CITY OF IRVINE
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July 15, 2026

The Honorable Sheila F. Hanson
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Response to the 2025-2026 Orange County Grand Jury Report Titled, "California Housing Mandates; The Unintended Reshaping of Orange County Neighborhoods"

Dear Judge Hanson:

The City Council of the City of Irvine has authorized the following responses to the 2025-2026 Orange County Grand Jury report titled "California Housing Mandates; The Unintended Reshaping of Orange County Neighborhoods." In accordance with Penal Code Section 933.05(a) and (b), the City provides the following responses to the report's findings and recommendations.

FINDINGS

<u>Finding F1</u> – **In recent years, the California Legislature has enacted an unusually large and burdensome volume of housing-related laws intended to strengthen compliance with State Housing Mandates.**

<u>Response</u>: The City of Irvine agrees with this finding. Over the past decade, the California legislature has increasingly enacted housing-related laws that further erode local control, diminish community input on planning and zoning, and significantly impact long-standing single-family neighborhoods. The one-size-fits-all methodology for drafting housing-related law does not take into consideration the unique conditions found in the City of Irvine that are specifically related to development standards associated with a master planned approach.

<u>Finding F2</u> – **Housing Mandates are implemented through a RHNA process that often lacks transparency and relies on complex methodologies that are difficult for local officials and the public to understand or meaningfully challenge.**

<u>Response</u>: The City of Irvine agrees with this finding. The Regional Housing Needs Allocation (RHNA) process continues to lack transparency, particularly during consultation between the Southern California Association of

Governments (SCAG) and the State Department of Housing and Community Development (HCD), which results in the total housing need determination for the region. The consultation process operates in a vacuum and during the 6th Housing Element Cycle there was not an opportunity for jurisdictions to provide any public outreach, input, or review. Additionally, with little to no transparency during the consultation process, there is no way to confirm metropolitan planning organizations/council of governments throughout California are assigned a housing need that is equitable and based on an identical methodology. The SCAG RHNA Subcommittee recognized this issue, and in June 2019 proposed a clear distinction be made between housing need 1) due to projected regional population growth and 2) due to existing housing needs. Specifically, SCAG recommended HCD utilize the Regional Transportation Plan/Sustainable Communities Strategy, known as "Connect SoCal", growth forecast as a basis for projected housing need. The foundation for this growth forecast is local input and it represents a long-standing, credible approach which is consistent with Government Code Section 65584.01.

In addition, the final SCAG RHNA methodology, adopted by the SCAG Regional Council on November 7, 2019, was introduced as a substitute motion at the Regional Council. This alternative methodology was not analyzed by jurisdictions and was not consistent with the methodology developed through a rigorous year long process. Additionally, it was not the methodology reviewed and approved by the SCAG RHNA Subcommittee on October 7, 2019, and unanimously approved the SCAG Community, Economic, and Human Development Policy Committee on October 21, 2019. The alternative methodology, later known as the "Bailey methodology", over-emphasized housing near existing and future transit facilities and employment centers. Following adoption of the Bailey Methodology and in a letter to HCD dated December 20, 2019, the City of Irvine expressed concern with the utilization of the 2045 transit network which included a number of projects not approved or vetted by the City. The City also requested HCD reject the SCAG RHNA Bailey Methodology as jurisdictions were not afforded the opportunity to evaluate and analyze the impact the methodology would have on their individual jurisdiction.

The utilization of the revised Bailey Methodology resulted in the City of Irvine's allocation increasing by approximately 6,000 units.

Finding F4 – **Meaningful participation by Orange County cities in both OCCOG and SCAG meetings is critical to ensuring that local perspectives are represented during the development and implementation of Housing Mandates policies.**

