



August 10, 2023

City Attorney David Chiu  
San Francisco City Hall  
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San Francisco, CA 94102

*Submitted via electronic mail*

**Re: Working Together Towards Ending Street Homelessness and Tackling the City's Affordable Housing Crisis; *Coalition on Homelessness v. City & Cty. of San Francisco.***

Dear City Attorney Chiu:

All San Francisco residents, no matter their housing status, deserve to live in a city without street homelessness. Residents are rightly frustrated that the City has failed time and again to address its housing affordability crisis—with inhumane consequences for conditions on our streets. These conditions affect every person who lives and works in San Francisco, most acutely those forced to sleep on the streets. San Francisco was sued in order to bring real solutions to this crisis. Your office supports making housing affordable and getting serious about a holistic approach to addressing street homelessness. We share these goals. We also recognize Mayor Breed and the Board of Supervisors have taken some steps that can be part of the solution.<sup>1</sup> We believe we have a lot of common ground to work from.

We write to invite you and your colleagues to reach a settlement of this litigation. We all have a realistic sense of the potential risks and rewards of continued litigation. Now is an opportune time to begin to work together on a future in which the City's resources can be more fully directed toward our shared goal of ending street homelessness and tackling the City's affordable housing crisis. To that end, we have enclosed as Attachment A a proposed settlement framework that we invite you to consider, and hope to discuss with you at your earliest convenience. The various undersigned civil rights, law enforcement, and non-profit legal services organizations also enthusiastically support these proposals.

The immediate solutions to the street homelessness crisis have always been clear. San Francisco must have an effective, lawful, and humane street response, fill the hundreds of vacant affordable housing units that remain empty due to bureaucratic red tape, expand access to shelter, aggressively spend the hundreds of millions of dollars already earmarked for affordable housing and rent protection, and ensure that the City provides the quality social services promised to taxpayers.<sup>2</sup>

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<sup>1</sup> Olivia Wynkoop, *New Affordable Housing Project Breaks Ground In Haight-Ashbury Neighborhood*, SF Gate (June 28, 2023), <https://www.sfgate.com/news/bayarea/article/new-affordable-housing-project-breaks-ground-in-18176218.php>; David Chiu, *Housing and Homelessness*, <https://votedavidchiu.com/issues/#housing> (“By building more affordable housing, protecting the housing we have, and standing up for housed Californians who could soon be displaced, we [...] turn the tide.”).

<sup>2</sup> *S.F. Vacancies in Supportive Housing*, <https://hsh.sfgov.org/about/research-and-reports/hrs-data/vacancies-in-permanent-supportive-housing/> (showing 811 vacant affordable housing units designed for unhoused individuals); Joaquin Palomino & Trisha Thadani, *S.F. spends \$356 million on rooms for homeless people. Why do so many sit empty?*, S.F. Chronicle (Apr. 23, 2023), <https://www.sfchronicle.com/projects/2023/sf-sro-empty/> (“About 60% were empty due to a slow and convoluted referral process”); Trisha Thadani, *S.F. has been slow to spend hundreds of millions for homelessness*, S.F. Chronicle (Mar. 27, 2023), <https://www.sfchronicle.com/sf/article/sf-homeless-crisis-unspent-funds-housing-17843541.php>.

The U.S. District Court for the Northern District of California issued an injunction against San Francisco precisely because of the inadequate and ineffective stopgap measures the City has been using instead of delivering on these promises.<sup>3</sup> Rather than continuing to battle in court, we invite San Francisco's leaders to work with us to ensure appropriate shelter and housing for those currently consigned to sleeping on the street.

Our commonsense settlement proposals would benefit the City and all of its residents and taxpayers. There has always been a profound gap between San Francisco's stated good intentions and its outcomes on homelessness.<sup>4</sup> The City can settle this case with enforceable affordable housing targets and a review of its social service programs to ensure they are effectively addressing street homelessness, rather than spending more taxpayer dollars on ineffective sweeps led by law enforcement.<sup>5</sup> As an attorney who formerly worked at a civil rights organization, you understand these challenges. We are confident we can collaborate to reach an agreement that helps unhoused people secure stable and affordable housing and improves the quality of life for all San Franciscans.

