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16 UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA
18 WESTERN DIVISION

19 UNITED STATES OF AMERICA *ex rel.*
20 MEI LING and FAIR HOUSING
COUNCIL OF SAN FERNANDO
21 VALLEY,

22 Plaintiffs,

23 v.

24 CITY OF LOS ANGELES, a municipal
corporation, and CRA/LA, a Designated
25 Local Authority, a public entity,

26 Defendants.
27
28

No. CV-11-00974 PSG (JCx)

COMPLAINT-IN-INTERVENTION
AND DEMAND OF THE UNITED
STATES FOR JURY TRIAL

1 The United States brings this action against defendants the City of Los Angeles
2 (the City) and the CRA/LA, a Designated Local Authority (CRA/LA) (formerly the
3 Community Redevelopment Agency for the City of Los Angeles), for damages and civil
4 penalties under the False Claims Act (FCA), 31 U.S.C. §§ 3729–3733, and for damages
5 under the common law theories of negligent misrepresentation, payment by mistake, and
6 unjust enrichment. Since February 1, 2001 (the false claims period), defendants
7 knowingly presented and caused to be presented false or fraudulent claims for payment
8 or approval to the United States Department of Housing & Urban Development (HUD),
9 and knowingly made, used, and caused to be made or used, false records or statements
10 material to false or fraudulent claims, and to get false or fraudulent claims paid in
11 violation of the FCA. 31 U.S.C. § 3729(a). In support of its claims, plaintiff the United
12 States of America alleges as follows:

13 **I. SUMMARY OF THE ACTION**

14 1. Each year, HUD grants hundreds of millions of taxpayer dollars to states
15 and local governments for the development of affordable housing which, by law, must be
16 accessible to people with disabilities. When the funds are not used to create and operate
17 accessible housing, taxpayer dollars are used to violate the civil rights of people with
18 disabilities, who suffer as a result.

19 2. Throughout the false claims period, the defendants received many millions
20 of federal taxpayer dollars by falsely promising to create accessible housing. The
21 defendants then used those taxpayer dollars to violate the civil rights of people with
22 disabilities in Los Angeles, and deprived them of an equal opportunity to participate in
23 assisted housing programs. As a result, Angelenos with disabilities suffered, and HUD
24 paid out many millions of dollars for accessible housing the United States, and the
25 residents of Los Angeles, did not receive.

26 3. As early as 1973, Congress found that “millions of Americans have one or
27 more physical or mental disabilities,” and “individuals with disabilities continually
28 encounter various forms of discrimination in such critical areas as . . . housing [and]

1 public accommodations.” Rehabilitation Act of 1973, 29 U.S.C. § 701(a).

2 4. Accordingly, Congress prohibited discrimination against people with
3 disabilities in any program or activity receiving federal financial assistance, including a
4 local government’s subsidized housing program. 29 U.S.C. § 794 (Section 504). The
5 purpose of Section 504 is to empower people with disabilities to maximize their
6 independence—as well as their inclusion and integration into society—through the
7 guarantee of equal opportunity, and to ensure that the Federal Government plays a
8 leadership role in fulfilling the aspirations of people with disabilities for independent
9 living. 29 U.S.C. § 701(b).

10 5. In 1988, Congress amended the Fair Housing Act, 42 U.S.C. §§ 3601–3619,
11 to prohibit discrimination by any person or entity because of a disability in the provision
12 of housing. *See* Fair Housing Amendments Act, Pub. L. No. 100-430, § 6, 102 Stat.
13 1619 (1988). At the time of its initial passage in 1968, the Fair Housing Act limited
14 discriminatory conduct to that based on race, color, religion, or national origin. *City of*
15 *Edmonds v. Oxford House, Inc.*, 514 U.S. 725, 728 n.1 (1995). The Fair Housing
16 Amendments Act of 1988 thus afforded people with disabilities the same protected-class
17 status as those historically discriminated against on grounds of race, color, religion, and
18 national origin. Unlike Section 504, the Fair Housing Amendments Act applies to all
19 covered multifamily housing, whether or not the housing involved the use of federal
20 financial assistance.

21 6. The plain text of the Fair Housing Amendments Act makes clear that
22 Congress sought to extend federal protections against housing discrimination to people
23 with disabilities. *See also* H.R. REP. NO. 100-711, at 18 (1988), *reprinted in* 1988
24 U.S.C.C.A.N. 2173, 2179 (“The Fair Housing Amendments Act, like [Section 504], is a
25 clear pronouncement of a national commitment to end the unnecessary exclusion of
26 [people with disabilities] from the American mainstream.”). Congress understood
27 “housing discrimination against [people with disabilities] is not limited to blatant,
28 intentional acts of discrimination”; rather, “[a]cts that have the effect of causing

1 discrimination can be just as devastating as intentional discrimination.” *Id.* at 25. In
2 fact, “[a] person using a wheelchair is just as effectively excluded from the opportunity
3 to live in a particular dwelling by the lack of access into a unit and by too narrow
4 doorways as a posted sign saying ‘**No Handicapped People Allowed.**’” *Id.*
5 Discrimination on the basis of disability is therefore not limited to invidious animus, but
6 also results from “thoughtlessness and indifference” or “benign neglect.” *Id.*

7 7. Two years after passing the Fair Housing Amendments Act, Congress found
8 that discrimination against people with disabilities continued to persist in housing, public
9 accommodations, and access to public services, and was costing the United States
10 “*billions of dollars* in unnecessary expenses resulting from dependency and
11 nonproductivity.” Americans with Disabilities Act of 1990, 42 U.S.C. § 12101(a)
12 (emphasis added).

13 8. Accordingly, in 1990, Congress enacted the Americans with Disabilities
14 Act, prohibiting discrimination against people with disabilities in any service, program,
15 or activity of a public entity, including local governments and any of their departments,
16 agencies, special purpose districts, or other instrumentalities. 42 U.S.C. §§ 12131–32.
17 Its purpose was to “assure equality of opportunity, full participation, independent living,
18 and economic self-sufficiency” for people with disabilities, and to “invoke the sweep of
19 congressional authority . . . to address the major areas of discrimination faced day-to-day
20 by people with disabilities. 42 U.S.C. § 12101–02.

21 9. By law, HUD may not provide housing funds to a local government unless
22 it promises to comply with the Rehabilitation Act, the Fair Housing Act, and the
23 Americans with Disabilities Act. In particular, local governments must certify
24 compliance with: Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as
25 amended, and its implementing regulations at 24 C.F.R. Part 8 (Section 504); the Fair
26 Housing Act, 42 U.S.C. §§ 3601 *et seq.*, as amended, and its implementing regulations at
27 24 C.F.R. Part 100 (the FHA); Title II and Title III of the Americans with Disabilities
28 Act of 1990, 42 U.S.C. §§ 12131–12213, as amended, and its implementing regulations

1 at 28 C.F.R. Parts 35 and 36 (the ADA); and the duty to affirmatively further fair
2 housing. *E.g.*, 24 C.F.R. § 91.225 (2015). The laws referenced in this paragraph are
3 referred to as the “federal accessibility laws” below.

4 10. Throughout the false claims period, the City repeatedly certified to HUD it
5 would comply with the federal accessibility laws as a precondition to receiving federal
6 housing funds. For example, it certified compliance with the federal accessibility laws in
7 annual submissions to HUD, and executed numerous funding agreements with HUD for
8 federal housing funds in which the City expressly agreed to comply with the federal
9 accessibility laws. The City induced HUD to provide it with many millions of dollars of
10 funding based on these certifications and agreements.

11 11. Throughout the false claims period, the City provided the CRA/LA with a
12 portion of the funds it received from HUD.

13 12. Contrary to the City’s certifications and agreements, however, the City and
14 the CRA/LA failed to create accessible housing, and failed to operate their housing
15 programs and activities in a manner accessible to or usable by people with disabilities.
16 For example, the City and the CRA/LA neither maintained a wait list of accessible units
17 for people with disabilities nor sufficiently disseminated information regarding
18 accessible units to people with disabilities, as required by law.

19 13. Throughout the false claims period, moreover, the City failed to identify
20 and overcome impediments to fair housing choice within its jurisdiction for people with
21 disabilities, as required by its duty to affirmatively further fair housing under the law.

22 14. Defendants’ discriminatory and illegal conduct stripped people with
23 disabilities of fair housing opportunities and contravened the Nation’s goals of providing
24 people with disabilities equal opportunity to achieve independent living, full inclusion
25 and integration in society, and economic and social self-sufficiency. As a result of the
26 defendants’ nonfeasance with respect to accessibility requirements, they received federal
27 taxpayer dollars to which they were not entitled. The defendants knowingly and
28 systematically failed to provide a core part of their bargain with HUD, and this lawsuit

1 seeks a proper remedy under the False Claims Act for that failure.

2 **II. JURISDICTION AND VENUE**

3 15. This Court has subject matter jurisdiction over this action pursuant to 28
4 U.S.C. § 1345 because the United States is the Plaintiff.

5 16. In addition, this Court has subject matter jurisdiction over the FCA claims
6 (the First through Fourth claims) and federal common law claims (the Fifth through
7 Seventh claims) under 28 U.S.C. § 1331.

8 17. This Court has personal jurisdiction over Defendants pursuant to 31 U.S.C.
9 § 3732(a) because at least one of the Defendants can be found in, resides in, transacts
10 business in, and has committed the alleged acts, in the Central District of California.

11 18. Venue is proper in the Central District of California, pursuant to 28 U.S.C.
12 § 1391(b)–(c) and 31 U.S.C. § 3732(a), because at least one of the Defendants can be
13 found in, resides in, and transacts business in, the Central District of California, and
14 many of the alleged acts occurred in this District.

15 **III. PARTIES**

16 **A. Plaintiffs**

17 19. Plaintiff is the United States of America, suing on behalf of HUD.

18 20. The *qui tam* plaintiffs (relators) are Mei Ling, an individual City resident,
19 and the Fair Housing Council of San Fernando Valley, a nonprofit fair housing
20 organization incorporated under the laws of the State of California with its principal
21 place of business in Panorama City, California.

22 21. The relators initiated this action by filing a complaint against the defendants
23 under the FCA's *qui tam* provisions on February 1, 2011.

24 22. The United States officials charged with responsibility to act neither knew
25 nor should have known of the material facts underlying the relators' *qui tam* action prior
26 to February 1, 2011.

27 **B. Defendant City of Los Angeles**

28 23. Defendant City of Los Angeles is a municipal corporation organized

1 pursuant to Article XI of the California Constitution and located in the Central District of
2 California.

3 24. At all times relevant, the City has been a public entity within the meaning of
4 Title II of the ADA.

5 25. The City received federal financial assistance within the meaning of Section
6 504.

7 26. The City used federal financial assistance for its housing programs.

8 27. The City is sued in its own capacity and in its capacity as the housing
9 successor to the former Community Redevelopment Agency of the City of Los Angeles,
10 pursuant to CALIFORNIA HEALTH & SAFETY CODE (CAL. HSC) § 34176.

11 **C. Defendant CRA/LA**

12 **i. Community Redevelopment Law**

13 28. Pursuant to the Community Redevelopment Law, CAL. HSC §§ 33000–
14 33855 (West 1963), *repealed by* CAL. HSC §§ 34171–34191.6, the State of California
15 authorized legislative bodies, including cities, to create redevelopment agencies. CAL.
16 HSC § 33101.

17 29. Redevelopment agencies prepared and carried out plans for the
18 improvement, rehabilitation, and redevelopment of areas within each legislative body’s
19 jurisdiction, CAL. HSC § 33131(a), including purchasing or leasing real property, CAL.
20 HSC § 33391; renting, maintaining, managing, operating, and repairing real property,
21 CAL. HSC § 33400(b); and leasing, selling, exchanging, assigning, and transferring real
22 property. CAL. HSC § 33430.

23 30. The Community Redevelopment Law directed each mayor whose city
24 created a community redevelopment agency, with approval of the city council, to appoint
25 five or seven residents of the community as members of the redevelopment agency.
26 CAL. HSC § 33110.

27 31. The powers of each community redevelopment agency were vested in the
28 members in office. CAL. HSC § 33121.

ii. The Former CRA

32. The City created the Community Redevelopment Agency of the City of Los Angeles (the former CRA) to conduct redevelopment activities within its boundaries. Los Angeles Administrative (L.A. Admin.) Code § 8.90.

33. The former CRA's Board consisted of seven members appointed by the Mayor with approval of the City Council. L.A. Admin. Code § 8.99.01.

34. Until February 1, 2012, the former CRA was the redevelopment agency for the City and a public agency operating within the City and in the Central District of California. L.A. Admin. Code § 8.90; CAL. HSC § 33100.

35. The former CRA carried out its activities using federal, state, local, and private funds in designated areas of the City.

