

1 [Zoning – New Controls for the North Beach Neighborhood Commercial District, to Limit the
2 Establishment of New Bars and Restaurants and Preserve Basic Neighborhood Services.]

3 **Ordinance amending the San Francisco Planning Code by amending Section 722.1 and**
4 **the Zoning Control Table in Section 722 to limit the establishment of new bars and**
5 **restaurants in the North Beach Neighborhood Commercial District in locations that**
6 **have been occupied by Basic Neighborhood Services; to protect North Beach Specialty**
7 **Take Out uses, such as bakeries, delicatessens, gelato and ice cream stores; to**
8 **prohibit the establishment of new ground-story Limited Financial and Business and**
9 **Professional uses; to prohibit new automated bank teller machines (ATMs); to allow**
10 **restaurants to obtain liquor licenses if they operate as Bona-Fide Eating**
11 **Establishments, as defined; adding a new Section 790.142, to define Bona-Fide Eating**
12 **Establishment; amending the definition of Basic Neighborhood Services in Section**
13 **790.68; and adopting findings, including environmental findings, Section 302 findings,**
14 **and findings of consistency with the General Plan and the Priority Policies of Planning**
15 **Code Section 101.1.**

16
17 Note: Additions are *single-underline italics Times New Roman*;
18 deletions are ~~*strikethrough italics Times New Roman*~~.
19 Board amendment additions are double underlined.
20 Board amendment deletions are ~~strikethrough normal~~.

21 Be it ordained by the People of the City and County of San Francisco:

22 Section 1. Findings. The Board of Supervisors of the City and County of San
23 Francisco hereby finds and determines that:

24 (a) The Planning Department has determined that the actions contemplated in this
25 ordinance are in compliance with the California Environmental Quality Act (California Public

1 Resources Code Section 21000 et seq.). This determination is on file with the Clerk of the
2 Board of Supervisors in File No. _____.

3 (b) At a duly noticed public hearing held on _____, the Planning
4 Commission found in Resolution No. _____ that the proposed Planning Code
5 amendments contained in this ordinance are consistent with the City's General Plan and with
6 the Priority Policies of Planning Code Section 101.1. A copy of this Planning Commission
7 Resolution is on file with the Clerk of the Board of Supervisors in File No.
8 _____ and is incorporated herein by reference. The Board finds that the
9 proposed Planning Code amendments contained in this ordinance are consistent with the
10 City's General Plan and with the Section 101.1 Priority Policies for the reasons set forth in the
11 Planning Commission Resolution cited above.

12 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
13 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
14 the Planning Commission Resolution cited above.

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16 Section 2. The San Francisco Planning Code is hereby amended by amending Section
17 722.1, to read as follows:

18 **SEC. 722.1. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT.**

19 The North Beach Neighborhood Commercial District is a nonlinear district centered on
20 Columbus Avenue, located in the valley between Telegraph Hill and Nob Hill north of
21 Broadway. North Beach functions as a neighborhood-serving marketplace, citywide specialty
22 shopping, and dining district, and a tourist attraction, as well as an apartment and residential
23 hotel zone. Traditionally, the district has provided most convenience goods and services for
24 residents of North Beach and portions of Telegraph and Russian Hills. North Beach's eating,
25

1 drinking, and entertainment establishments remain open into the evening to serve a much
2 wider trade area and attract many tourists. The balance between neighborhood-serving
3 convenience stores and Citywide specialty businesses has shifted *gradually*, as *some*
4 convenience stores have been replaced by *bakeries*, ice cream parlors, *and* restaurants *and*
5 *bars*. The proliferation of *business and professional services and* financial services has also upset
6 the district's balance of uses. The relocation of business and professional offices from
7 downtown to North Beach threatens the loss of upper-story residential units.