### **San Francisco Recognizes The Homelessness Crisis Starts and Ends with Affordable Housing.**

San Francisco has acknowledged that its lack of affordable housing has resulted in thousands of the City's low-income residents being forced to sleep outside.<sup>6</sup> The Planning Department has acknowledged a lack of affordable housing is driving displacement and homelessness.<sup>7</sup> The latest data from UCSF researchers at the Benioff Housing Initiative confirm that most unhoused residents were living and working here before they could no longer afford rent.<sup>8</sup> More than half of these residents had been living in San Francisco for a decade or more before they were priced out of their homes.<sup>9</sup> But after failing to meet every state target for affordable housing production for decades, San Francisco is more than 60,000 affordable units short of what is needed for its population.<sup>10</sup>

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<sup>3</sup> *Coalition on Homelessness v. City of San Francisco*, 2022 WL 17905114, at \*22 (N.D. Cal. Dec. 23, 2022) (“What is at issue is the body of detailed evidence demonstrating significant failures to comply with the policy [...] Defendants concede the existence of long-standing shelter bed shortfalls, as well as the fact that homeless San Franciscans have not been able to voluntarily access shelter beds since April 2020”).

<sup>4</sup> 2021 *San Francisco Housing Inventory*, p. 15 (2022), [https://sfplanning.org/sites/default/files/documents/reports/2021\\_Housing\\_Inventory.pdf](https://sfplanning.org/sites/default/files/documents/reports/2021_Housing_Inventory.pdf) (from 2015 to 2022, the City only met 43% of its own commitment for completing deeply affordable housing units, and only 54% of very low income and 52% moderate income, while completing 150% of above market goal.)

<sup>5</sup> Sara K. Rankin, *Punishing Homelessness*, 22 NEW CRIM. L. REV. 99, 104, 109 (2019) (“[C]riminalization, along with other traditional approaches that manage homelessness, are the most expensive and least effective ways to address it”); DEP’T OF HOMELESSNESS & STRATEGIC HOUS., *Five Year Strategic Framework*, (Oct. 2017), <https://hsh.sfgov.org/wp-content/uploads/2017/10/HS-Strategic-Framework-Full.pdf> (city spent \$256.7 million on homelessness in 2017).

<sup>6</sup> *San Francisco Homeless County & Survey Comprehensive Report 2019*, at 23, [https://hsh.sfgov.org/wpcontent/uploads/2020/01/2019HIRDReport\\_SanFrancisco\\_FinalDraft-1.pdf](https://hsh.sfgov.org/wpcontent/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf) (“Respondents were asked what prevented them from obtaining housing. The majority (63%) reported that they could not afford rent”).

<sup>7</sup> S. F. PLAN. DEPT., *Context: Dismantling San Francisco’s Housing Inequities* (Apr. 6, 2021), <https://storymaps.arcgis.com/stories/26bc500b5aee4f0281a860a2144a5998> (“When housing is a scarce resource, prices rise based on what the highest earners can afford. Lower income households are left paying unsustainably high shares of their income to stay in the city –if they can secure housing at all.”).

<sup>8</sup> See UCSF Benioff Homelessness and Housing Initiative, *The California Statewide Study of People Experiencing Homelessness*, at 5 (2023), [https://homelessness.ucsf.edu/sites/default/files/2023-06/CASPEH\\_Report\\_62023.pdf](https://homelessness.ucsf.edu/sites/default/files/2023-06/CASPEH_Report_62023.pdf) (“Nine out of ten participants lost their last housing in California; 75% of participants lived in the same county as their last housing”); Chris Glynn et al., *Inflection points in community-level homeless rates*, 15 ANNALS APPLIED STAT. 1037, 1037-1053 (2021) (finding homelessness increases quickly once median rental costs exceed 30% of median income).

<sup>9</sup> *S.F. Homeless Survey 2019*, at 18, (“Seventy percent (70%) of respondents reported living in San Francisco at the time they most recently became homeless. Of those, over half (55%) reported living in San Francisco for 10 or more years.”)

<sup>10</sup> Kate Anthony et al., *Homelessness in the San Francisco Bay Area: The crisis and a path forward* 4, MCKINSEY & CO., (2019), <https://resources.ecww.org/sites/default/files/Homelessness-in-the-San-Francisco-Bay-Area-Thecrisis-and-a-path-forward.pdf>.