36. From February 1, 2001 to February 1, 2012, the former CRA was a public entity with the meaning of Title II of the ADA.

37. From February 1, 2001 to February 1, 2012, the former CRA was a recipient of federal financial assistance within the meaning of Section 504.

38. From February 1, 2001 to February 1, 2012, the former CRA invested HUD funds in at least twenty-two of the City's multifamily housing projects.

39. Actions of the former CRA were subject to City Council approval, including but not limited to establishing and changing redevelopment project areas; initiating and amending redevelopment plans; entering into agreements for development; executing loan, borrowing, bond issues, and grant agreements in the amount of \$250,000 or more; entering into contracts for services for which compensation totaled \$25,000 or more during any twelve month period; and all actions to establish personnel classifications, position authorities, salaries, bonuses, and benefits for agency staff. L.A. Admin. Code §§ 8.99.04–8.99.07.

40. From February 1, 2001 to February 1, 2012, the former agency's redevelopment plans were submitted to the City Council for approval. L.A. Admin. Code § 8.90.

1 41. From February 1, 2001 to February 1, 2012, the City Council and Mayor
2 approved the former CRA's budget and any budget modifications. L.A. Admin. Code §
3 8.99(d).

4 42. Any expenditure or indebtedness by the former CRA not in conformity with
5 the former CRA's budget or modification was prohibited. L.A. Admin. Code § 8.99(f).

6 43. From February 1, 2001 to February 1, 2012, the Controller of the City was
7 the Controller of the former CRA in a manner similar to the Controller's duties and
8 responsibilities for City departments under the City Charter, and oversaw all controller
9 functions of the former CRA. L.A. Admin. Code § 8.99.02.

10 44. The Controller of the City was to cause a yearly audit to be conducted of the
11 former CRA's financial condition, and other audits of the former CRA as the Controller
12 deemed appropriate. L.A. Admin. Code § 8.99.02.

13 45. The Los Angeles City Attorney served as General Counsel for the former
14 CRA. L.A. Ad. Code § 8.99.03.

15 46. The mayor had authority to remove a member of the former CRA for
16 inefficiency, neglect of duty, or misconduct in office. Cal. HSC § 33115. Subject to
17 Cal. HSC § 33115, City Council also had authority to remove a former CRA member.
18 L.A. Admin. Code § 8.99.01(b).

19 **iii. The Former CRA's Dissolution**

20 47. On June 28, 2011, the Governor of the State of California approved
21 California Assembly Bill ABx1 26 (2001) (AB 26), dissolving redevelopment agencies
22 and transferring to successors all authority, rights, powers, duties and obligations
23 previously vested with the former redevelopment agencies, other than as specified.

24 48. Each redevelopment agency's assets, liabilities, and responsibilities were
25 divided between two distinct entities: a "successor agency" and a "housing successor."

26 49. All assets and liabilities of each redevelopment agency, other than the
27 redevelopment agency's housing assets, would be assumed by the successor agency.

28 50. Each redevelopment agency's housing assets would be assumed by the

1 housing successor.

2 51. Any municipality that created a redevelopment agency had the option to
3 become either the agency's successor agency, housing successor, or both.

4 52. If the municipality elected not to become the successor agency, AB 26
5 automatically created a successor agency in the former redevelopment agency's place.

6 53. As of February 1, 2012, the former CRA was dissolved.

7 54. The City elected to become the housing successor of the former CRA,
8 thereby accepting transfer of all rights, powers, duties, and obligations of the former
9 CRA's housing assets and functions, but did not elect to become the successor agency to
10 the former CRA.

11 **iv. The CRA/LA**

12 55. The CRA/LA came into existence on February 1, 2012 to serve as the
13 former CRA's successor agency.

14 56. The CRA/LA is charged with winding down the affairs of the former CRA.

15 57. The CRA/LA succeeds to the organizational status of the former CRA, but
16 without any legal authority to participate in redevelopment activities, except to complete
17 any work related to an approved enforceable obligation, as defined by CAL HSC §
18 34171.

19 58. All litigation involving the former CRA is automatically transferred to the
20 CRA/LA. CAL. HSC § 34173(g).

21 59. AB 26 and CALIFORNIA HSC § 34179 *et seq.* requires the establishment of
22 an oversight board consisting of seven members to approve and direct specified activities
23 of the successor agencies.

24 60. On or about May 2, 2012, the City established an Oversight Board to
25 assume the statutorily specified functions of the CRA/LA, including fulfilling its
26 fiduciary responsibilities to holders of enforceable obligations. CAL. HSC § 34179(i).

27 61. The CRA/LA is a public entity formed pursuant to CALIFORNIA HSC
28 34173(d).

62. Since February 1, 2012, the CRA/LA has been a public entity within the meaning of Title II of the ADA.

IV. APPLICABLE LAW

A. The FCA

63. The FCA reflects Congress's objective to "enhance the government's ability to recover losses as a result of fraud against the Government." S. REP. NO. 99-345, at 1 (1986), *as reprinted in* 1986 U.S.C.C.A.N. 5266, 5266. To that end, the FCA imposes liability on a variety of fraudulent conduct involving claims for federal money or property. 31 U.S.C. § 3729(a). Notably, Congress substantively amended the FCA in 2009. Fraud Enforcement and Recovery Act of 2009 (FERA) § 4, Pub. L. No. 111-21, 123 Stat. 1617 (May 20, 2009).

64. The FCA currently makes liable any person who "knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval." 31 U.S.C. § 3729(a)(1)(A). Prior to FERA, the FCA made liable any person who "knowingly presents, or causes to be presented, to an officer or employee of the United States Government . . . a false or fraudulent claim for payment or approval." 31 U.S.C. § 3729(a)(1) (2006).

65. The FCA also currently makes liable any person who "knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim." 31 U.S.C. § 3729(a)(1)(B). The amendments to this provision apply retroactively to claims for payment pending on or after June 7, 2008. Prior to FERA, the FCA made liable any person or "knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government." 31 U.S.C. § 3729(a)(2) (2006).

66. Presently, the FCA defines claim to mean "any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that—

(i) is presented to an officer, employee, or agent of the United States; or

(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government . . . (I) provides or has provided any portion of the money or property requested or demanded; or (II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded

31 U.S.C. § 3729(b)(2)(A). Prior to FERA, the FCA defined "claim" to include:

[A]ny request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

31 U.S.C. § 3729(c) (2006).

67. Throughout the false claims period, the terms "knowing" and "knowingly" have been defined to mean that a person, with respect to information—"has actual knowledge of the information"; "acts in deliberate ignorance of the truth or falsity of the information"; or "acts in reckless disregard of the truth or falsity of the information." 31 U.S.C. § 3729(b)(1); *see also* 31 U.S.C. § 3729(b) (2006). The term does not require proof of specific intent to defraud. *Id.*

68. Congress included "deliberate ignorance" in its definition of the terms "knowing" and "knowingly" to hold a defendant accountable for failing to make the inquiry that a reasonable and prudent person would have made under the circumstances to be reasonably certain that the person was entitled to the money sought from the Government. S. REP. NO. 99-0345, at 21.

69. In its current form, the FCA defines "material" to mean "having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property." 31 U.S.C. § 3729(b)(4). Prior to FERA, the word "materiality" did not

1 appear in section 3729. Nevertheless, the Ninth Circuit held that the FCA included a
 2 materiality requirement, and defined the term “materiality” consistent with its current
 3 statutory meaning. *United States v. Borseau*, 531 F.3d 1159, 1170–71 (9th Cir. 2008).

4 70. Throughout the false claims period, the FCA has entitled the United States
 5 to recover three times the amount of damages it sustained because of a defendant’s
 6 violation of the statute and, for each act by the defendant violating the statute, a civil
 7 penalty. For violations occurring before November 2, 2015, the FCA imposes a penalty
 8 for each violation of not less than \$5,500 and not more than \$11,000. For violations
 9 occurring after November 2, 2015, all civil statutory penalties, including the FCA, are
 10 subject to an annual adjustment for inflation. Bipartisan Budget Act of 2015 (BBA) §
 11 701, Pub. L. No. 114-74, 129 Stat. 584 (Nov. 2, 2015).

12 **B. Civil Rights Statutes**

13 **i. Section 504 and its Implementing Regulations**

14 71. Section 504 prohibits discrimination against persons with disabilities in the
 15 operation of all programs and activities receiving federal financial assistance. 29 U.S.C.
 16 § 794. It provides in relevant part:

17 No otherwise qualified individual with a disability . . . shall, solely by reason
 18 of his or her disability, be excluded from participation in, be denied the
 19 benefits of, or be subjected to discrimination under any program or activity
 20 receiving Federal financial assistance

21 72. In passing Section 504, Congress specifically found that:

22 (1) millions of Americans have one or more physical or mental disabilities
 23 and the number of Americans with such disabilities is increasing;

24 (2) individuals with disabilities constitute one of the most disadvantaged
 25 groups in society;

26 (3) disability is a natural part of the human experience and in no way
 27 diminishes the right of the individuals to . . . live independently . . . [and] enjoy
 28 full inclusion and integration in the economic, political, social, cultural, and

1 educational mainstream of American society.

2 . . .

3 (5) individuals with disabilities continually encounter various forms of
4 discrimination in such critical areas as . . . housing [and] public
5 accommodations; [and]

6 (6) the goals of the Nation properly include the goal of providing individuals
7 with disabilities with the tools necessary to . . . make informed choices and
8 decisions; and . . . achieve equality of opportunity, full inclusion and
9 integration in society, employment, independent living, and economic and
10 social self-sufficiency, for such individuals . . .

11 29 U.S.C. § 701(a).

12 73. Likewise, Congress' proclaimed purpose in passing Section 504 was to:

13 (1) empower individuals with disabilities to maximize employment, economic
14 self-sufficiency, independence, and inclusion and integration into society
15 through . . . the guarantee of equal opportunity; [and]

16 . . .

17 (3) ensure that the Federal Government plays a leadership role in . . . assisting
18 States and providers of services in fulfilling the aspirations of such individuals
19 with disabilities for meaningful and gainful employment and independent
20 living.

21 29 U.S.C. § 701(b).

22 74. Additionally, with passage of Section 504, Congress announced the policy
23 of the United States to be that:

24 [A]ll programs, projects, and activities receiving [federal financial assistance]
25 shall be carried out in a manner consistent with the principles of—

26 (1) respect for individual dignity, personal responsibility, self-determination,
27 and pursuit of meaningful careers, based on informed choice, of individuals
28 with disabilities;

(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

(3) inclusion, integration, and full participation of the individuals; [and]

...

(5) support of individual and systemic advocacy and community involvement.

29 U.S.C. § 701(c).

75. HUD implements Section 504 through 24 C.F.R. Part 8, which imposes mandatory accessibility requirements on recipients of HUD funds.

76. A recipient means:

[A]ny State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient.

24 C.F.R. § 8.3.

77. Defendants are recipients for purposes of Section 504 and 24 C.F.R. Part 8.

78. The City and the CRA/LA were responsible for monitoring and managing federally-assisted housing activities to assure compliance with all applicable Federal requirements. *E.g.*, 2 C.F.R. § 200.331(d); 24 C.F.R. § 85.40 (2013).

a. Discrimination prohibited

79. In providing any housing, aid, benefit, or service in a program or activity that receives HUD funds, a recipient may not, directly or through contractual, licensing, or other arrangements, solely on the basis of disability:

(i) Deny a qualified individual with handicaps the opportunity to participate in, or benefit from, the housing, aid, benefit, or service;

...

(iii) Provide a qualified individual with handicaps with any housing, aid,

benefit, or service that is not as effective in affording the individual an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

...

(v) Aid or perpetuate discrimination against a qualified individual with handicaps by providing significant assistance to any agency, organization, or person that discriminates on the basis of handicap in providing any housing, aid, benefit, or service to beneficiaries in the recipient's federal assisted program or activity.

24 C.F.R. § 8.4(b)(1).

80. In any program or activity receiving HUD funds, a recipient may not, directly or through contractual or other arrangements, use criteria or methods of administration, of which the purpose or effect would:

(i) Subject qualified individuals with handicaps to discrimination solely on the basis of handicap;

(ii) Defeat or substantially impair the accomplishment of the objectives of the recipient's federally assisted program or activity for qualified individuals with a particular handicap involved in the program or activity, unless the recipient can demonstrate that the criteria or methods of administration are manifestly related to the accomplishment of an objective or a program or activity; or

(iii) Perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

24 C.F.R. § 8.4(b)(4).

81. A recipient must take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public and furnish appropriate auxiliary aids where necessary to afford people with disabilities an equal opportunity to participate in, and enjoy the benefits of, a program or activity receiving HUD funds. 24 C.F.R. § 8.6.