8 The North Beach District controls are designed to ensure the livability and
9 attractiveness of North Beach. Building standards limit new development to a small to
10 moderate scale. Rear yards are protected above the ground story and at residential levels.
11 Most new commercial development is permitted at the first two stories. Small-scale,
12 neighborhood-serving businesses are strongly encouraged *and formula retail uses are*
13 *prohibited. Use sizes are controlled to limit future consolidation of spaces and to encourage*
14 *conversion back to the traditional small-scale commercial spaces. Special controls are necessary*
15 *because an over-concentration of food and beverage service establishments limits neighborhood-*
16 *serving small businesses in an area that needs them to thrive as a neighborhood. In order to protect*
17 *and maintain neighborhood-serving small businesses and protect adjacent residential livability,*
18 *additional eating and drinking establishments are prohibited in spaces that have been occupied by*
19 *basic neighborhood services. ~~limit~~ Additional ground-story eating and drinking, entertainment is*
20 *limited. ~~and~~ Additional ground-story business and professional office uses and ground-story*
21 *limited financial service uses are prohibited.* Financial services are prohibited from locating in the
22 portion of the district south of Union Street, while new financial services locating in the portion
23 of the district north of Union Street are limited. Restrictions on automobile and drive-up uses
24 are intended to promote continuous retail frontage and maintain residential livability.

25

1 In keeping with the district's existing mixed-use character, housing development in new
 2 buildings is encouraged above the second story. Existing residential units are protected by
 3 prohibitions of upper-story conversions and limitations on demolitions.

4
 5 Section 3. The San Francisco Planning Code is hereby amended by amending the
 6 Zoning Control Table of Section 722, to read as follows:

7
 8 **SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT**
 9 **ZONING CONTROL TABLE**

No.	Zoning Category	§ References	North Beach Controls
BUILDING STANDARDS			
722.10	Height and Bulk Limit	§§ 102.12, 105, 106, 250--252, 260, 270, 271	P up to 40 ft.
722.11	Lot Size [Per Development]	§§ 790.56, 121.1	P up to 4,999 sq. ft.; C 5,000 sq. ft. & above § 121.1
722.12	Rear Yard	§ 130, 134, 136	Required at the second story and above and at all residential levels § 134(a)(e)
722.13	Street Frontage		Required § 145.1
722.14	Awning	§ 790.20	P § 136.1(a)
722.15	Canopy	§ 790.26	P § 136.1(b)

1	722.16	Marquee	§ 790.58	P
2	722.17	Street Trees		§ 136.1(c) Required § 143
3				
4	COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
5	722.20	Floor Area Ratio	§§ 102.9, 102.11, 123	1.8 to 1 § 124(a) (b)
6				
7	722.21	Use Size [Nonresidential]	§ 790.130	P up to 1,999 sq. ft.; C 2,000 sq. ft. to 3,999 sq. ft. NP 4,000 sq. ft. and above § 121.2
8				
9				
10				
11	722.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153--157, 159--160, 204.5	Generally, none required if occupied floor area is less than 5,000 sq. ft. §§ 151, 161(g)
12				
13				
14	722.23	Off-Street Freight Loading	§§ 150, 153--155, 204.5	Generally, none required if gross floor area is less than 10,000 sq. ft. §§ 152, 161(b)
15				
16				
17	722.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
18	722.25	Drive-Up Facility	§ 790.30	
19				
20	722.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft. #; C if not recessed § 145.2(b) #
21				
22	722.27	Hours of Operation	§ 790.48	P 6 a.m.--2 a.m. C 2 a.m.--6 a.m.
23				
24	722.30	General Advertising Sign	§§ 262, 602--604, 608, 609	
25				