San Francisco has also underinvested in emergency services for those who cycle in and out of homelessness while trying to get back on their feet.<sup>11</sup> Since the City has only 3,000 emergency shelter beds for (at least) 7,000 unhoused individuals, the emergency shelters are at functional capacity every day of the year.<sup>12</sup> Just weeks after the City reopened its shelters, the waitlist is already hundreds deep and growing.<sup>13</sup> This immediate high demand for shelter is a clear indication that unhoused San Franciscans do not want to live outdoors.

This reality underscores what we all know—a lack of affordable housing is the root cause of homelessness, not America’s opioid crisis or mental health issues.<sup>14</sup> Studies have also found that individuals who are homeless may only use drugs to cope with the brutal conditions they experience living on the street.<sup>15</sup> In other words, helping people stay in their homes would actually help end the City’s drug crisis. That is why studies show that investing in affordable housing is the only proven way to end street homelessness—and is more effective than any law enforcement intervention.<sup>16</sup>

During your tenure as San Francisco’s representative in the California Assembly, you spoke out against these bureaucratic failures, noting in clear terms: “Are we content with letting tens of thousands of our neighbors to be forced out onto the cold streets of California? [...] And I think that requires every city and county to step up to build permanent affordable housing, supportive housing, navigation centers, and shelters to finally put a roof over people’s heads.”<sup>17</sup> We strongly agree.

### **The Preliminary Injunction Against San Francisco Underscores the Importance of Accountability for the Homelessness Crisis.**

The Northern District of California issued an injunction against San Francisco because the City has cited or arrested hundreds of unhoused residents for being too poor to afford a home.<sup>18</sup> Low-income Black residents bear the brunt of this poverty policing.<sup>19</sup>

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<sup>11</sup> *San Francisco Homeless County & Survey Comprehensive Report 2022*, at 2, <https://hsh.sfgov.org/wp-content/uploads/2022/08/2022-PIT-Count-Report-San-Francisco-Updated-8.19.22.pdf> (noting that as many as 20,000 individuals experience homelessness in San Francisco at some point during the year).

<sup>12</sup> *Coalition on Homelessness v. City of San Francisco* (N.D. Cal. Dec. 23, 2022), Dkt. No. 65 at 41:25-42:9 (“the parties agree that at this time, a homeless San Franciscan who wants a shelter bed has no avenue to ask for one, much less get one”); *id.* at 5:8-6:9 (recounting the complete closure of the shelter system to voluntary access since April 2020, noting that 1000 people were on a waitlist for shelter at the time and that the shelter system is essentially always at full capacity).

<sup>13</sup> HSH Shelter Reservation Waitlist, <https://hsh.sfgov.org/services/how-to-get-services/accessing-temporary-shelter/adult-temporary-shelter/shelter-reservation-waitlist/>.

<sup>14</sup> That is why the states most impacted by the country’s drug epidemic—including West Virginia and Arkansas—do not have a street homelessness problem, while wealthier states like California have an explosive homelessness crisis. See *Cause of Homelessness; Nat’l Low Income Housing Coalition, Out of Reach: The High Cost of Housing* (2022), at 271, [https://nlihc.org/sites/default/files/2022\\_OOR.pdf](https://nlihc.org/sites/default/files/2022_OOR.pdf).

<sup>15</sup> *Guy Johnson et al., Homelessness and Substance Abuse: Which Comes First?*, 61 *Australian Soc. Work* 342-356 (2008).

<sup>16</sup> Marybeth Shinn & Colleen Gillespie, *The Roles of Housing and Poverty in the Origins of Homelessness*, 37 *AM. BEHAVI. SCIENTIST*, No. 4 at 505, 505-07 (explaining how a lack of affordable housing causes homelessness); Rankin, *supra* note 5, at 130-34. (“Studies consistently show that solving chronic homelessness is achievable through the evidence-based solutions of Housing First and permanent supportive housing”).