1 82. To determine what auxiliary aids are needed, the recipient must first
2 consider the requests of people with disabilities and implement procedures ensuring
3 interested persons (including persons with impaired vision or hearing) can obtain
4 information concerning the existence and location of accessible services, activities, and
5 facilities. 24 C.F.R. § 8.6

6 **b. Architectural requirements**

7 83. Consistent with Section 504, “[N]o qualified individual with handicaps
8 shall, because a recipient’s facilities are inaccessible to or unusable by individuals with
9 handicaps, be denied the benefits of, be excluded from participation in, or otherwise be
10 subjected to discrimination under any program or activity that receives federal financial
11 assistance.” 24 C.F.R. § 8.20. Facility “means all or any portions of buildings,
12 structures, equipment, roads, walks, parking lots, rolling stock or other real or personal
13 property or interest in the property.” 24 C.F.R. § 8.3. Federal financial assistance
14 “means any assistance provided or otherwise made available by [HUD] through any
15 grant, loan, contract or any other arrangement, in the form of” funds, services of federal
16 personnel, or real or personal property or any interest in or use of such property. 24
17 C.F.R. § 8.3

18 84. New multifamily housing projects receiving federal financial assistance
19 must “be designed and constructed to be readily accessible to and usable by [people with
20 disabilities].” 24 C.F.R. § 8.22–23.

21 85. A multifamily housing project means a project containing five or more
22 dwelling units. 24 C.F.R. § 8.3.

23 86. A new multifamily housing project means a project built after July 11,
24 1988. 24 C.F.R. §§ 8.24(c); 8.32(e).

25 87. A multifamily housing project that undergoes substantial alteration is
26 considered a new multifamily housing project. 24 C.F.R. § 8.23(a).

27 88. Substantial alteration means alterations undertaken to a project that has
28 fifteen (15) or more units and the cost of the alterations is seventy-five (75) percent or

1 more of the replacement cost of the completed facility. 24 C.F.R. § 8.23(a).

2 89. A minimum of five (5) percent of the total dwelling units in a new
3 multifamily housing project must be made accessible for persons with mobility
4 impairments. An additional two (2) percent of the units in such a project must be
5 accessible for persons with hearing or vision impairments (5 Percent/2 Percent Rule). 24
6 C.F.R. § 8.22(b).

7 90. All other alterations to dwelling units in a multifamily housing project must,
8 to the maximum extent feasible, be made to be readily accessible to and usable by people
9 with disabilities. 24 C.F.R. § 8.23(b).

10 91. Buildings designed, constructed, or altered in accordance with the Uniform
11 Federal Accessibility Standards (UFAS) are deemed to comply with 24 C.F.R. §§ 8.22–
12 23. 24 C.F.R. § 8.32. UFAS sets forth uniform standards, including minimum technical
13 requirements, for the design, construction, and alteration of buildings so that people with
14 disabilities will have ready access to and use of them. Buildings designed, constructed,
15 or altered in accordance with UFAS, then, are deemed by HUD to be readily accessible
16 to and usable by people with disabilities, consistent with Section 504 and HUD's
17 implementing regulations.

18 **c. Programmatic requirements**

19 92. A recipient must operate each existing housing program or activity
20 receiving HUD funds so the program or activity, when viewed in its entirety, is readily
21 accessible to and usable by people with disabilities. 24 C.F.R. § 8.24(a).

22 93. Accessible dwelling units must, to the maximum extent feasible, be
23 distributed throughout projects and sites and must be available in a sufficient range of
24 sizes and amenities so that choice of living arrangements for people with disabilities is,
25 as a whole, comparable to that of other people eligible for housing assistance under the
26 same program. 24 C.F.R. § 8.26.

27 94. Owners and managers of multifamily housing projects must adopt suitable
28 means to assure that information regarding the availability of accessible units reaches

1 eligible people with disabilities, and must take reasonable non-discriminatory steps to
2 maximize the utilization of such units by eligible people whose disability requires the
3 accessibility features of the particular unit. 24 C.F.R. § 8.27.

4 95. When an accessible unit becomes vacant, the owner or manager—before
5 offering such units to a non-disabled applicant—must offer such unit:

6 (1) First, to a current occupant of another unit of the same project, or
7 comparable projects under common control, having [disabilities] requiring the
8 accessibility features of the vacant unit and occupying a unit not having such
9 features, or, if no such occupant exists, then

10 (2) Second, to an eligible qualified applicant on the waiting list having a
11 [disability] requiring the accessibility features of the vacant unit.

12 24 C.F.R. § 8.27.

13 96. When offering an accessible unit to an applicant not having disabilities
14 requiring the accessibility features of the unit, the owner or manager may require the
15 applicant to agree (and may incorporate this agreement in the lease) to move to a non-
16 accessible unit when available. 24 C.F.R. § 8.28.

17 97. A recipient must modify its housing policies and practices to ensure they do
18 not discriminate, on the basis of disability, against qualified people with disabilities. 24
19 C.F.R. § 8.33.

20 98. An applicant for HUD funds shall submit an assurance to HUD, or in the
21 case of a subrecipient to a primary recipient, on a form specified by the responsible civil
22 rights official, that the program or activity will be operated in compliance with 24 C.F.R.
23 Part 8. 24 C.F.R. § 8.50.

24 99. A recipient that employs fifteen or more people must designate at least one
25 person to coordinate its efforts to comply with 24 C.F.R. Part 8 (Section 504
26 Coordinator). 24 C.F.R. § 8.53(a).

27 100. A recipient that employs fifteen (15) or more people must adopt grievance
28 procedures that incorporate appropriate due process standards and that provide for the

1 prompt and equitable resolution of complaints alleging any action prohibited by 24
2 C.F.R. Part 8. 24 C.F.R. § 8.53(b).

3 101. In the event of a failure to comply with 24 C.F.R. Part 8, HUD may suspend
4 or terminate federal grant program funds, refuse to grant or continue granting federal
5 grant program funds, or initiate debarment proceedings. 24 C.F.R. § 8.57(a).

6 102. HUD may refuse to provide federal grant program funds to any applicant or
7 recipient that fails or refuses to furnish an assurance of Section 504 compliance required
8 under 24 C.F.R. § 8.50. 24 C.F.R. § 8.57(b).

9 **ii. The Americans with Disabilities Act**

10 103. Title II of the ADA provides that “no qualified individual with a disability
11 shall, by reason of such disability, be excluded from participation in or be denied the
12 benefits of the services, programs, or activities of a public entity, or be subjected to
13 discrimination by such entity.” 42 U.S.C. § 12132.

14 104. “Public entity” includes any local government and any department, agency,
15 special purpose district, or other instrumentality of a local government. 42 U.S.C. §
16 12131(1).

17 105. Congress enacted the ADA “to provide a clear and comprehensive national
18 mandate for the elimination of discrimination against individuals with disability” with
19 “clear, strong, consistent, enforceable standards . . . to address the major areas of
20 discrimination faced day-to-day by people with disabilities.” 42. U.S.C. § 12101(b).

21 106. The U.S. Department of Justice promulgates regulations implementing Title
22 II of the ADA. 28 C.F.R. Part 35.

23 107. In providing any aid, benefit, or service, a public entity may not:

24 [D]irectly or through contractual, licensing, or other arrangements, on the
25 basis of disability . . . [a]id or perpetuate discrimination against a qualified
26 individual with a disability by providing significant assistance to an agency,
27 organization, or person that discriminates on the basis of disability in
28 providing any aid, benefit, or service to beneficiaries of the public entity’s

1 program, [or] [o]therwise limit a qualified individual with a disability in the
2 enjoyment of any right, privilege, advantage, or opportunity enjoyed by others
3 receiving the aid, benefit, or service.

4 28 C.F.R. § 35.130(b)(1).

5 108. A public entity may not, directly or through contractual or other
6 arrangements, utilize criteria or methods of administration:

7 (i) That have the effect of subjecting qualified individuals with disabilities to
8 discrimination on the basis of disability;

9 (ii) That have the purpose or effect of defeating or substantially impairing
10 accomplishment of the objectives of the public entity's program with respect
11 to individuals with disabilities; or

12 (iii) That perpetuate the discrimination of another public entity if both public
13 entities are subject to common administrative control . . .

14 28 C.F.R. § 35.130(b)(3).

15 109. Title II of the ADA generally provides that "no qualified individual with a
16 disability shall, because a public entity's facilities are inaccessible to or unusable by
17 individuals with disabilities, be excluded from participation in, or be denied the benefits
18 of the services, programs, or activities of a public entity, or be subjected to
19 discrimination by any public entity." 28 C.F.R. § 35.149.

20 110. Each facility, or any part thereof, constructed by, on behalf of, or for the use
21 of a public entity:

22 [S]hall be designed and constructed in such manner that the facility or part of
23 the facility is readily accessible to and usable by individuals with disabilities,
24 if the construction was commenced after January 26, 1992 [unless] . . . a public
25 entity can demonstrate that it is structurally impracticable to meet the
26 requirements.

27 . . .

28 Each facility or part of a facility altered by, on behalf of, or for the use of a

public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities,

28 C.F.R. § 31.151.

111. Except in the rare instance where a public entity can show it would be impractical, facilities constructed or substantially altered after January 26, 1992 must comply with the 2010 ADA Standards for Accessible Design, the UFAS, or the 1991 ADA Standards for Accessible Design, depending on when the facilities are constructed or altered. 28 C.F.R. § 35.151.

iii. The FHA

112. The FHA makes it unlawful to “make unavailable or deny” a dwelling to any buyer or renter because of a person’s disability, or to discriminate against people with disabilities “in the provision of services or facilities in connection with” a dwelling. 42 U.S.C. § 3604(f)(1)–(2).

113. Discrimination under the FHA includes a failure to design and construct dwellings in such a manner that:

(i) the public use and common use portions of such dwellings are readily accessible to and usable by [people with disabilities];

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by [people with mobility impairments];

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

1 (III) reinforcements in bathroom walls to allow later installation of grab
2 bars; and

3 (IV) usable kitchens and bathrooms such that [people with mobility
4 impairments] can maneuver about the space.

5 42 U.S.C. § 3604(f)(3).

6 114. The FHA applies to “covered multifamily dwellings” for first occupancy on
7 or after March 13, 1991. 24 C.F.R. § 100.205(a).

8 115. “Covered multifamily dwelling” for purposes of the FHA means “buildings
9 consisting of four or more dwelling units if such buildings have one or more elevators;
10 and ground floor dwelling units in other buildings consisting of four or more dwelling
11 units.” *Id.*

12 116. A jurisdiction may satisfy the FHA’s design and construction requirements
13 by following the technical requirements set forth in the Fair Housing Accessibility
14 Guidelines, March 6, 1991 (FHA Guidelines). 24 C.F.R. § 100.205(e)(2)(i).

15 **iv. Duty to Affirmatively Further Fair Housing**

16 117. Each state and local government awarded HUD funds must annually certify
17 “that it will affirmatively further fair housing.” Prior to July 15, 2016, a jurisdiction’s
18 promise to affirmatively further fair housing meant that “it will conduct an analysis to
19 identify impediments to fair housing choice within the jurisdiction, take appropriate
20 actions to overcome the effects of any impediments identified through that analysis, and
21 maintain records reflecting the analysis and actions in this regard.” *E.g.*, 24 C.F.R. §
22 91.225 (2014). The analysis should include an assessment of public and private
23 conditions affecting fair housing choice for all protected classes, including people with
24 disabilities. U.S. DEP’T OF HOUS. & URBAN DEV., OFFICE OF FAIR HOUS. & EQUAL
25 OPPORTUNITY, FAIR HOUSING PLANNING GUIDE 1-2 (1996).

26 118. Effective July 15, 2016, to affirmatively further fair housing means taking
27 meaningful actions, in addition to combating discrimination, that overcome patterns of
28 segregation and foster inclusive communities free from barriers that restrict access to

1 opportunity based on protected characteristics. Specifically, affirmatively furthering fair
2 housing means taking meaningful actions that, taken together, address significant
3 disparities in housing needs and in access to opportunity, replacing segregated living
4 patterns with truly integrated and balanced living patterns, transforming racially and
5 ethnically concentrated areas of poverty into areas of opportunity, and fostering and
6 maintaining compliance with civil rights and fair housing laws. The duty to affirmatively
7 further fair housing extends to all of a program participant's activities and programs
8 relating to housing and urban development. 24 C.F.R. § 5.152. Once it has submitted an
9 Assessment of Fair Housing that has been accepted by HUD, a program participant must
10 certify that it “will take meaningful actions to further the goals identified in the
11 [Assessment of Fair Housing] conducted in accordance with the requirements of 24
12 C.F.R. §§ 5.150 through 5.180, and that it will take no action that is materially
13 inconsistent with its obligation to affirmatively further fair housing.” 24 C.F.R. §§
14 5.160(e); 91.225(a)(1).