1	722.31	Business Sign	§§ 262, 602--604, 608,	P			
2				§ 607.1(f)2			
3	722.32	Other Signs	§§ 262, 602--604, 608,	P			
4			609	§ 607.1(c) (d) (g)			
5	No.	Zoning Category	§ References	North Beach Controls by Story			
6			§ 790.118	1st	2nd	3rd+	
7	722.38	Residential Conversion	§ 790.84	P			
8	722.39	Residential Demolition	§ 790.86	P	C	C	
9							
10	Retail Sales and Services						
11	722.40	Other Retail Sales and Services [Not Listed Below]	§ 790.102	P #	P #		
12							
13	722.41	Bar	§§ 790.22, <u>790.68</u> , <u>790.142</u>	<u>C #</u>			
14							
15	722.42	Full-Service Restaurant	§§ 790.92, <u>790.68</u> , <u>790.142</u>	<u>C #</u>			
16							
17	722.43	Large Fast Food Restaurant	§ 790.90				
18							
19	722.44	Small Self-Service Restaurant	§§ 790.91, <u>790.68</u> , <u>790.142</u>	<u>C #</u>			
20							
21	722.45	Liquor Store	§ 790.55	C			
22	722.46	Movie Theater	§ 790.64	P			
23	722.47	Adult Entertainment	§ 790.36				
24	722.48	Other Entertainment	§ 790.38	C			
25							

1	722.49	Financial Service	§ 790.110	C/NP #		
2	722.50	Limited Financial Service	§ 790.112	€	<u>P</u>	
3	722.51	Medical Service	790.114	P	P	
4	722.52	Personal Service	§ 790.116	P	P	
5	722.53	Business or Professional Service	§ 790.108	€	P	
6						
7	722.54	Massage Establishment	§ 790.60, § 1900 Health Code	C		
8						
9	722.55	Tourist Hotel	§ 790.46	C	C	C
10	722.56	Automobile Parking	§§ 790.8, 156, 160	C	C	C
11						
12	722.57	Automotive Gas Station	§ 790.14			
13	722.58	Automotive Service Station	§ 790.17			
14						
15	722.59	Automotive Repair	§ 790.15	C		
16	722.60	Automotive Wash	§ 790.18			
17	722.61	Automobile Sale or Rental	§ 790.12			
18	722.62	Animal Hospital	§ 790.6	C		
19	722.63	Ambulance Service	§ 790.2			
20	722.64	Mortuary	§ 790.62			
21	722.65	Trade Shop	§ 790.124	P#	C #	
22						
23	722.66	Storage	§ 790.117			
24	722.67	Video Store	§ 790.135	C	C	
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Institutions and Non-Retail Sales and Services

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722.70	Administrative Service	§ 790.106			
722.80	Hospital or Medical Center	§ 790.44			
722.81	Other Institutions, Large	§ 790.50	P	C	C
722.82	Other Institutions, Small	§ 790.51	P	P	P
722.83	Public Use	§ 790.80	C	C	C
722.84	Medical Cannabis Dispensary	§ 790.141	P		

RESIDENTIAL STANDARDS AND USES

722.90	Residential Use	§ 790.88	P	P	P
722.91	Residential Density, Dwelling Units	§§ 207, 207.1, 790.88(a)	Generally, 1 unit per sq. ft. lot area § 207.4		
722.92	Residential Density, Group Housing	§§ 207.1, 790.88(b)	Generally, 1 bedroom. per sq ft. lot area § 208		
722.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 60 sq. ft if private, or 80 sq. ft. if common § 135(d)		
722.94	Off-Street Parking, Residential				
722.95	Community Residential Parking	§ 790.10	C	C	C