<sup>17</sup> Martin Kutz, *Q&A: Search for answers to ‘the moral question of our day’ in California*, *The Christian Science Monitor* (Jan. 8, 2020), <https://www.csmonitor.com/USA/Politics/2020/0108/Q-A-Search-for-answers-to-the-moral-question-of-our-day-in-California>; see also Luis Mirón, *Assembly Member David Chiu and His Fight Against Housing Insecurity*, *El Nuevo Sol* (Jan. 9, 2021), <https://elnuevosol.net/2021/01/david-chiu-housing/>

<sup>18</sup> *Coalition v. San Francisco*, 2022 WL 17905114, at \*22 (“Defendants do not counter Plaintiffs’ evidence that SFPD has cited and arrested individuals for sleeping or lodging in public thousands of times from 2018 to October 2022 despite the lack of available shelter.”).

<sup>19</sup> *S.F. Homeless County & Survey Comprehensive Report 2019*, at 16, (“37% of all unhoused people were Black in a City whose population of Black people is just 6%”); Lexi Pandell, *The Racist Origins of San Francisco’s Housing Crisis*, *TNR* (May 31, 2019), <https://newrepublic.com/article/154028/racist-origins-san-franciscos-housing-crisis>

San Francisco’s ordinances prohibit such blatant discrimination.<sup>20</sup> But the City’s own data show a large gap between the *promise* to taxpayers of a data-driven housing and healthcare response that can end street homelessness and the *reality* of thousands of dead-end police interventions that set people further back without offering meaningful assistance.

These police interventions are absurdly expensive, and they have not and will not end street homelessness.<sup>21</sup> Instead, “sweeps” compound the problem. Illegally destroying individuals’ survival belongings makes it harder for them to get back on their feet, further destabilizing their situations when they have nowhere else to go.<sup>22</sup> We filed this lawsuit precisely because we saw the City inadvertently acting against its own interests—making the street homelessness crisis worse by attacking the symptoms without addressing the root cause.

It was you who declared that “we have been ground zero of the housing crisis in our state [...] The solutions are obvious, we need to put a roof over every person’s head, we have to build the facilities that will do that, including shelters and permanent supporting housing.” You have also asked the San Francisco public to “come together and put yourself in the shoes or the sleeping bag of the person on the streets and say, ‘If you were that person, how would you want to be treated?’”<sup>23</sup> We invite you and other San Francisco leaders to dedicate resources to lasting solutions that respect the dignity and basic human rights of people who are forced out onto our streets.

The Court’s injunction acknowledges a basic human need for a place to sleep and requires San Francisco to respect that need while still allowing the City to maintain safety and basic services. The injunction specifically encourages regular street cleanings across San Francisco, and it allows the City to enforce any and all laws to keep the streets safe and address genuine accessibility issues.<sup>24</sup> All San Franciscans—whether housed or unhoused—want street cleaning. All want safe and accessible streets. In fact, residents with disabilities are the most likely to experience homelessness in San Francisco and know this better than anyone else.<sup>25</sup> But displacing low-income residents who have nowhere else to go and destroying their survival belongings doesn’t move us closer to solving our affordable housing crisis. The City’s own experience confirms that affordable housing and shelter are desperately wanted and needed—and are simply unavailable to most low-income residents who are currently unhoused.<sup>26</sup>

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<sup>20</sup> S.F. Police Code § 169(d) (the City is required to “offer Housing or Shelter *to all residents of the Encampment who are present*” and “shall not enforce the prohibition . . . unless there is available Housing or Shelter for the person or persons in the Encampment.”) (emphasis added).

<sup>21</sup> Mary K. Cunningham, *The Homelessness Blame Game*, URBAN INST. (September 23, 2019), <https://www.urban.org/urban-wire/homelessness-blame-game> (“Criminalizing homelessness won’t work . . . These actions traumatize people living in encampments and have negative implications for public health. They also don’t work; people experiencing homelessness may simply relocate to avoid them, or expensive jails or hospitals become de facto affordable housing”).

<sup>22</sup> See Chris Herring & Dilara Yarbrough, *Punishing the Poorest: How the Criminalization of Homelessness Perpetuates Poverty in San Francisco* (June 18, 2015), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2620426](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2620426); Diane Qi, *Health Impact of Street Sweeps from the Perspective of Healthcare Providers*, J. Gen. Intern. Med. (2022), <https://pubmed.ncbi.nlm.nih.gov/35296981/> (“Providers also reported that sweeps may negatively impact the healthcare system by promoting increased usage of emergency departments and inpatient hospital care”).