15 119. The Assessment of Fair Housing is an examination of the fair housing
16 issues and contributing factors that cause, increase, contribute to, maintain, or perpetuate
17 such issues in a jurisdiction or region, and must include the identification of segregation
18 patterns based on disability, significant disparities in access to opportunity for people
19 with disabilities, and disproportionate housing needs for people with disabilities, as well
20 as set forth goals for overcoming contributing factors and related fair housing issues. 24
21 C.F.R. § 5.154.

22 120. The duty to affirmatively further fair housing is rooted in the FHA. The
23 FHA’s stated policy is “to provide, within constitutional limitations, for fair housing
24 throughout the United States,” 42 U.S.C. § 3601, and requires HUD to “administer the
25 programs and activities relating to housing and urban development in a manner
26 affirmatively to further the policies of the [FHA].” 42 U.S.C. § 3608. The duty to
27 affirmatively further fair housing applies to participants in HUD programs and activities
28 by Executive Order, including cities and municipalities. Exec. Order No. 12892, Fed.

1 Reg. 2939 (Jan. 17, 1994) (requiring, in accordance with the FHA, that all “applicants
 2 for” or “participants in” programs and activities related to housing and urban
 3 development affirmatively further fair housing). As described below, the duty also
 4 applies through program statutes that require HUD grantees to certify they will
 5 affirmatively further fair housing.

6 121. To reiterate the federal mandate ensuring people with disabilities are not
 7 discriminated against, HUD declared the following laws apply to “all HUD programs”—
 8 *Nondiscrimination and equal opportunity*. . . . The Fair Housing Act (42 U.S.C.
 9 3601–19) and implementing regulations at 24 CFR Part 100 *et seq.*; . . . section
 10 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing
 11 regulations at part 8 of this title; title II of the Americans with Disabilities Act, 42
 12 U.S.C. 1210 *et seq.*, [and] 24 CFR part 8
 13 24 C.F.R. § 5.105.

14 **V. HUD PROGRAMS**

15 **A. Formula Block Grant Programs**

16 122. Throughout the false claims period, the defendants received HUD funding
 17 through the following grant programs:

- 18 a. the Community Development Block Grant (CDBG) Program and the
- 19 Economic Development Initiative (EDI) Program;
- 20 b. HOME Investments Partnerships (HOME) Program;
- 21 c. Housing Opportunities for People with AIDS (HOPWA); and
- 22 d. Emergency Solutions Grant (ESG) (formerly known as the
- 23 Emergency Shelter Grant Program) as to shelters.

24 The grant programs referenced in this paragraph are referred to below as the “formula
 25 grant programs,” and HUD funds provided to the defendants under the formula grant
 26 programs are referred to below as the “formula grant program funds.”

27 123. Formula grant program funds may be used toward the development and
 28 rehabilitation of affordable housing.

1 124. A primary goal of the formula grant programs “is to develop decent housing
2 and a suitable living environment . . . principally for low- and moderate-income
3 persons.” 24 C.F.R. § 91.1. “Decent housing” includes “increasing the availability of
4 permanent housing in standard condition and affordable cost to low-income and
5 moderate-income families, particularly to members of disadvantaged minorities, without
6 discrimination on the basis of . . . disability.” *Id.*

7 **i. The Consolidated Plan**

8 125. To obtain funding from HUD under the formula grant programs, a
9 jurisdiction must submit to HUD one consolidated planning and application document,
10 called the Consolidated Plan. 24 C.F.R. § 91.1.

11 126. The Consolidated Plan must include the following: (1) a housing and
12 homeless needs assessment; (2) a housing market analysis; (3) a strategic plan; (4) an
13 action plan; and (5) certifications.

14 127. The housing and homeless needs assessment, housing market analysis, and
15 strategic plan must be submitted to HUD at least every five years. 24 C.F.R. § 91.15.
16 The action plan and certifications must be submitted on an annual basis. *Id.*

17 128. The housing and homeless needs assessment must examine the
18 jurisdiction’s future housing needs, 24 C.F.R. § 91.205(a), and include an estimate of the
19 number and type of families in need of housing assistance for people with disabilities.
20 24 C.F.R. § 91.205(b)(1)(J).

21 129. The housing market analysis must “describe the significant characteristics
22 of the jurisdiction’s housing market, including the supply, demand, and condition and
23 cost of housing and the housing stock available to serve persons with disabilities”
24 24 C.F.R. § 91.210(a).

25 130. The strategic plan must set forth the jurisdiction’s general priorities for
26 allocating investments among its different housing activities and needs, 24 C.F.R. §
27 91.215(a), and provide a summary of the priority housing and supportive service needs
28 for people with disabilities. 24 C.F.R. § 91.215(e).

1 131. Each year, the jurisdiction must submit an Action Plan describing the
2 activities the jurisdiction will undertake during the next year to address priority needs
3 and objectives, including the housing and supportive service needs of people with
4 disabilities. 24 C.F.R. §§ 91.220(d); 91.220(i)(2).

5 132. A jurisdiction's Action Plan serves as the application for CDBG, HOME,
6 ESG, and HOPWA funds. 24 C.F.R. § 91.515(a). Each action plan must include
7 Standard Form 424 (SF 424), a standard cover sheet every jurisdiction must include with
8 submissions to HUD in connection with applications for funds. 24 C.F.R. § 91.220(a).

9 133. SF 424 requires the jurisdiction to certify compliance with certain
10 requirements set forth in Assurances and Certifications. As set forth in Assurances and
11 Certifications Form 424b (SF 424b), the jurisdiction certifies it:

12 Will administer the grant in compliance with Section 504 of the Rehabilitation
13 Act of 1973, as amended, and implementing regulations . . . which . . . provide
14 that no person in the United States shall, on the grounds of disability . . . be
15 excluded from participation in, be denied the benefits of, or otherwise be
16 subjected to discrimination under any program or activity that receives
17 Federal financial assistance [and]

18 Will comply with the Fair Housing Act, as amended, and the implementing
19 regulations . . . which prohibit discrimination in housing on the basis of . . .
20 disability

21 134. The bottom of 424b expressly states:

22 These certifications and assurances are material representations of the fact
23 upon which HUD can rely when awarding a grant. If it is later determined
24 that, I the applicant, knowingly made an erroneous certification or assurance,
25 I may be subject to criminal prosecution. HUD may also terminate the grant
26 and take other available remedies.

27 **ii. Annual Certifications**

28 135. Each year, a jurisdiction must make certain certifications which HUD relies

on in awarding formula grant program funds.

136. A jurisdiction seeking any formula grant program funds must certify to the following:

(1) *Affirmatively further fair housing*. Each jurisdiction is required to submit a certification that it will affirmatively further fair housing

. . .

(5) *Consistency with plan*. The jurisdiction must submit a certification that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

24 C.F.R. § 91.225(a)(5).

137. A jurisdiction seeking CDBG funds must additionally certify to the following:

(6) *Compliance with anti-discrimination laws*. The jurisdiction must submit a certification that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations.

. . .

(8) *Compliance with laws*. A certification that the jurisdiction will comply with applicable laws.

24 C.F.R. §§ 91.225(b)(6), (8). Congress expressly required jurisdictions make such certifications as a precondition to receiving CDBG funds. 42 U.S.C. § 5304(b)(2).

138. A jurisdiction seeking HOME funds must additionally certify to the following:

[T]hat [the jurisdiction] is using and will use HOME funds for eligible activities and costs, as described in §§ 92.205 through 92.209 of this subtitle and that it is not using and will not use HOME funds for prohibited activities, as described in § 92.214 of this subtitle.

24 C.F.R. § 92.225(d)(2). Pursuant to § 92.205, HOME “activities and costs are eligible

1 only if the housing meets the property standards in § 92.251 upon project completion,”
2 which make applicable the requirements of Section 504, the FHA, and the ADA.

3 **iii. Executive Funding Agreements**

4 139. Based upon its review of a jurisdiction’s annual submissions—including its
5 assurances and certifications—HUD executes with the jurisdiction a funding agreement
6 for each of the formula grant programs for the upcoming program year. As such, each
7 year, the jurisdiction and HUD enter into a separate funding agreement for CDBG,
8 HOME, ESG, and HOPWA funds.

9 140. Throughout the false claims period, the City submitted annual action plans
10 and certifications to HUD as a prerequisite in order to obtain formula grant program
11 funds.

12 141. Additionally, the City submitted at least six Consolidated Plans to HUD that
13 included a housing and homeless needs assessment, housing market analysis, and
14 strategic plan: (1) 2000-2003; (2) 2000-2003 (Revised); (3) 2003-2008; (4) 2008-2012;
15 (5) 2013-2017; and (6) 2013-2014 (Strategic Plan Revised) in order to obtain formula
16 grant funds.

17 **a. The CDBG Program**

18 142. Congress established the CDBG Program with passage of the Housing and
19 Community Development Act of 1974, Pub. L. No. 93-383, 88 Stat. 633 (1974)
20 (codified at 42 U.S.C.), by which Congress sought to develop viable urban communities
21 by providing decent housing and suitable living environments for people of low and
22 moderate income. 42 U.S.C. § 5301. HUD implements the CDBG Program through 24
23 C.F.R. Part 570.

24 143. In each agreement for CDBG funds, the jurisdiction expressly
25 acknowledges that CDBG Program regulations “constitute part of the agreement,” and
26 HUD agrees to make CDBG funds available to the jurisdiction “subject to the provisions
27 of the agreement.” Each agreement also incorporates the jurisdiction’s Consolidated
28 Plan, including its strategy to increase decent housing for people with disabilities.

1 144. The laws governing CDBG grants plainly and repeatedly require
2 compliance with Section 504, the FHA, the ADA, and the duty to affirmatively further
3 fair housing. At the outset, as noted above, 24 C.F.R. Parts 5 and 8—applicable to each
4 formula grant program—expressly prohibit discrimination in any program or activity
5 receiving HUD funds.

6 145. Part 570 explicitly requires that each recipient adhere to the requirements of
7 the federal accessibility laws. *See* 24 C.F.R. § 570.601(a)(2) (requiring compliance with
8 the FHA and the duty to affirmatively further fair housing); 24 C.F.R. § 570.602
9 (requiring compliance with Section 504); 24 C.F.R. § 570.614 (requiring compliance
10 with the ADA);

11 **b. The HOME Program**

12 146. Congress established the HOME Program with passage of the HOME
13 Investment Partnership Act, Pub. L. No. 101-625, § 202, 104 Stat. 4094 (codified at 42
14 U.S.C. § 12721). HUD implements the HOME Program through 24 C.F.R. Part 92.

15 147. Under the HOME Program, HUD allocates funds by formula among
16 eligible state and local governments “for use solely to invest in affordable housing.” 42
17 U.S.C. § 12748(a). Such jurisdictions, in turn, provide assistance through various forms
18 of investment, including acquisition, new construction, and rehabilitation of housing. 24
19 C.F.R. § 92.503(a).

20 148. In each agreement for HOME funds, the jurisdiction expressly
21 acknowledges that HOME Program regulations “constitute part of the agreement,” and
22 HUD agrees to make program funds available to the jurisdiction “subject to the
23 provisions of the agreement.” Each agreement also incorporates the jurisdiction’s
24 Consolidated Plan, including its strategy to increase decent housing for people with
25 disabilities.

26 149. In addition to the anti-discrimination provisions of 24 C.F.R. Part 5 and 8,
27 Part 92 expressly requires that each recipient adhere to the requirements of the federal
28 accessibility laws. *See* 24 C.F.R. § 92.251(a)(2)(i) (requiring that new construction

1 projects comply with Section 504, the ADA, and the FHA); 24 C.F.R. § 92.251
 2 (b)(1)(iv) (requiring that rehabilitation projects comply with Section 504, the ADA, and
 3 the FHA); 24 C.F.R. § 92.508(a)(7)(C) (requiring each jurisdiction to establish and
 4 maintain sufficient records to enable HUD to determine whether the jurisdiction has
 5 taken action to affirmatively further fair housing).

6 **c. The ESG Program**

7 150. Congress established the ESG Program with passage of the Stewart B.
 8 McKinney Homeless Assistance Act of 1987, Pub. L. No. 100-77, 101 Stat. 482
 9 (codified at 42 U.S.C. § 11371 *et seq.*). HUD implements the ESG Program through 24
 10 C.F.R. Part 576.

11 151. Under the ESG program, HUD provides funding to assist homeless
 12 individuals and families living on the street through a variety of services, including
 13 rehabilitating emergency shelters for homeless individuals and families, assisting in the
 14 operation of these shelters, and providing essential services to shelter residents.

15 152. In agreements for ESG funds, the City makes certifications that it will
 16 comply with federal anti-discrimination laws.

