: Eric G. Salbert, Deputy City Attorney, City of Chico

1 PROOF OF SERVICE
2 UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
4 not a party to the within action; my business address is 13181 Crossroads Parkway North, Suite 400, City
5 of Industry, CA 91746.

6 On August 31, 2024, I served the foregoing documents described as: **DEFENDANTS' NOTICE OF
7 MOTION AND MOTION FOR RELIEF FROM JUDGMENT OR ORDER PURSUANT TO
8 FRCivP RULE 60; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATIONS
9 OF MARK SORENSEN, ERIK GUSTAFSON, STEVE STANDRIDGE, SGT. PAUL RATTO,
10 AMBER ABNEY-BASS AND JOHN LAM**

11 on the interested parties in this action by serving true copies thereof as follows:

12 Stephen E. Goldberg
13 Legal Services of Northern California
14 Executive Office
15 517 12th Street
16 Sacramento, CA 95814
17 916-551-2181
18 916-551-2195 (fax)
19 sgoldberg@lsnc.net

20 Robert Louis Berry
21 R.L. Berry Law
22 448 W 2nd Avenue
23 Chico, CA 95926
24 831-334-4066
25 ROB@RLBERRYLAW.COM

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☐ **BY MAIL:** I am readily familiar with the firm's business practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence is deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at Los Angeles, CA.

☒ **BY ELECTRONIC TRANSMISSION:** Pursuant to Cal. Rules of Court, Emergency rule 12, I transmitted a PDF version of this document by electronic mail to the persons at the addresses listed above using the e-mail address(es) indicated.

☒ **(Federal)** I declare that I am employed in the office of a member of the bar of this court at whose direction the Service was made.

Executed on August 31, 2024, at Hollywood, California.

/s/ Stephen T. Owens
Stephen T. Owens