<sup>23</sup> *Assembly Member David Chiu and His Fight Against Housing Insecurity*, & *David Chiu Q&A*, *supra* note 17.

<sup>24</sup> *Coalition on Homelessness v. San Francisco*, 2022 WL 17905114, at \*27 n.19 (“The Enforcement Bulletin identifies several laws and ordinances that the court does not include in the injunction because Plaintiffs correctly did not seek their inclusion since they are directed at conduct beyond sitting, lying or sleeping outside”).

<sup>25</sup> *S.F. Homeless Count & Survey Comprehensive Report 2019*, at 28, (finding that 27% of San Francisco’s unhoused population self-reported having a physical disability).

<sup>26</sup> Report of Dr. Herring in *Coalition v. S.F.*, Dkt. No. 9-1, at 14 (“Research shows that when adequate shelter is offered, the large majority of those residing in public space will accept shelter offers [...] when San Francisco offered Shelter-in-Place hotel and motel rooms [...] data had shown about 90% accepted assistance [...] Similar rates of acceptance were seen during the initial operation of the first Navigation Centers in San Francisco in 2015 and 2016 when they were not overloaded”).

**The Court’s injunction permits enforcement against unhoused individuals who decline offers of actually available, safe, and accessible shelter or housing options.<sup>27</sup> That does not excuse San Francisco criminalizing thousands of unhoused residents who clearly have no access to shelter or housing.**

The City’s appeal of the preliminary injunction will not change the basic premise underlying the injunction. We may quibble about the precise language in the court’s order, but *San Francisco has not challenged the premise that an injunction was warranted because the City could not demonstrate it follows its own policies and procedures when it comes to street homelessness*. Whatever happens at the Ninth Circuit, your office clearly understands that a significant preliminary injunction against San Francisco will be in place. For now, the injunction will continue to help ensure that San Francisco stops wasting resources on failed and ineffectual practices. San Francisco has an opportunity to redirect those resources to improve exits from homelessness. Mitigating the street homelessness crisis is the City’s stated goal. In our opinion, a settlement would move us past legal squabbling and closer to a solution that addresses the root cause of this crisis.

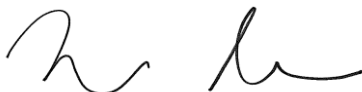
**The Most Effective Way to Address Problematic Street Conditions is to Commit to Accountability Measures Necessary to End Street Homelessness.**

We all agree that providing shelter, housing, and services is the right approach to help people get off the street. Our litigation has revealed that San Francisco has failed to deliver appropriate services to move people into shelter or housing, instead wasting millions of taxpayer dollars to shuffle homeless individuals from block to block. We all agree that San Francisco’s bold proposal to develop thousands of additional affordable housing units is a critical step to ending street homelessness and we applaud the City’s renewed commitment to finding permanent solutions to this entrenched challenge.<sup>28</sup>

These commitments require follow through—especially when San Francisco’s outcomes have often not matched its good intentions. Instead of continuing to litigate, we invite the City to work with us to move beyond this litigation and commit to oversight measures to ensure San Francisco’s leaders make good on their promises to reduce street homelessness. By working together, we can promote real solutions that recognize the humanity of every person sleeping on our streets, while ensuring that taxpayers finally see a return on their investment.

Thank you for your important work on these most critical issues impacting every San Francisco resident, both housed and unhoused. We welcome the opportunity to schedule a meeting with your office to discuss collaborative next steps. Our commonsense proposals for the City’s response to homelessness and investment in affordable housing are enclosed along with this letter. These solutions are also supported by each of the undersigned organizations. We look forward to hearing from you soon and to working with you for the benefit of all San Franciscans.

Best regards,



Bianca Sierra Wolf  
Executive Director

Lawyers’ Committee for Civil Rights  
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Abdi Soltani  
Executive Director

ACLU of Northern California

<sup>27</sup> *Coalition v. S.F.*, 2022 WL 17905114, at \*28 (preventing enforcement only against “involuntarily homeless” individuals).

<sup>28</sup> J.K. Dineen, *S.F.’s plan to build 82,000 housing units has been approved by the state*, S.F. CHRONICLE (Jan. 23, 2023), <https://www.sfchronicle.com/sf/article/s-f-s-plan-to-build-82-000-housing-units-has-17736034.php>.