17 153. 24 C.F.R. § 576.57 (2005) provides:

18 In addition to the Federal requirements set forth in 24 CFR part 5, use of
 19 emergency shelter grant amounts must comply with the following requirements:

20 (a) *Nondiscrimination and equal opportunity.* The nondiscrimination
 21 and equal opportunity requirements at 24 CFR part 5 are modified as follows:

22 (1) *Rehabilitation Act requirements.* HUD's regulations at 24 CFR
 23 part 8 implement section 504 of the Rehabilitation Act of 1974 (29 USC 794).
 24 For purposes of the emergency shelter grants program, the term "dwelling
 25 units" in 24 CFR part 8 shall include sleeping accommodations.

26 (2) Use of emergency shelter grant amounts must also comply with the
 27 requirement that the grantee . . . make known that use of the facilities and
 28 services is available to all on a nondiscriminatory basis. If the procedures that

1 the grantee or recipient intends to use to make known the availability of the
 2 facilities and services are unlikely to reach persons of any particular . . .
 3 disability who may qualify for such facilities and services, the grantee or
 4 recipient must establish additional procedures that will ensure that such
 5 persons are made aware of the facilities and services. Grantees and recipients
 6 must also adopt procedures which will make available to interested persons
 7 information concerning the location of services and facilities that are
 8 accessible to persons with disabilities.

9 Following amendment, Part 576's federal accessibility requirements were set forth in 24
 10 C.F.R. § 576.403.

11 154. In the ESG agreements between the City and HUD, the City agrees to
 12 comply with all applicable laws and regulations in distributing funds under the grant
 13 agreement and "to accept responsibility for ensuring compliance by recipient entities
 14 which may receive funding assistance." The City also agrees that HUD's regulations at
 15 24 C.F.R. Part 576, are incorporated into the agreement. HUD agrees to provide the
 16 ESG grant funds "[i]n reliance upon the Consolidated Plan and certifications."

17 **d. The HOPWA Program**

18 155. Congress established the HOPWA Program with passage of the AIDS
 19 Housing Opportunity Act, 42 U.S.C. § 12901 *et seq.* HUD implements the HOPWA
 20 program through 24 C.F.R. Part 574.

21 156. HOPWA provides housing assistance and related supportive services for
 22 low-income people living with HIV/AIDS and their families.

23 157. The City's HOPWA grant agreements provide that they are governed by:
 24 "[T]he Housing Opportunities for Persons with AIDS (HOPWA) Program Rule, 24 CFR
 25 574 as amended, and the Consolidated Plan rule, 24 CFR 91 as amended." *See, e.g.,*
 26 City of LA HOPWA Performance Grant Agreements for FY 2003 and FY 2007.

27 158. In addition to the Consolidated Plan accessibility requirements, the City's
 28 HOPWA agreements included the requirement that it comply with Part 574's

1 nondiscrimination provisions, which provide:

2 [T]he nondiscrimination and equal opportunity requirements set forth in 24
3 CFR part 5 and the following requirements apply:

4 *Fair housing requirements.* (1) Grantees and project sponsors shall
5 comply with the applicable provisions of the Americans with Disabilities Act
6 (42 U.S.C. 12101–12213) and implementing regulations at 28 CFR part 35
7 (States and local government grantees) and part 36 (public accommodations
8 and requirements for certain types of short-term housing assistance).

9

10 (b) *Affirmative outreach.* A grantee or project sponsor must adopt
11 procedures to ensure that all persons who qualify for the assistance, regardless
12 of their . . . handicap . . . know of the availability of the HOPWA program,
13 including facilities and services accessible to persons with a handicap, and
14 maintain evidence of implementation of the procedures.

15 24 C.F.R. § 574.625 (2003). The nondiscriminatory provisions at 24 C.F.R. Parts 5 and
16 8 apply as well to HOPWA funds.

17 **iv. Accessing Formula Grant Program Funds**

18 159. Once HUD and the City execute a funding agreement for a specific formula
19 grant program for a given program year, HUD distributes the program funds to the City
20 via an account with the United States Treasury. *E.g.*, 24 C.F.R. § 92.500.

21 160. The City's United States Treasury account is managed through HUD's
22 Integrated Disbursement Information System (IDIS), which disburses most formula
23 grant program funds and collects and reports information on the use of such funds by the
24 City. IDIS controls disbursement of formula grant funds except EDI funds.

25 161. Before the City may commit formula grant program funds disbursed
26 through IDIS to a housing project, it must input specific project set-up information in
27 IDIS, including the name and location of the project, whether the project is new
28 construction or rehabilitation, and the HUD program from which the funds will be taken.

1 The project is then assigned a unique identification number (IDIS Activity ID).

2 162. Once the City inputs sufficient project set-up information, it may then make
3 electronic draws through IDIS for each housing project.

4 163. Each draw is conditioned on compliance with HUD rules and procedures.
5 *E.g.*, 24 C.F.R. § 92.502(c).

6 164. Since at least 2003, each time the City requests a drawdown of HOME
7 funds, a pop-up box appears—prior to confirming the draw—in which the City must
8 make specific certifications that:

9 [T]he funds that the Participating Jurisdiction has drawn and will draw shall
10 be used pursuant to the Participating Jurisdiction[’s] approved housing
11 strategy and shall be used in compliance with all requirements of the HOME
12 Investment Partnerships Act, 42 U.S.C. 12701, et seq., and HUDs regulations;
13 and

14 [A]ll of the statements and claims, financial and otherwise, made herein are
15 true and correct. Pursuant to 18 USC § 1001, 31 USC § 3729, et seq., and 24
16 CFR Part 28, false or fraudulent statements and claims made pursuant to these
17 certifications are subject to up to 5 years imprisonment and civil penalties up
18 to \$10,000 plus up to 3 times the amount of damages sustained by the
19 Government for each fraudulent act committed.

20 165. Each draw generates a voucher that is submitted to HUD specifying the
21 amount drawn, the date drawn, and the IDIS Activity ID.

22 166. Throughout the false claims period, the City generated over 3,000 vouchers
23 submitted to HUD for formula grant program funds.

24 167. With each draw, the City expressly and/or impliedly certified its compliance
25 with the federal accessibility laws.

26 168. Once the City completes a project, the City must input into IDIS certain
27 information pertaining to project completion, including whether the project complies
28 with Section 504, the number of accessible units within the project, and other accessible

1 features within the project.

2 **B. Other HUD Programs**

3 169. HUD also provides certain funds to jurisdictions outside the formula grant
4 program process. These funds are announced by HUD from time to time through a
5 Notice of Funding Availability (NOFA).

6 170. HUD conditions participation in each NOFA program on certain
7 enumerated threshold requirements. First, “applicants must comply with all applicable
8 fair housing and civil rights requirements in 24 C.F.R. § 5.105(a).” *E.g.*, HUD’s Fiscal
9 Year 2006 Notice of Funding Availability Policy Requirements, 71 Fed. Reg. 3382,
10 3384 (Jan. 20, 2006).

11 171. Second, NOFAs require that: “[a]pplicants and their subrecipients must
12 comply with . . . Civil Rights Laws, including the Americans with Disabilities Act of
13 1990 (42 U.S.C. 1201 *et seq.*)” *E.g.*, 71 Fed. Reg. at 3385.

14 172. Third, NOFAs require that: “[i]f you are a successful applicant, you will
15 have a duty to affirmatively further fair housing opportunities for classes protected under
16 the Fair Housing Act. Protected classes include race, color, national origin, religion, sex,
17 disability, and familial status.” *Id.*

18 173. HUD awards Neighborhood Stabilization Funds to applicants through the
19 NOFA process.

20 174. In at least 2009 the City certified compliance with the above requirements
21 in applications to HUD for Neighborhood Stabilization Program funds in order to
22 receive such funds.

23 175. In reliance on the City’s certifications, HUD awarded the City
24 Neighborhood Stabilization funds in 2008, 2009, and 2010.

25 176. During the false claims period, the City committed at least \$25 million in
26 Neighborhood Stabilization Funds to, at a minimum, the following projects, each of
27 which are subject to the federal accessibility laws: Chinatown Metro Apartments,
28 Figueroa Senior Housing, Linda Vista Nurses Building, Sherman Village Apartments,

1 and Broadway Villas Senior.

2 177. Compliance with the federal accessibility laws is material to HUD's
3 decision to provide formula grant program funds by awarding funds to or allowing funds
4 to be drawn down by the City.

5 VI. FACTS

6 A. The City's Housing Program Has Been Largely Inaccessible on a Systemic 7 Level

8 178. During the false claims period, over three hundred (300) of the City's
9 multifamily housing projects were constructed, rehabilitated, or altered with HUD funds,
10 including the federal grant program funds (referred to below as the City's Housing
11 Portfolio and identified in Attachment A).

12 179. All of the properties in the City's Housing Portfolio are apartments
13 designed, constructed, or altered after July 11, 1988, with five or more dwelling units
14 that benefitted from federal financial assistance.

15 180. Most, if not all, of the properties in the City's Housing Portfolio are
16 apartments with four (4) or more dwelling units constructed for first occupancy after
17 March 13, 1991.

18 181. The public and common-use areas for each project within the City's
19 Housing Portfolio are "public accommodations" within the meaning of title II of the
20 ADA, 42 U.S.C. §12181(7).

21 182. Most of the public and common-use areas of the properties in the City's
22 Housing Portfolio were designed and constructed for first occupancy on or after January
23 26, 1993.

24 183. Throughout the false claims period, the City failed to enforce the federal
25 accessibility laws in its housing program, resulting in systemic noncompliance, including
26 inaccessible housing projects assisted with federal funds and an inaccessible housing
27 program.

28 i. **Architectural Failures**

1 184. The properties in the City's Housing Portfolio are largely inaccessible.
2 Among other things, slopes, ramps, and thresholds are too steep for safe passage by
3 persons with mobility disabilities; balconies are too narrow for wheelchair access; steps
4 prohibit access to common areas for individuals with mobility disabilities; kitchen
5 cabinets, shelves, and surfaces are outside of accessible reach ranges of persons who use
6 wheelchairs; sinks, grab bars, mailboxes, and circuit breakers are mounted so they are
7 outside of accessible reach ranges for persons who use wheelchairs; pipes below sinks
8 and lavatories are uninsulated, thereby posing physical threats to persons who use
9 wheelchairs; and there are insufficient numbers of designated accessible parking spaces
10 in garages and parking lots. Additionally, buildings lack visual alarms and tactile signs
11 for people with hearing and visual impairments. Examples of particular violations found
12 at projects in the City's Housing Portfolio are identified in Attachment C. The findings
13 of violations of accessibility requirements are based on multiple surveys conducted by
14 the United States of properties included in the City's Housing Portfolio.

15 185. The examples noted above and included in Attachment C are merely some
16 of the types of accessibility defects found at some of the City's projects. These
17 examples are illustrative only, and are not intended to be a complete catalogue of the
18 accessibility violations. The same and similar additional accessibility violations were
19 found by the United States at most, if not all, of other surveyed properties within the
20 City's Housing Portfolio funded with federal dollars subject to the federal accessibility
21 laws.

22 186. As a result of the City's failure to create or otherwise provide accessible
23 housing, the City failed to comply with Section 504's minimum 5 Percent/2 Percent rule;
24 in other words, the City failed to make at least five percent of all buildings' unit
25 accessible for persons with mobility impairments, and an additional two percent of the
26 units in such buildings accessible for persons with hearing or vision impairments.

27 187. At least up until May 2014, the City—including its departments, agencies,
28 and housing authorities acting on its behalf—did not monitor or enforce the federal

1 accessibility laws before issuing permits, during inspections, and for purposes of code
2 enforcement.

3 188. The City required that owners and developers of apartment buildings submit
4 detailed architectural plans to the City for review and approval; however, the City failed
5 to evaluate architectural plans for compliance with the federal accessibility laws.

6 189. At least up until November 2014, the City did not deny requests from
7 developers and other entities for federal housing funds based on a failure to comply with
8 the federal accessibility laws.

9 190. From time to time, the City published architectural requirements to inform
10 developers, design professionals, and other members of the public of the design review
11 process required to obtain funds, including federal financial assistance, from the City for
12 multifamily projects.

13 191. Annually, the City reviewed its published architectural requirements, and
14 the City Council approved any modifications thereto.

15 192. In each bid solicitation issued by the City (called notice of funding
16 availability), the City appended the approved architectural requirements. At least up
17 until 2010, the City's architectural requirements did not reference Section 504, the FHA,
18 or UFAS.

19 193. The City makes regular presentations to developers and other housing
20 stakeholders and bidders highlighting issues of concern, including issues related to
21 noncompliance with various requirements. At least until 2012, the City did not make a
22 presentation to its stakeholders or bidders addressing compliance with Section 504,
23 including compliance with UFAS specifications.

24 194. The City did not ensure public and common-use areas in the properties were
25 readily accessible to and usable by persons with disabilities, as required by the ADA, 42
26 U.S.C. § 12183(a)(1), as well as the Department of Justice's implementing regulations,
27 28 C.F.R. part 36, including the Standards for Accessible Design. See Attachment C.