Response: The City of Irvine agrees with this finding. Following the 4th RHNA in 2006, the City of Irvine assigned a permanent staff member to attend all OCCOG and SCAG meetings. At the time of the 4th Cycle, the City of Irvine was in a SCAG district with the City of Newport Beach and was able to have representation on the SCAG Regional Council. The City of Newport Beach, with a City Council of seven members, was always able to outvote the City of Irvine, who at the time had a Council consisting of five members. Per SCAG by-laws, the vote is not weighted equally, but by the number of Councilmembers per jurisdiction. Irvine was able to successfully petition for its own district seat, ensuring elected representation at both OCCOG and SCAG. Additionally, City of Irvine Mayor Sukhee Kang represented Orange County for a portion of the 5th Cycle RHNA process. Today, there are two City Councilmembers representing Irvine at SCAG. The City maintains SCAG District 14 representation on the Regional Council and the Transportation policy committee and a Presidential appointee on the Community, Economic and Human Development policy committee. Finally, an Irvine staff member serves as the Chair of the OCCOG Technical Advisory Committee (TAC), a group comprised of representatives, mainly planning staff, from each member agency which meets to discuss policy issues of regional significance.

Finding F5 – **SCAG's 6th Cycle RHNA assigned Orange County a questionable total of 183,861 housing units for the 2021-2029 planning period, with higher allocations concentrated in cities with major population and employment centers.**

Response: The City of Irvine agrees with this finding. Historically and prior to the 6th Housing Element Cycle, the RHNA methodology developed by SCAG was primarily based on the projected household growth. Following the identification of an initial projected need, the allocation was proportionally adjusted for social equity depending on a jurisdiction's individual need. This resulted in a RHNA allocation more closely aligned with the growth forecast provided to SCAG by each local jurisdiction. However, for the 6th Housing Element Cycle, the methodology developed by the SCAG RHNA Subcommittee was highly complex and introduced factors associated with the jurisdiction's share of population within a 2045 high-quality transit area as well as a share of the region's employment within a 30-minute commute.

As documented in the December 20, 2019, letter to HCD, the City of Irvine noted concern with the use of a 2045 transit network which included transit projects not approved or vetted by the City. Additionally, it was noted that many of the 2045 transit projects may never be constructed as the projects were deemed infeasible at the time of publication. Throughout the development of the RHNA methodology, Irvine stressed how it important it was that the transit and employment data being used was based the existing system.

The most controversial component of the 6th Cycle RHNA allocation was the introduction of a cap on jurisdictions identified as a disadvantaged community (DAC). If more than 50% of a jurisdiction's population was located within a DAC, the RHNA allocation for that City was capped based only on that City's projected need. Any remaining residual existing need was then redistributed within the county to other jurisdictions (cities) with the highest level of access to transit and employment. Irvine was one of these cities that received the redistributed units as it has great transit and employment opportunities.

The introduction of the "residual need distribution" was introduced at the November 2019 Regional Council meeting where the RHNA methodology was agendized for adoption, as a substitute motion, known as the Bailey Methodology, and did not allow jurisdictions adequate time to evaluate the lasting impacts and consequences of the methodology. Additionally, the Bailey Methodology was in contrast to the original SCAG RHNA methodology developed over the previous 12 months and was reviewed and approved by both SCAG's RHNA Subcommittee and Community, Economic, and Human Development Policy Committee.

Finding F6 – **RHNA allocations are unrealistic and not attainable within the current planning cycle due to limited available land, built-out urban conditions, infrastructure constraints, environmental factors, and public health and safety requirements.**

Response: The City of Irvine agrees with this finding. The RHNA continues to be a one-size-fits-all process where the methodology does not consider unique characteristics or constraints associated with an individual jurisdiction. For example, as documented in Irvine's RHNA Appeal, submitted to SCAG October 26, 2020, the majority of land suitable for urban development in the City of Irvine is entitled through Development Agreements, which allow units to be constructed in phases. Nearly all the residential units in Irvine are less than 50 years old, with the majority of these units constructed since the mid-1990s. At the time of the RHNA in 2020, out of the 114,093 units constructed, nearly 60,000 units were built post 2000. The housing stock is new and would not be available for redevelopment or repurposing at the significant levels needed to meet the City's 6th Cycle RHNA. Furthermore, the Irvine has significant acreage identified as Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), which are areas protected and not suitable or permitted for urban development. While SCAG acknowledges that Federally protected NCCP/HCP areas are exempt from consideration for urban development, the thousands of acres of locally protected open space are not exempt from consideration for urban development under the SCAG RHNA methodology.