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**As Endorsed by the Following Organizations:**



**SAN FRANCISCO  
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ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

Law Enforcement Action Partnership



National Police Accountability Project



**DISABILITY RIGHTS  
ADVOCATES**

Disability Rights Advocates



**WESTERN CENTER  
ON LAW & POVERTY**

Western Center on Law & Poverty

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Enclosure: Attachment A

# **ATTACHMENT A**



**A Commonsense Proposal:  
Settling *Coalition on Homelessness v. San Francisco*, Case No. 4:22-cv-05502 (N.D. Cal.)**

This document contains a high-level, global settlement proposal that would address San Francisco's immediate interactions with unhoused individuals and the conditions causing their presence on the street, including the City's lack of sufficient affordable housing and shelter. The proposal directly addresses the steps necessary to immediately improve street conditions across San Francisco. We share this call for a court-monitored settlement with the general public to make clear that the steps forward to mitigate San Francisco's street homelessness crisis are in fact commonsense and achievable. Settling this matter now will limit the City's liability for costs and fees associated with continuing litigation. All that remains is the political will to make good on these critical commitments to end street homelessness.

**A. San Francisco's Prioritization of Affordable Housing and Expanding Access to Temporary Shelter**

1. **Fill All Vacant Supportive Housing Units.** Make the improvements necessary to be able to fill the close to [1000 currently vacant](#) supportive housing units, and fill all units within 30 days of any new vacancy. Doing so will lead to an immediate reduction in street homelessness.
2. **Expend Unused But Budgeted Funds.** Spend down [unspent Proposition C](#) (Nov. 2018) and [Proposition I](#) (Nov. 2020) funds as intended for housing, shelter, treatment, and prevention by the end of the fiscal year.
3. **Make Temporary Shelter Available & Accessible.** Maintain a shelter waitlist to allow access through 3-1-1 and drop-in centers while also allowing for same-day lines to ensure access to unused shelter beds. Shelter should be an emergency stopgap measure that leads to permanent housing. Shelters available through this system should include all shelter sites, including congregate, semi-congregate, tiny home, and non-congregate shelter options and navigation centers. Shelter placements must include accessible options for those with a disability.

**B. San Francisco's Proactive Response to Address Unhoused Residents on the Street.**

1. **Stop Sending Police to Solve Housing Issues.** End costly law enforcement dispatches solely for sitting, lying, sleeping or lodging in public, building on the enforcement policy already outlined in [SFPD Department Bulletin 23-007](#). Instead of police, trauma-informed social services personnel should be equipped to lead with the offering of necessary services. SFPD can still fairly enforce laws to address genuine sidewalk safety or health issues—and continue to conduct any ordinary police operations if an actual crime has been committed.
2. **Implement a Better Plan to Resolve Encampments.** Social services personnel should actually conduct detailed, individualized assessments of the needs of specific unhoused residents (including the needs of those with disabilities) as the City's own policies require. Firm offers of specific available, appropriate, and accessible shelter or affordable housing should be made available to every individual at an encampment before any other steps are taken. This better ensures that people receive appropriate services to exit homelessness and are not being pushed from block to block without a housing solution.
3. **Provide Better Trash Disposal & Sidewalk Cleanings.** Everyone, including unhoused people, want streets free of trash and debris. Such cleaning schedules must follow posted signage and should not be conducted between 7:00PM and 7:00AM when unhoused residents are trying to sleep. The City cannot use street cleanings as a pretext to harass unhoused residents instead of appropriately cleaning the area.
4. **Ensure the City Follows its Property Policy.** Ensure all departments actually comply with the City's bag and tag policy, and halt property confiscation during times when the City's inclement weather protocol is activated. Abiding by this policy will ensure people's survival gear, medicine, identification, work tools, and cherished belongings are not destroyed, especially when needed most.

**C. Monitoring**

1. **Court Supervision for Accountability.** Cooperate with a court-appointed monitor who is approved by all parties and will closely track the City's affordable housing, shelter, services commitments, and interactions with unhoused individuals to ensure the City is actually addressing street homelessness.
2. **Document the City's Progress.** Document, certify, and produce compliance records of proper interactions with unhoused residents by disclosing law enforcement body camera footage, shelter assessment and availability logs, disputed property logs, and other compliance documentation.