28 195. Before 2015, the City did not examine the operation of its housing program

1 to determine whether, when viewed in its entirety, it was meaningfully accessible to
2 people with disabilities.

3 **ii. Programmatic Failures**

4 196. Throughout the false claims period, the City did not comply with
5 programmatic requirements under the federal accessibility laws pertaining to housing
6 programs, services, and activities.

7 197. Before 2012, the City did not appoint a Section 504/ADA coordinator to
8 coordinate the City's efforts to comply with Section 504 and the ADA with respect to
9 housing.

10 198. Before November 2015, the City did not appoint a Section 504/ADA
11 coordinator with any experience with accessibility issues to coordinate the City's efforts
12 to comply with Section 504 and the ADA with respect to housing.

13 199. Before late 2015, the City did not conduct a self-evaluation concerning the
14 program accessibility of its housing programs, as required by law of all recipients and
15 subrecipients of federal financial assistance. As a result, the City neither identified nor
16 corrected accessibility deficiencies in its programs and policies.

17 200. The City did not maintain an accurate list of accessible units sufficient to
18 identify the locations of such units or the units' accessibility features.

19 201. The City did not identify the location of accessible units in response to
20 requests from members of the public concerning the location of accessible units.

21 202. The City did not adopt policies and procedures adequate to ensure housing
22 units and common areas of apartments within the City's Housing Portfolio met federal
23 accessibility requirements.

24 203. The City did not comply with Section 504 and ADA requirements to
25 communicate effectively with people who have disabilities, notify people with
26 disabilities of the existence and availability of any accessible units, or provide an
27 accessible method of applying for those units.

28 204. The City did not comply with the legally required tenanting priorities

1 designed to ensure that the relatively small number of units that are required to be
2 accessible were actually occupied by individuals with disabilities who need the
3 accessible features that those units provide.

4 205. The City did not have a centralized application and waiting list process to
5 match accessible units with people with disabilities.

6 206. Instead, the City had a decentralized application and waiting list process,
7 that made units that were designated accessible largely available to people who did not
8 need accessible features, thereby making purportedly accessible units unavailable to
9 persons with disabilities who actually needed the features.

10 207. Before March 2013, the City did not include in its communications with
11 builders and developers provisions ensuring the Five Percent/2 Percent Rule was
12 complied with, or that the common areas of buildings were accessible.

13 208. The City did not develop or enforce policies requiring owners and managers
14 of properties within the City's Housing Portfolio to effectively communicate with people
15 with sensory disabilities (*i.e.*, hearing or vision disabilities).

16 209. The City did not enforce policies requiring compliance with federal
17 accessibility laws by managers of federally assisted housing developments.

18 210. The City did not adopt admission policies or procedures addressing federal
19 accessibility laws for its housing program.

20 211. The City did not adopt occupancy policies and procedures addressing
21 federal accessibility laws for its housing program.

22 212. The City did not adopt reasonable accommodation policies and procedures
23 addressing federal accessibility laws for its housing program.

24 213. The City did not have housing policies or procedures that complied with the
25 accessibility requirements of Section 504.

26 214. The City did not have housing policies or procedures that complied with the
27 accessibility requirements of the ADA.

28 215. The City did not monitor its subrecipients for compliance with the federal

accessibility laws.

B. The City Failed To Affirmatively Further Fair Housing

216. Each year during the false claims period the City had to, and did, certify it would affirmatively further fair housing.

217. Before the false claims period, the City received a copy of the HUD Fair Housing Planning Guide (HUD Guide). U.S. DEP'T OF HOUS. & URBAN DEV., OFFICE OF FAIR HOUS. & EQUAL OPPORTUNITY, FAIR HOUSING PLANNING GUIDE 1-2 (1996).

218. The HUD Guide provides guidance to help grantees fulfill the “fair housing requirements.”

219. The HUD Guide explains the distinction between activities that affirmatively further fair housing and activities benefiting affordable housing:

The two concepts are not equivalent When a jurisdiction undertakes to build or rehabilitate housing for low- and moderate-income families, for example, this action is not in and of itself sufficient to affirmatively further fair housing When steps are taken to assure that the housing is fully available to all residents of the community, regardless of . . . handicap . . . , those are the actions that affirmatively further fair housing.

220. During the false claims period, the City was aware of that distinction in connection with its obligations to affirmatively further fair housing. For example, in the City’s 2006 analysis of impediments (‘AI’), set forth in Chapter 7 of the City’s 2006 Consolidated Plan, the City noted that “[t]he shortage of affordable housing is not a fair housing concern in itself.”

221. Up until 2016, to affirmatively further fair housing, the City had to undertake three tasks: “[i] conduct an analysis of impediments to fair housing choice within the area, [ii] take appropriate action to overcome the effects of any impediments identified through that analysis, and [iii] maintain records reflecting the analysis and actions in this regard.” *E.g.*, 24 C.F.R. § 91.225(a)(1) (2015).

222. In identifying impediments to fair housing choice as part of its

1 responsibilities to affirmatively further fair housing, the City had an obligation to
2 consider and analyze impediments erected because of discrimination or segregation
3 based on disability.

4 223. If impediments erected by discrimination or segregation existed, the City
5 had a further obligation to take appropriate actions overcoming the effects of
6 impediments, as well as maintain records reflecting the analysis and such actions.

7 224. Before and during the relevant period, the City was aware of its obligations
8 to analyze and take appropriate actions to overcome impediments erected because of
9 discrimination or segregation based on disability.

10 225. In October 2004, for example, City officials attended and participated in an
11 Analysis of Impediments Roundtable.

12 226. The City also received copies of a May 2005 HUD publication entitled
13 “Fair Housing for HOME Participants.” In the chapter discussing the obligation to
14 affirmatively further fair housing, HUD notes that an AI must include a review of the
15 “[a]vailability of accessible housing stock for residents with disabilities.”

16 227. The May 2005 HUD publication provided to the City states that, in
17 preparing AIs and fulfilling the requirement to affirmatively further fair housing,
18 grantees must “[a]nalyze and eliminate housing discrimination in the jurisdiction” and
19 “[p]rovide opportunities for inclusive patterns of housing occupancy regardless of . . .
20 disability.”

21 228. The May 2005 HUD publication says an AI involves an “assessment of
22 conditions, both public and private, affecting fair housing choice for all protected
23 classes.”

24 229. The May 2005 HUD publication defines impediments as “actions,
25 omissions or decisions” that “restrict housing choices or the availability of housing
26 choices,” or that have the effect of doing so, based on disability, including “[p]olicies,
27 practices, or procedures that appear neutral on their face.”

28 230. The May 2005 HUD publication sets forth a format for each jurisdiction’s

1 AI that includes a housing profile describing “the degree of segregation and restricted
2 housing by . . . disability . . . [and] how segregation and restricted housing supply
3 occurred.”

4 231. The May 2005 HUD publication cautions that:

5 [T]he explanation of barriers to affordable housing to be included in the
6 Consolidated Plan may contain a good deal of relevant AI information, but
7 may not go far or deep enough into factors that have made poor housing
8 conditions more severe for certain groups in the lower-income population than
9 for others. Jurisdictions should be aware of the extent to which discrimination
10 or other causes that may have a discriminatory effect play a role in producing
11 the more severe conditions for certain groups.

12 232. The City’s 2003 Consolidated Plan sets forth the following as a fair housing
13 goal for 2003–2008: “Ensure that new and rehabilitated multifamily housing
14 developments meet state and federal accessibility requirements.” 2003 Consolidated
15 Plan at p. 61. As part of the effort to complete two ongoing fair housing studies and
16 initiate remedial action, the City said that it would “[m]eet and confer with the City’s
17 Department of Building and Safety and Housing Department personnel to ensure that
18 new and rehabilitated multifamily housing developments meet state and federal
19 accessibility requirements. *Id.* at p. 62.

20 233. In connection with its 2006 Consolidated Plan, the City prepared a
21 corresponding AI. Notwithstanding the City’s goal of ensuring that new and
22 rehabilitated multifamily housing developments met state and federal accessibility
23 requirements, the lack of accessible housing is not mentioned in the City’s 2006 AI as an
24 impediment.

25 234. The City knew it was to complete an AI every five (5) years as a companion
26 document to the Consolidated Plan. *See, e.g.*, February 16, 2010 Memo from Legislative
27 Analyst and City Administrative Officer to The Council re 2010-11 (36th Program Year)
28 Housing and Community Development Plan (Third Year Action Plan), at p. 16 (“This

1 analysis is required every five years by HUD. The AI is a companion document to the
2 five-year Con Plan and must have a comprehensive review of policies, procedures and
3 practices within the jurisdiction that affect the location, availability and accessibility of
4 housing and the current residential patterns and conditions related to fair housing
5 choice.”).

6 235. The City received a HUD Fact Sheet published by HUD’s Fair Housing and
7 Equal Opportunity Office in 2009, and maintained online on HUD’s website, noting that
8 the AI should be updated “annually where necessary.”

9 236. The City, however, did not complete and publish AIs, as required, during
10 the false claims period.

11 237. During the false claims period, the City completed just one AI. Before the
12 City’s 2006 AI, the City published an AI in 1998.

13 238. The City has not completed an AI since the publication of the 2006 AI.

14 239. Nonetheless, every year the City expressly certified in its annual
15 certifications as part of the Consolidated Plan that it had an AI completed, in use, and on
16 file for verification. The City’s certifications in 2003, 2004, 2005, and 2011 and
17 thereafter were false.

18 240. The City’s 2006 AI did not fully analyze impediments to fair housing
19 choice for people with disabilities. For example, the City did not analyze impediments
20 affecting the location, availability and accessibility of housing and the current residential
21 patterns and conditions related to fair housing choice.

22 241. The City’s 2006 AI, moreover, failed to address “the degree of segregation
23 and restricted housing by . . . disability . . . ; [and] how segregation and restricted housing
24 supply occurred,” as called for by the HUD Guide.

25 242. Before and during the relevant period, the City did not take sufficient
26 actions to overcome the effects of discrimination and segregation on fair housing choice.

27 243. Before and during the false claims period, the City failed to keep and
28 maintain records of its effort to affirmatively further fair housing concerning people with

1 disabilities.

2 244. The City did not find any developer or property owner to be in violation of
3 federal accessibility laws in either the design, construction, or alteration of multifamily
4 housing, or in the operation and management of the multifamily housing.

5 245. The City did not withhold funds or impose any sanctions on any developer
6 or property owner for failing to design, construct, or alter multifamily housing, or
7 operate and manage multifamily housing, in accordance with federal accessibility laws.

8 246. The City did not assess its own laws, regulations, and housing policies, to
9 ensure they complied with the federal accessibility laws.

10 247. The City knew it was responsible for directing recipients of federal financial
11 assistance, including developers, property owners, and the CRA/LA, to comply with
12 federal accessibility laws so the City could meet its duty to affirmatively further fair
13 housing.

14 248. The City's production of affordable housing that was not accessible before
15 and during the relevant period increased segregation and discriminated against people
16 with disabilities.

17 249. Despite its failure to analyze the impediments to fair housing for people
18 with disabilities and take appropriate actions to address such impediments, each year
19 during the false claims period, the City knowingly and falsely certified it would
20 affirmatively further fair housing.

21 **C. The City's Applications to HUD for Formula Grant Program and Other**
22 **Funds**

23 250. Throughout the false claims period, the City applied for and received many
24 millions of dollars in formula grant program funds and other HUD funds, a large portion
25 of which it invested in multifamily housing projects. *See* Attachment D.

26 251. Every year throughout the false claims period, the City applied for and
27 received formula grant funds under the CDBG Program, HOME Program, HOPWA
28 Program, and ESG Program.

1 252. During the false claims period, the City also applied for and received
2 Neighborhood Stabilization Program funds.

3 253. Every year throughout the false claims period, the City executed a funding
4 agreement with HUD for funds under the CDBG Program, HOME Program, HOPWA
5 Program, and ESG Program, for which the City agreed to comply with each program's
6 requirements.

7 254. Every year throughout the false claims period, the City submitted to HUD
8 the requisite action plan and certifications as part of the Consolidated Plan process.

9 255. Every year throughout the false claims period, the City submitted to HUD
10 the assurances and certifications set forth in SF 424 and SF 424b.

11 256. The City submitted at least sixty seven (67) claims as part of the
12 consolidated planning process for formula grant program funds throughout the false
13 claims period.

14 257. The City received federal grant program funds and other HUD funds by
15 certifying, assuring, and otherwise promising to HUD that it would comply with the
16 federal accessibility laws.

17 258. During the false claims period, the City drew down formula grant program
18 funds from IDIS, expressly and impliedly certifying compliance with the federal
19 accessibility laws.