Finding F7 – **Residents in Orange County consistently express a desire for local planning decisions to reflect community priorities, including, but not limited to neighborhood character, safety considerations, the environment, and open space preservation.**

Response: The City of Irvine agrees with this finding. As noted in Finding F6, the RHNA methodology does not take into consideration community priorities such as locally protected open space and neighborhood character, particularly for Irvine's master planned community.

Finding F8 – **California's regulatory construction costs (i.e., permitting fees) present substantial challenges for private housing developers - particularly those delivering affordable units.**

Response: The City of Irvine partially agrees with this finding. Throughout the period coinciding with the 2021-2029 Housing Element and as part of Annual Progress Reports, the City shared with HCD that housing development is dependent on market conditions. Factors impacting market conditions include, but are not limited to, construction costs, labor costs, availability of materials, permitting fees, availability of funding/financing. Jurisdictions are unable to predict times of economic uncertainty, such as a recession, or a large scale regional natural disaster, such as the Palisades/Altadena fires, which can drastically impact development. It is the City's experience that density bonus projects (i.e., constructing a percentage of affordable units with market rate units in a single project) are financially feasible for both rental and ownership projects. However, feasibility depends on sales prices and rents, which are also subject to market factors. If revenues from rents and sales prices support development costs, housing is built due to the demand. Finally, where other cities have experienced slow downs in terms of development, Irvine has not seen the same decrease in construction. Irvine is a desirable location for both residential and commercial development due to a number of factors including the exceptional quality of life, public safety, strong economy, exceptional school opportunities, highly educated workforce, as well as the overall aesthetic derived from the master plan.

Finding F9 – **The cost of constructing a single affordable housing unit in California typically ranges from approximately $500,000 to $800,000 per unit when fully complying with current state regulations. New low-income housing is generally not financially feasible without public subsidy.**

Response: The City of Irvine agrees with this finding. Feasibility is challenging for affordable housing as the revenue derived from income-restricted rents and sales prices (lower than market rate housing units) but construction and land prices are the same as, or sometimes higher than, than for market rate housing.

Public funding sources are required to fill the "gap," or difference between revenues and costs, and public (local, state, and federal) resources are very limited. On a state-wide basis jurisdictions lost $2 billion annually for affordable housing following the dissolution of Redevelopment in 2012. To date, there has been no substitute for Redevelopment established by the State legislature. The lack of sufficient public funding sources is perhaps the most significant reason for the constraints on affordable housing supply. Cities and counties do not have the ability to raise new revenues for affordable housing other than inclusionary housing fees in those communities with inclusionary housing programs. The only other method for raising local affordable housing revenues would be an affordable housing tax ballot measure to increase sales, transfer, or property taxes.

It is important to note that state-mandated density bonus, which allows higher density when affordable units are included as part of market-rate projects, has somewhat increased the supply of mostly rental housing, which is considered to be a positive outcome, but this has also reduced the amount of inclusionary in-lieu fees collected. This results in less revenue for the City to contribute to affordable housing subsidies.

There are two emerging trends in affordable housing that may positively impact this feasibility challenge. First, private equity has shown interest in investing in affordable housing. Investment funds that provide cash into a project reduces financing costs which are significant. Second, modular construction may reduce construction costs. These trends reduce costs and similarly reduce the amount of subsidy needed.

Finding F10 – **Prior to their dissolution in 2012, redevelopment agencies served as a primary mechanism for cities and counties to finance affordable housing and related infrastructure. The loss of redevelopment has reduced cities' ability to support construction of affordable units.**

Response: The City of Irvine agrees with this finding. As a result of legislation in 2012, all redevelopment agencies in the State were dissolved, which has had a profound effect on the quantity and complexity of affordable housing development in the State. Redevelopment was a tax increment financing tool that allowed cities and counties to retain a higher share of the growth in property taxes in designated areas to invest in those areas. Over 400 cities and counties in the State used this tool. Redevelopment projects were required to allocate 20% of all tax increment for affordable housing in the community. On a Statewide level, over $2 billion generated on an annual basis for affordable housing was lost due to this State law change.

Despite State legislative efforts to replace Redevelopment with Enhanced Infrastructure Financing Districts and Community Revitalization Investment Areas (CRIAs), these financing tools generate a tiny fraction of the local funding that redevelopment did previously, which is the reason why a limited number of Enhanced Infrastructure Financing Districts and only one CRIA have been adopted over the last 15 years. The State has yet to allow a structure to replace this significant permanent source of affordable housing funding.