SPECIFIC PROVISIONS FOR THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT

1	Article 7		
2	Code Section	Other Code Section	Zoning Controls
3	<u>§ 722.26</u>	<u>§ 790.140</u>	<u>NORTH BEACH WALK UP FACILITIES</u>
4			<u>Boundaries: North Beach NCD</u>
5			<u>Controls: Walk-up automated bank teller machines (ATMs) are</u>
6			<u>not permitted.</u>
7			
8	§ 722.40	§ 790.102(n)	NORTH BEACH SPECIALTY RETAIL USES
9			Boundaries: North Beach NCD
10			Controls: Retail coffee stores defined pursuant to Code §
11			790.102(n) are not permitted without conditional use
12			authorization except to the extent qualifying as specialty
13			grocery permitted pursuant to § 790.102(b)
14	<u>§ 722.40</u>	<u>§ 790.102(a)</u>	<u>NORTH BEACH GENERAL GROCERY USES</u>
15			<u>Boundaries: North Beach NCD</u>
16			<u>Controls: In the North Beach NCD, the definition of general</u>
17			<u>grocery use under Section 790.102(a) shall include an individual</u>
18			<u>retail food establishment that contains less than 4,000 square feet</u>
19			<u>of gross floor area.</u>
20			
21	<u>§ 722.40</u>	<u>790.91, 790.90</u>	<u>SPECIALTY TAKE OUT USES</u>
22		<u>790.92, 790.122</u>	
23			<u>Boundaries: North Beach NCD</u>
24			<u>Controls: (a) Bakeries, gelato or ice cream stores, and</u>
25			<u>delicatessens located in the North Beach NCD, or within a</u>
			<u>quarter-mile from the boundaries thereof, which meet the</u>
			<u>definition of a “North Beach Specialty Take Out” use as defined</u>
			<u>below, shall not be considered to be a small self-service</u>
			<u>restaurant as defined in Section 790.91 or a large fast-food</u>
			<u>restaurant as defined in Section 790.90. It is also distinct from</u>
			<u>take out food as defined in Section 790.122.</u>

1 (b) “North Beach Specialty Take Out” shall mean a retail bakery,
2 gelato or ice cream store, or delicatessen use which exhibits the
3 following characteristics: (1) its primarily function is to prepare
4 food on the premises and to provide food to a high volume of
5 customers who carry out the food for off-premises consumption;
6 (2) it contains a service counter without fixed seats, which counter
7 is designed specifically for the sale and distribution of food
8 prepared on site; (3) it may contain no more than 15 seats as an
9 accessory to its primary function; and (4) it shall be open for
10 operation a minimum of five days a week during daytime hours.

11 (c) A “North Beach Specialty Take Out” use does not include
12 retail grocery stores with accessory take-out food activity as
13 described in Section 703.2(b)(1)(C) or retail uses which sell
14 prepackaged or bulk ready-to-eat-foods with no on-site food
15 preparation area, such as confectionary or produce stores. It
16 may provide off-site beer and/or wine sales for consumption off
17 the premises (with ABC licenses 20 or 21). It shall not provide
18 on-site beer and/or wine sales for drinking on the premises (with
19 ABC licenses 40, 41, or 60).

20 (d) Bakeries, gelato or ice cream stores, and delicatessens not
21 meeting the definition of a North Beach Specialty Take Out as set
22 forth herein shall require a conditional use authorization
23 pursuant to the applicable definitions of a small self-service
24 restaurant as defined in Section 790.91 or a large fast-food
25 restaurant as defined in Section 790.90.

(e) A “North Beach Specialty Take Out” use shall be a permitted
use in the North Beach NCD and shall be considered a Basic
Neighborhood Service as defined in Section 790.68.

§ 722.42, § 790.92,
§ 722.44 & § 790.91 &
§ 722.41 § 790.22

NORTH BEACH RESTAURANTS AND BARS

Boundaries: North Beach NCD

Controls: A full-service restaurant, small self-service restaurant,
or bar may be permitted as a conditional use on the ground level
if, in addition to the criteria set forth in Section 303, the Planning
Commission finds that the full-service restaurant, small self-
service restaurant, or bar does not occupy (a) a space that has
been occupied by a Basic Neighborhood Service as defined in
Section 790.68 since the effective date of this Section; (b) a vacant

1 space whose last known use was a Basic Neighborhood Service as
2 defined in Section 790.68 or a permitted use under Section 722
3 (North Beach Controls); or (c) a space in which a use that is not
4 permitted or is permitted only as a conditional use under Section
5 722 (North Beach Controls) has been abandoned or discontinued
6 pursuant to Sec. 178(d) or Sec. 186.1(d) of this Code for a period
7 of 18 months or more.