20 259. With each draw down in IDIS, the City created a corresponding voucher to
21 HUD explicitly and impliedly certifying compliance with the federal accessibility laws.

22 260. The City created over 3,000 vouchers sent to HUD during the false claims
23 period.

24 261. Once each project assisted with HUD funds was completed, the City
25 inputted into IDIS false statements concerning the project's accessibility features.

26 262. Throughout the false claims period, the City requested and/or drew down
27 other funds from HUD outside IDIS, including but not limited to Neighborhood
28 Stabilization Program funds, and EDI funds, for which the City expressly and impliedly

1 certified compliance with the federal accessibility laws.

2 263. The certifications, promises, and other assurances identified above in
3 applications, funding agreements between the City and HUD, and requests for funds
4 (through IDIS or otherwise) were material to HUD's decision to provide funding to the
5 City under the formula grant programs and Neighborhood Stabilization Program funds,
6 by awarding funds or allowing funds to be drawn down.

7 **D. With Respect to the CRA/LA Properties, the City and the CRA/LA Failed to**
8 **Provide Accessible Housing on a Systemic Level**

9 264. Throughout the false claims period, the City provided a portion of the
10 formula grant program funds and other funds to the CRA/LA, included funds from the
11 CDBG, HOME, HOPWA, and ESG Programs.

12 265. The formula grant program funds received by the CRA/LA were applied to,
13 at a minimum, the twenty-two (22) multifamily housing projects included in Attachment
14 B (referred to below as the CRA/LA Properties).

15 266. All of the CRA/LA Properties are apartments designed, constructed, or
16 altered after July 11, 1988, with five or more dwelling units that benefitted from federal
17 financial assistance.

18 267. All of the CRA/LA Properties are apartments with four or more dwelling
19 units constructed for first occupancy after March 13, 1991.

20 268. Because the CRA/LA provided services, programs, and activities to the
21 public, including housing services, programs, and activities, the CRA/LA had to comply
22 with Title II of the ADA.

23 269. The public and common-use areas for each project within the CRA/LA
24 Properties are "public accommodations" within the meaning of title II of the ADA, 42
25 U.S.C. §12181(7).

26 270. As a recipient of federal financial assistance, the CRA/LA was required to
27 administer its federal financial assistance in accordance with the federal accessibility
28 laws.

1 271. Both the City and the CRA/LA had an obligation to ensure the CRA/LA
2 Properties complied with the federal accessibility laws.

3
4 **i. Architectural Failures**

5 272. According to surveys conducted by the United States of every project
6 included in the CRA/LA Properties, each and every project is inaccessible.

7 273. Examples of the CRA/LA's failure to comply with the federal accessibility
8 laws include: slopes, ramps, and thresholds are too steep for safe passage by persons
9 with mobility disabilities; balconies are too narrow for wheelchair access; mounted
10 objects prohibit access to common areas for individuals with mobility disabilities;
11 kitchen cabinets, shelves, and surfaces are outside of accessible reach ranges of persons
12 who use wheelchairs; sinks, grab bars, and mailboxes are mounted so they are outside of
13 accessible reach ranges for persons who use wheelchairs; pipes below sinks and
14 lavatories are uninsulated, thereby posing physical threats to persons who use
15 wheelchairs; and there are insufficient numbers of designated accessible parking spaces
16 in garages and parking lots. Additionally, buildings lack visual alarms and tactile signs
17 for people with hearing and visual impairments. Examples of particular defects or other
18 violations found throughout the CRA/LA Properties, and are identified in Attachment B.
19 The findings of violations of accessibility requirements are based on surveys conducted
20 by the United States of all twenty-two of the CRA/LA Properties

21 274. The CRA/LA Properties lack units accessible to people with mobility
22 and/or auditory or visual impairments in sufficient numbers, sizes, and locations to
23 provide meaningful access to people with disabilities.

24 275. Neither the City nor the CRA/LA took any measures to ensure the CRA/LA
25 Properties and housing program complied with the federal accessibility laws.

26 **ii. Programmatic Failures**

27 276. During the false claims period, the CRA/LA made and caused to be made
28 false claims of compliance with the federal accessibility laws

1 277. During the false claims period, the CRA/LA did not examine the operation
2 of its housing program to determine whether, when viewed in its entirety, it was
3 meaningfully accessible to people with disabilities.

4 278. The CRA/LA also did not comply with program requirements under Section
5 504, the FHA, and the ADA concerning certain disability-related aspects of its housing-
6 related programs, services, and activities.

7 279. Before 2010, the CRA/LA did not appoint a Section 504/ADA coordinator
8 to coordinate the CRA/LA's efforts to comply with Section 504 and the ADA as to
9 housing.

10 280. During the relevant period, the CRA/LA did not appoint a Section
11 504/ADA coordinator with any experience with accessibility issues to coordinate the
12 CRA/LA's compliance with Section 504 and the ADA as to housing.

13 281. The CRA/LA did not identify the scope of the overall need for accessible
14 rental housing in its service areas.

15 282. The CRA/LA did not develop a transition plan, a plan required by Section
16 504 and the ADA in which jurisdictions and entities must perform a self-evaluation
17 survey and develop a compliance plan correcting any accessibility deficiencies identified
18 in the survey.

19 283. The CRA/LA did not maintain a list of accessible units, much less one
20 identifying a unit's accessibility features.

21 284. The CRA/LA did not adopt policies and procedures ensuring housing units
22 and common areas were designed and constructed consistent with UFAS.

23 285. The CRA/LA did not comply with Section 504 and ADA requirements to
24 communicate effectively with people with disabilities, notify people with disabilities of
25 the existence and availability of any accessible units, or provide an accessible method of
26 applying for those units.

27 286. The CRA/LA did not adopt policies and procedures ensuring people who
28 needed the accessibility features occupied accessible units.

1 287. The CRA/LA did not have a centralized application and waiting list process
2 matching accessible units with people with disabilities who needed accessibility features.

3 288. The CRA/LA had a decentralized application and waiting list that allowed
4 people who did not require accessible features to occupy units that were designated
5 accessible, thereby denying access to units to people with disabilities who needed them.

6 289. The CRA/LA did not include in its communications with builders and
7 developers provisions ensuring at least five (5) percent of the housing units in each
8 building and the common areas met federal accessibility requirements for people with
9 mobility disabilities.

10 290. The CRA/LA did not include in its communications with builders and
11 developers provisions ensuring an additional two (2) percent of the housing units in each
12 building and the common areas met federal accessibility requirements for people with
13 sensory disabilities.

14 291. The CRA/LA did not develop or enforce policies requiring owners and
15 managers of CRA/LA Properties ensuring they had effective communications with
16 people with sensory disabilities (*i.e.*, hearing or vision disabilities).

17 292. The CRA/LA did not enforce policies requiring compliance with federal
18 accessibility laws by managers of federally assisted housing developments.

19 293. The CRA/LA did not adopt admission policies or procedures addressing
20 federal accessibility laws for its federally-assisted housing projects.

21 294. The CRA/LA did not adopt occupancy policies and procedures addressing
22 federal accessibility laws for its housing program.

23 295. The CRA/LA did not adopt reasonable accommodation policies and
24 procedures addressing federal accessibility laws for its housing program.

25 296. The CRA/LA did not have any policies or procedures that complied with
26 the accessibility requirements of Section 504 concerning housing.

27 297. The CRA/LA did not have any policies or procedures that complied with
28 the accessibility requirements of the ADA concerning housing.

1 298. The CRA/LA did not maintain policies or practices ensuring federally
2 assisted multifamily housing contained sufficient units accessible to people with
3 mobility, auditory, or visual impairments as required under federal civil rights laws.

4 299. The CRA/LA did not have any policies or procedures ensuring persons with
5 disabilities who needed the accessibility features found in the housing unit occupied
6 accessible units in federally funded multifamily housing.

7 300. On numerous occasions, members of the public told the CRA/LA that its
8 properties did not comply with the federal accessibility laws.

9 301. Before 2011, in meetings and other communications with the public, the
10 CRA/LA disclaimed any knowledge of, or interest in, statutory, regulatory or HUD
11 guidance concerning federal accessibility requirements.

12 **E. The CRA/LA's Claims for Formula Grant Program and Other Funds**

13 302. In light of the accessibility failures noted above, the CRA/LA submitted,
14 and knowingly caused the City's submission of, false claims or statements to HUD that
15 the CRA/LA Properties complied with the federal accessibility laws.

16 303. Specifically, during the false claims period, the CRA/LA submitted
17 approximately sixty (60) requisitions to the City for HUD funds, including formula grant
18 program funds.

19 304. In turn, the City either provided the requested funds or requested the funds
20 from HUD.

21 305. The CRA/LA knew it was requesting federal funds, and knew its requests
22 would cause the City to request from HUD federal funds.

23 306. The CRA/LA kept track of the funds it received from the City, including the
24 specific formula grant program from where the funds originated.

25 307. During the false claims period, the CRA/LA entered into numerous loan
26 agreements, cooperative agreements, master cooperative agreements, sub-agreements to
27 master cooperative agreements, restatements of cooperative agreements, and first and
28 second amendments to such agreements, and exhibits thereto, with the City, including

1 City contract numbers C-95608, C92257, C-502233, C-100012, C-955508, C-95508, C-
2 92257, C-96306, C-102396, C-111242, C-92257, C-105156, C-111242, C-108022, C-
3 105704, C-502823, C-502817, C-109091/502675, C-113125, C-103891, C-106708, C-
4 106620, for the disbursement of HUD funds under the formula grant programs and other
5 HUD programs.

6 308. In the agreements with the City noted above, the CRA/LA contractually
7 agreed to comply with the federal accessibility laws.

8 309. HUD requires that grantees have written agreements in effect with each
9 subrecipient before distributing any HUD funds, and that such agreements include
10 nondiscrimination provisions, including promises to comply with the federal
11 accessibility laws. *See, e.g.*, 24 C.F.R. § 570.503.

12 310. HUD reasonably relied on its provision requiring that contracts with
13 subrecipients of federal funds include nondiscrimination provisions in providing the City
14 formula grant program and other funds.

15 311. The CRA/LA's contractual promises to comply with the federal
16 accessibility laws were false.

17 312. The CRA/LA's submission of requisitions were false claims to a grantee.

18 313. The CRA/LA's submission of requisitions and contractual promises to
19 comply with federal accessibility law caused the City's submission of false claims to
20 HUD for formula grant program and other funds.

21 314. The City paid the CRA/LA's requisitions using the federal grant program
22 funds and other HUD funds.

23 315. The CRA/LA caused the City to submit to HUD approximately 100
24 vouchers to obtain many millions of dollars of federal financial assistance for the
25 CRA/LA housing program. *See* Attachment D.

26 316. Because the CRA/LA Properties and the CRA/LA's housing program did
27 not comply with the federal accessibility laws, the defendants' claims were false.

28 317. The CRA/LA's requisitions to the City and agreements with the City

1 identified above were material to the City's claims and statements to HUD.

2 **F. Compliance with the Federal Accessibility Laws was Material to HUD's**
3 **Payment Decision**

4 318. Compliance with the federal accessibility laws is material to HUD's
5 decision to provide formula grants or to allow funding to be drawn down under grants.

6 319. HUD requires grantees to explicitly certify compliance with the duty to
7 affirmatively further fair housing as a precondition to receiving any formula grant
8 program funds.

9 320. HUD requires grantees to explicitly certify compliance with Section 504,
10 the FHA and the duty to affirmatively further fair housing, as a precondition to receiving
11 CDBG and HOME funds.

12 321. HUD requires grantees to explicitly certify compliance with Section 504
13 and the FHA on all submissions in connection with applications for HUD funds through
14 SF 424 and SF 424b.

15 322. SF 424b expressly states: "These certifications and assurances are material
16 representations of the fact upon which HUD can rely when awarding a grant."

17 323. HUD may terminate formula grant program funds or take other corrective
18 action should it find a jurisdiction's certifications to be false. 24 C.F.R. § 91.509(b)(3).

19 324. HUD expressly incorporates its regulations requiring compliance with
20 Section 504, the FHA and the ADA into all executive funding agreements for CDBG,
21 HOME, ESG and HOPWA formula grant programs executed between HUD and the
22 City. HUD's provision of funds to the City under those agreements is subject to these
23 contractual requirements. 24 C.F.R. 5.105(a), and other program specific regulations
24 described above, incorporate the ADA, Section 504 and the FHA into all HUD
25 programs. The HUD funding agreements expressly state that HUD's regulations
26 constitute part of the parties' agreement. The City's contractual obligation to comply
27 with these anti-discrimination regulations is a material aspect of the agreements.

28 325. HUD requires grantees to explicitly certify compliance with each of the

1 federal accessibility laws on applications for funds through the NOFA process.