Finding F11 – **Because public subsidy is limited and highly competitive, cities seeking to produce meaningful quantities of low-income housing must rely in part on private development incentives, often resulting in higher overall development densities and unit counts than the RHNA allocation.**

Response: The City of Irvine agrees with this finding. The incentives are primarily associated with additional density as mandated by state density bonus laws. Irvine has experienced a trend of development projects that include affordable units to meet a portion of the City's inclusionary (affordable) housing requirement. This trend is as a result of State law requiring jurisdictions to provide density bonus in exchange for the affordable units. The bonus also includes concessions and incentives for developers to reduce development costs. Developers primarily request waiving of fees (such as park fees) that the City relies upon to provide infrastructure and parks to residents. Another trend in the City is housing projects proposed at lower than minimum densities established and lower than State law requires (i.e., 30 units per acre for sites designated in the Housing Element as containing affordable units). This trend, resulting from current market factors favoring lower density townhomes rather than higher density rental projects, has diminished the required Housing Element surplus of units and presents a no net loss risk. Market factors have a powerful effect on what housing is built and zoning changes by jurisdictions cannot counteract a change in the market.

Finding F12 – **The 6th Cycle RHNA methodology included numerous technical inputs published by SCAG and HCD; however, these inputs were highly complex and difficult for cities to interpret or independently verify.**

Response: The City of Irvine strongly agrees with this finding. As noted in the City of Irvine RHNA Appeal dated October 26, 2020, State housing law is very clear on how to calculate the regional determination, specifically they are to utilize the regional population forecast if it is within 1.5% of the Department of Finance forecast. However, HCD did not follow statute and opted to utilize its own forecast which doubled the regional housing need from approximately 651,000 housing units to 1.34 million housing units. Additionally, in its letter the City contended that HCD incorrectly applied the residential vacancy rate for the SCAG region and double-counted a significant number of units needed to accommodate overcrowded and cost burdened households.

Of note, jurisdictions do not have the opportunity to review the inputs utilized by HCD during the consultation process between HCD and SCAG and, therefore, are not able to provide public comment on the data points until after the release of the regional determination. Additionally, jurisdictions were not provided access to the data points utilized by HCD in the regional determination and had to extract them from the materials provided. This resulted in a lack of transparency and made it extremely difficult for jurisdictions to analyze and verify the various methodologies in a timely manner to provide meaningful feedback to HCD and SCAG.

Finally, it appeared that housing need generated by students and employment at the University of California, Irvine was part of the SCAG housing allocation formula. However, HCD does not assist with facilitating solutions between universities and jurisdictions to count the housing units developed on campus for students, staff, and faculty.

Finding F19 – **The City of Irvine has been progressive in submitting a housing plan that calls for twice the number of units mandated (56,000). However, this threatens the historical nature of a master planned community with substantial infrastructure challenges.**

Response: The City of Irvine respectfully disagrees with this finding. While the official RHNA allocation for Irvine was 23,610 units for the 6th Cycle, per Housing Element statute, the City is required to demonstrate both adequate sites for the total RHNA and capacity for each income level (very-low, low, and moderate income). In addition, prior to the 6th Housing Element Cycle, new legislation associated with "no net loss" and "affirmatively furthering fair housing" required the City to develop a site inventory that not only dispersed affordable units equitably throughout the jurisdictions, it also created a buffer of affordable sites. Keeping all these requirements in mind, the only way in which the City would be able to meets its assigned RHNA allocation was to create the Residential and Residential Mixed Use (RRMU) Overlay, with three focus areas, where the majority of the new units would be assigned. As such, there was nothing progressive about the ultimate number of units (approximately 56,000) that were included in the 2045 General Plan.

The City conducted extensive public outreach for the 2021-2029 Housing Element. This included a community outreach survey, two focus groups, three community workshops, a Planning Commission study session, a City Council scoping session, and stakeholder meetings with the development community, property owners, non-profit organizations, public agencies, affordable housing providers, and special interest groups. Through this extensive outreach, the City identified housing element sites to accommodate the RHNA in areas outside of the residential core. Therefore, the thoughtful siting of the new residential units will protect the City's existing single-family master planned neighborhoods. The future residential capacity for high density residential and residential mixed-use is located in three focus areas near existing transit and employment.

RECOMMENDATIONS

Recommendation R7 – **OCCOG, all Orange County cities and the County of Orange should reassess the current dues structure, by September 30, 2026, to ensure that OCCOG has the resources necessary to effectively represent Orange County jurisdictions in SCAG processes, including RHNA methodology development and appeals.**

Response: The City of Irvine agrees with and is supportive of the intent of this recommendation and can encourage the OCCOG Executive Director to reassess the current dues structure to ensure OCCOG has the resources necessary to effectively represent Orange County jurisdictions in SCAG processes, including RHNA methodology development and appeals. However, this is not an action item the City of Irvine can independently initiate.

Recommendation R8 – **By December 31, 2026, the Orange County Board of Supervisors should partner with cities to evaluate countywide infrastructure capacity – including water, wastewater, flood control, transportation, and public-safety systems – and develop a coordinated regional plan capable of supporting the level of housing growth required under state law.**

Response: The City of Irvine respectfully declines to implement this recommendation because it is not warranted or reasonable at this time. In 2024, as required for the 2045 General Plan update, the City prepared a comprehensive programmatic environmental impact report (PEIR) that evaluated citywide infrastructure capacity including water, wastewater, flood control, transportation, and public-safety infrastructure. Additionally, the City reached out to the local school districts to evaluate capacity impacts in the three focus areas where the majority of the residential and residential mixed-use is sited. The PEIR determined there was adequate citywide infrastructure capacity to support the additional residential development, especially when infill residential and residential mixed-use projects would replace existing non-residential uses that generate more impacts.

Additionally, the 6th Housing Element Cycle will conclude in 2029 and it does not seem reasonable for the County of Orange to initiate and complete a comprehensive evaluation of the infrastructure at this time. It would seem more appropriate for the County of Orange to initiate this project prior to the 7th Cycle RHNA.

Recommendation R9 – **By September 30, 2026, the Orange County Board of Supervisors should strengthen its engagement with OCCOG and increase staff support to develop a shared, countywide database of potential housing sites and key development-feasibility factors.**

Response: The City of Irvine respectfully declines to implement this recommendation as it is the responsibility of the County of Orange and not the City of Irvine.

Recommendation R11 – **The County of Orange and each city should ensure consistent participation in SCAG and OCCOG committees by September 30, 2026,**

including the Technical Advisory Committee (TAC), to strengthen regional representation during RHNA-methodology development.

Response: The City of Irvine continues to have technical staff representation on the SCAG and OCCOG committees and will retain this representation through the RHNA process. Additionally, Irvine is committed to dedicating one staff member to serve as the OCCOG TAC chair.

Recommendation R12 – **The County of Orange and each city should designate a single technical representative, by September 30, 2026, along with an alternate, for all RHNA-related SCAG and OCCOG committees to ensure continuity of participation and eliminate gaps in representation across multiple decision-making bodies.**

Response: The City of Irvine agrees with and strongly supports this recommendation. In 2006, the City of Irvine identified a single technical representative from the Community Development Department to attend all RHNA-related SCAG and OCCOG committees. Beginning in 2014, the City identified an alternate technical representative to SCAG and OCCOG. In addition, since 2008, the City of Irvine has held a leadership role on the OCCOG Technical Advisory Committee (TAC) and has been intimately involved in the development of the RHNA. The City intends to continue to implement this recommendation through the development of the 7th Housing Element Cycle.

Recommendation R14 – **By April 30, 2027, the County of Orange and each city should publish annual monitoring dashboards showing (a) entitlement pipeline conditions, (b) realistic site yield, (c) assembled funding sources for affordable units, and (d) conversion rates from planned capacity to issued permits and completed units, ensuring that County and city-determined capacity assumptions remain aligned with actual production.**

Response: This recommendation has already been implemented by the City of Irvine. Specifically, the Irvine Community Development Department publishes a Notable Development Projects Map website that identifies pending, approved, under construction, and completed projects. Additionally, the City documents units permitted through the Annual Progress Report (APR) process, which is due to HCD annually by April 1, and is posted on the City's website. Project staff reports associated with residential and residential mixed-use projects document proposed density compared to densities assumed in the certified Housing Element, if the project site is a designated housing element site.