2 326. In light of Congress's findings and declared purposes in passing Section
3 504, the ADA, and the FHA (including the duty to affirmatively further fair housing),
4 and in light of the statutory and regulatory framework established for effectuating such
5 laws, the United States does not get the benefit of the bargain when local entities use
6 federal funds to discriminate against people with disabilities. Accessible housing is
7 critical to Congress's stated goals in passing the federal accessibility laws.

8 327. The defendants' violations of the federal accessibility laws are significant,
9 substantial, and systemic. The United States' survey of the defendants' housing and
10 housing programs yielded almost total noncompliance going back fifteen years.

11 328. HUD rejected the City's application pursuant to a NOFA for FY16 Choice
12 Neighborhood funds designed to assist distressed federally-assisted housing because the
13 City was not in compliance with the federal accessibility laws.

14 **G. The Defendants' Knowledge of the Requirements of the Federal Accessibility**
15 **Laws**

16 329. In addition to the statutes, regulations, certifications and agreements,
17 numerous HUD publications provided to the City, or made available to the City and the
18 CRA/LA, detailed guidance for complying with the federal accessibility laws.

19 330. The Consolidated Plans the City submitted to HUD acknowledged that a
20 substantial portion of the City's population included people with disabilities, and that a
21 substantial portion of the City's wait list for public housing included people with
22 disabilities.

23 331. As early as December 26, 2000, HUD sent a notice to the City and other
24 participating jurisdictions in its CDBG and HOME Programs reminding recipients of
25 federal funds of "their obligation to comply with Section 504 . . . , the Fair Housing Act,
26 and HUD's implementing Regulations (24 CFR Part 8 and 100, respectively), which
27 prohibit discrimination based on disability and establish requirements for program
28 accessibility and physical accessibility in connection with housing programs."

1 332. From 2000 to 2005 alone, HUD sent such notices on at least five occasions.

2 333. The City entered into loan agreements with the CRA/LA and private
3 developers for the construction or rehabilitation of multifamily housing using formula
4 grant program funds, which explicitly required that the recipient of the formula grant
5 program funds comply with the FHA and Section 504.

6 334. The City's HOME Subrecipient Monitoring Manual—a manual that the
7 City adopted in 2009 for the purpose of establishing adequate controls to ensure that
8 HOME Program requirements were met by all subrecipients—provides:

9 On-Site Inspections Remember that the HOME property standards apply to
10 the common areas and the building's exterior, not only the HOME units. Any
11 deficiencies seen in these areas must be addressed. In order to verify
12 compliance with property standards and the information submitted by owners
13 . . . HOME rules require on-site inspections . . . in projects with 5 to 25 units
14 every 2 years and in projects with 26 or more units annually.

15 335. Nevertheless, the City did not conduct any on-site inspections of the
16 CRA/LA Properties in 2009, 2010, 2011, or the first half of 2012 to determine
17 compliance with the federal accessibility laws.

18 336. The City did not monitor the CRA/LA to ensure compliance with the
19 federal accessibility laws.

20 337. The CRA/LA did not monitor developers and other entities receiving
21 HUD funds to ensure compliance with the federal accessibility laws.

22 338. At all times before January 25, 2012, when the City became the
23 successor housing agency to the CRA/LA, the City had no mechanism in place for
24 conducting the required monitoring, and no monitoring plan, strategy, procedures,
25 staff, or schedule addressing the monitoring of the CRA/LA Properties for
26 compliance with the federal accessibility laws.

27 339. In 2009, the CRA/LA, with knowledge of its own obligations to
28 comply with federal accessibility law, asked the City for assistance in addressing

1 federal accessibility issues concerning the CRA/LA Properties, through a proposed
2 memorandum of understanding regarding the coordination of accessibility-related
3 issues.

4 340. The proposed memorandum of understanding by the CRA/LA asked
5 the City to assist coordination efforts with the CRA/LA for purposes of: (1)
6 training CRA/LA staff on disability issues; (2) disseminating information and
7 guidelines for evaluating and ensuring the accessibility of CRA/LA projects and
8 activities receiving federal financial assistance; (3) assisting with the handling of
9 disability disputes and complaints; and (4) providing an accessibility policy liaison
10 who would serve as a resource for the CRA/LA, developers, and management
11 companies regarding compliance with the federal accessibility laws.

12 341. The City rejected the CRA/LA's proposed memorandum of
13 understanding.

14 342. In November and December of 2011, HUD's Office of Fair Housing
15 and Equal Opportunity conducted a Section 504 compliance review of the
16 CRA/LA Properties.

17 343. HUD detailed the results of the compliance review in a January 11, 2012
18 Letter of Findings (LOF). Letter from Charles Hauptman, Dir. of Fair Hous. & Equal
19 Opportunity, U.S. Dep't of Hous. & Urban Dev., to the Honorable Antonio Villaraigosa,
20 Mayor of the City of Los Angeles (Jan. 11, 2012).

21 344. As part of the compliance review, HUD surveyed thirty-one units at eleven
22 projects and "consistently observed accessibility deficiencies throughout the various
23 units, developments, designated accessible routes and common areas." *Id.*

24 345. The LOF noted that the City and the CRA/LA were not in compliance with
25 Section 504 and the ADA "in the application of their policies, certifications, practic[es],
26 and outcomes." *Id.*

27 346. The LOF also found that:

28 [T]he City and the CRA are not monitoring the policies and procedures of

1 federally-funded recipients in several key areas, and that the policies in place are
2 not implemented in a manner that ensures that these policies and practices do not
3 discriminate against qualified individuals with disabilities because of their
4 disability [T]here is no monitoring of Section 504 compliance and . . . an
5 overall lack of knowledge as to the duties and responsibilities with respect to
6 Section 504.

7 *Id.*

8 347. The LOF further found that “a large percentage of residents without
9 disabilities currently occupy the designated accessible units in several HUD-funded
10 developments,” and that, with no oversight from the CRA/LA, many developments had
11 offered accessible dwelling units to the general population on a lottery or wait-list basis
12 without regard to disability or need for the accessibility features. *Id.* On February 17,
13 2012, HUD issued a Letter of Determination (“LOD”) of non-compliance with Section
14 504 and the ADA, which confirmed the findings set out in HUD’s LOF.

15 348. The City’s failure to meet the federal accessibility laws continues
16 notwithstanding formal notice from HUD in the form of the January 2012 LOF.

17 349. On December 21, 2012, after receiving the LOF, City Mayor Villaraigosa
18 signed a directive for the City-wide Compliance with Federal and State Disability Laws.
19 The Directive noted:

20 [T]he ADA and Section 504 require the City to perform a self-evaluation
21 survey and develop a compliance plan (called a transition plan), identifying
22 those programs, services and activities that need to be brought into
23 compliance with federal disability laws. The City’s last transition plan was
24 finalized in 2000. . . . A new transition plan is needed.

25 Despite this Directive, the City never adopted a new transition plan.

26 350. Since its LOF in 2012, HUD has sought an agreement with the City and the
27 CRA/LA in which the defendants would voluntarily remedy their accessibility issues
28 going forward.

claims period in connection with HUD funds; (3) each and every certification the City made regarding the federal accessibility laws in connection with applications for funds through the NOFA process; (4) each and every certification the City made regarding the federal accessibility laws in connection with drawdowns through IDIS for formula grant program funds throughout the false claims period; (5) each and every certification the City made regarding the federal accessibility laws in connection with requests for Neighborhood Stabilization funds and EDI funds throughout the false claims period; (6) each IDIS input by the City required upon project completion in which the City identified a project's accessibility features; (7) each requisition by the CRA/LA to the City for HUD funds; and (8) cooperative, loan, and other agreements between the City and the CRA/LA in which the parties agreed to comply with the federal accessibility laws. Defendants' knowingly false certifications, assurances, and agreements were material to claims for payment to HUD, and fraudulently induced the United States to pay out funds to which the defendants were not entitled.

361. By virtue of the said false records and statements, the United States suffered losses and therefore is entitled to treble damages under the FCA, plus a civil penalty for each FCA violation.

FOURTH CLAIM FOR RELIEF

Against All Defendants False Claims Act: Making or Using False Records or Statements for Claims for Payment Pending Before June 7, 2008

362. Paragraphs 1 - 352 are incorporated by reference as though fully set forth herein.

363. Defendants knowingly made, used, or caused to be made or used, false records or statements to get false or fraudulent claims paid by the United States, including but not limited to: (1) each and every certification regarding compliance with the federal accessibility laws the City made in annual and other submissions to HUD in connection with the Consolidated Plan process for formula grant program funds

1 throughout the false claims period; (2) each and every certification regarding compliance
 2 with the federal accessibility laws the City made included in SF 424 and SF 424b
 3 throughout the false claims period in connection with HUD funds; (3) each and every
 4 certification the City made regarding the federal accessibility laws in connection with
 5 applications for funds through the NOFA process; (4) each and every certification the
 6 City made regarding the federal accessibility laws in connection with drawdowns
 7 through IDIS for formula grant program funds throughout the false claims period; (5)
 8 each and every certification the City regarding the federal accessibility laws made in
 9 connection with requests for Neighborhood Stabilization funds and EDI funds
 10 throughout the false claims period; (6) each IDIS input by the City required upon project
 11 completion in which the City identified a project's accessibility features; (7) each
 12 requisition by the CRA/LA to the City for HUD funds; and (8) cooperative, loan, and
 13 other agreements between the City and the CRA/LA in which the parties agreed to
 14 comply with the federal accessibility laws. Defendants' knowingly false certifications,
 15 assurances, and agreements were material to claims for payment to HUD, and
 16 fraudulently induced the United States to pay out funds to which the defendants were not
 17 entitled.

18 364. By virtue of the said false records and statements, the United States suffered
 19 losses and therefore is entitled to treble damages under the FCA, plus a civil penalty for
 20 each FCA violation.

21 **FIFTH CLAIM FOR RELIEF**

22 **Against the City of Los Angeles** 23 **Negligent Misrepresentation**

24 365. Paragraphs 1 - 352 are incorporated by reference as though fully set forth
 25 herein.

26 366. The City made false material representations regarding compliance with the
 27 federal accessibility laws without any reasonable ground for believing them to be true,
 28 and intended that the United States would act in reliance upon such false representations

1 in awarding grants or allowing funds to be drawn down.

2 367. The United States justifiably relied upon the City's false representations,
3 and was unaware of the true facts.

4 368. As a result of its justifiable reliance on the City's false representations, the
5 United States has sustained damage in an amount to be determined at trial.

6 **SIXTH CLAIM FOR RELIEF**

7 **Against All Defendants**
8 **Restitution (Unjust Enrichment)**

9 369. Paragraphs 1 - 352 are incorporated by reference as though fully set forth
10 herein.

11 370. Defendants have received money from Plaintiff United States to which
12 Defendants were not entitled, unjustly enriching Defendants, and for which Defendants
13 must make restitution. Defendants received such money by claiming and retaining HUD
14 federal financial assistance in the form of HUD grants. In equity and good conscience,
15 such money belongs to Plaintiff United States.

16 **SEVENTH CLAIM FOR RELIEF**

17 **Against All Defendants**
18 **Payment by Mistake**

19 371. Paragraphs 1 - 352 are incorporated by reference as though fully set forth
20 herein.

21 372. Plaintiff United States paid money to Defendants as a result of a mistaken
22 understanding. Specifically, Plaintiff United States paid claims by the City for HUD
23 federal financial assistance under the erroneous belief the City and the CRA/LA were
24 complying with the federal accessibility laws. Payment therefore was by mistake.

25 373. As a result of such mistaken payments, Plaintiff United States has sustained
26 damages for which the Defendants are jointly and severally liable in an amount to be
27 determined at trial.

PRAYER

WHEREFORE, Plaintiff United States demands judgment as follows:

a. On the First through Fourth Claims for Relief (False Claims Act) against all Defendants for the amount of the United States' damages, trebled as required by law, together with the maximum civil penalties allowed by law, costs, post-judgment interest, and such other and further relief as the Court may deem appropriate;

b. On the Fifth Claim for Relief (Negligent Misrepresentation), against the City of Los Angeles for an amount to be determined at trial, plus costs, pre- and post-judgment interest, and such other and further relief as the Court may deem appropriate;

c. On Claim for Sixth Claim for Relief (Restitution) against all Defendants for an amount equal to the monies that Defendants obtained from the United States without right and by which Defendants have been unjustly enriched, plus costs, pre- and post-judgment interest, and such other and further relief as the Court may deem appropriate; and

d. On the Seventh Claim for Relief (Payment by Mistake) against all Defendants for an amount equal to the United States' damages from each of them, plus costs, pre-

1 and post-judgment interest, and such other and further relief as the Court may deem
2 appropriate.

3 **DEMAND FOR JURY TRIAL**

4 Plaintiff United States of America hereby demands a trial by jury.

5
6 Dated: July 31, 2017

Respectfully submitted,

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17 /s/
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