Recommendation R15 – **By September 30, 2026, and ongoing, the County Board of Supervisors and all city councils should make a coordinated and sustained effort to educate their constituents about the RHNA process—its requirements, its impact on local planning and community character, and the role residents can play in shaping outcomes. Public education efforts should also include guidance on how community members can effectively engage with the California Legislature and advocate for more realistic, data-driven housing policies.**

Response: The City of Irvine agrees with and strongly supports this recommendation. Since 2005 and the 4th Housing Element Cycle, the City of Irvine has consistently educated its constituents about the RHNA process, its requirements, its impact on local planning and community character, and the role residents play in shaping outcomes. Councilmembers representing the City of Irvine at SCAG on the Regional Council have provided briefings at Council meetings during the RHNA process and public updates were provided at Planning Commission and City Council meetings throughout the 4th, 5th, and 6th Housing Element Cycles. Additionally, the City utilized social media posts during the 6th Housing Element Cycle to cast a larger net in educating Irvine residents, businesses, and interested parties about the RHNA process and the impacts of implementing the Housing Element.

Recommendation R16 – **By December 31, 2026, all cities should look to enhance their relationships with not-for-profit affordable housing developers to increase the opportunity to develop more affordable housing.**

Response: The recommendation has already been implemented by the City of Irvine. The Irvine Community Land Trust (ICLT) is a local non-profit affordable housing development partner to the City. Irvine is one of just a few cities with a land trust. Two City Councilmembers have seats on the ICLT Board of Directors and the City provides financial and other assistance to ICLT on affordable development projects. To date, ICLT has developed three projects with approximately 225 units within the City of Irvine. Additionally, City staff conducted significant developer outreach during the 6th Cycle Housing Element process, has provided financial assistance to nonprofit affordable housing developers other than ICLT and has prioritized its staff developing relationships with nonprofit developers to understand their needs and identify opportunities. The City intends to continue this practice and have staff stay current with affordable housing trends, new funding/financing opportunities, and new technologies to create more affordable housing.

Recommendation R18 – **By September 1, 2026, the City of Irvine should ascertain the level of community support for its housing element submission and its impact on the character of its master plan.**

Response: The City of Irvine respectfully declines to implement this recommendation as extensive outreach specifically focused on community support for the adopted and certified 2021-2029 Housing Element and the subsequent 2045 General Plan and Zoning Ordinance Update was implemented between 2021-2022 and again in 2023-2024.

Pursuant to California Government Code Section 65583(c)(9), local governments are required to "make a diligent effort to achieve public participation of all economic segments of the community in the development of a housing element." To meet these requirements, the City of Irvine organized multiple outreach activities over the span of 10 months, prior to the adoption of the 2021-2029 Housing Element, to engage with all economic segments of the community through a community outreach survey, two focus groups, three community workshops, a Planning Commission study session, a City Council scoping session, and stakeholder meetings with the development community, property owners, non-profit organizations, public agencies (including the school districts), affordable housing providers, and special interest groups.

For the General Plan and Zoning Ordinance Update outreach was conducted over a total of seven years. Outreach efforts included numerous pop-up events, eight community workshops, multiple information sessions, stakeholder meetings, targeted community opinion surveys, focus groups, social media postings, email mailings to over 1,000 subscribers, and notices posted in eight languages.

Moving forward, the City of Irvine is committed to a robust public outreach effort during the upcoming 7th Housing Element Cycle.

We trust this response from the City of Irvine will be filed with the Orange County Grand Jury so that anyone reading the Grand Jury report will be able to evaluate it in light of Irvine's response set forth above. We appreciate the Grand Jury's attention to this important topic as cities throughout Orange County work to respond to increasingly bureaucratic, one-size-fits-all, state-wide housing mandates.

Thank you for your consideration of this important matter.

Sincerely,

Larry Agran

Larry Agran
Mayor
City of Irvine

cc: Orange County Grand Jury, 700 Civic Center Drive West, Santa Ana, CA 92701

ec: Irvine City Council
Sean Crumby, City Manager
Pete Carmichael, Assistant City Manager
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