5 § 722.42 & § 790.92 & NORTH BEACH LIQUOR LICENSES FOR FULL SERVICE OR
6 § 722.44 § 790.91 SMALL SELF SERVICE RESTAURANTS

7 **Boundaries: North Beach NCD**

8 **Controls:** (a) In order to allow full-service restaurants, as defined
9 in § 790.92, and small self-service restaurants, as defined in §
10 790.91 to seek or maintain an ABC license type 41, so that they
11 may provide on-site beer and/or wine sales for drinking on the
12 premises, the restaurant shall be required to operate as a ‘Bona-
13 Fide Eating Establishment’ as defined in § 790.142.

14 (b) In order to allow full service restaurants, as defined in §
15 790.91, to seek and maintain an ABC license type 47, so that
16 liquor may be served for drinking on the premises, a bar use, as
17 defined in § 790.22, may be permitted as a conditional use on the
18 ground level if, in addition to the criteria set forth in Section 303,
19 the Planning Commission finds that:

20 (1) The bar function is operated as an integral element of an
21 establishment which is classified both as: (A) a full-service
22 restaurant as defined in § 790.92 and (B) a ‘Bona-Fide Eating
23 Establishment’ as defined in § 790.142; and

24 (2) The establishment maintains only an ABC license type 47, 40,
25 41 or 60.

(c) The Commission may consider immediate revocation of a
previous conditional use authorization should an establishment no
longer comply with any of the criteria set forth above in (a) or (b)
of this Section for any length of time.

1 (d) A bar use, as defined in § 790.22, shall not be allowed as a
2 conditional use in conjunction with small self-service restaurant
3 use as defined in § 790.91.

4 ~~§ 722.42~~ ~~§ 790.92~~ ~~NORTH BEACH FULL SERVICE RESTAURANTS~~

5 *Boundaries: Applicable to the North Beach NCD*

6 *Controls: A full service restaurant may be permitted as a*
7 *conditional use on the second story if, in addition to the criteria*
8 *set forth in Section 303, the Commission finds that:—*

9 *(1) The full service restaurant is situated within the North Beach*
10 *NCD and is within 100 feet of Columbus Avenue; and*

11 *(2) The full service restaurant will be located in an existing*
12 *building that is currently permitted for occupancy solely by*
13 *commercial uses; and*

14 *(3) The full service restaurant does not require the demolition,*
15 *conversion or relocation of any lawfully permitted dwelling units*
16 *or guest rooms; and—*

17 *(4) The full service restaurant is operated in combination with a*
18 *lawfully existing nonconforming second floor movie theater as*
19 *defined in Section 790.64 of this Code or a lawfully existing*
20 *nonconforming second floor "other entertainment" use as defined*
21 *by Section 790.38 of this Code.*

22 § 722.49 § 781.6 NORTH BEACH FINANCIAL SERVICE SUBDISTRICT

23 **Boundaries:** Applicable only for portions of the North
24 Beach NCD south of Union Street as mapped on Sectional
25 Map SU01a

Controls: Financial services are NP at all stories

§ 722.65 § 236 GARMENT SHOP SPECIAL USE DISTRICT

Boundaries: Applicable only for the portion of North Beach
NCD as mapped on Sectional Map SU01a

Controls: Garment shops are P at the 1st and 2nd stories

1 Section 4. The San Francisco Planning Code is hereby amended by amending Section
2 790.68, to read as follows:

3 ~~SEC. 790.68. NEIGHBORHOOD SERVING BUSINESS.~~

4 ~~———— A neighborhood serving business cannot be defined by the type of use, but rather by the~~
5 ~~characteristics of its customers, types of merchandise or service, its size, trade area, and the number of~~
6 ~~similar establishments in other neighborhoods. The primary clientele of a "neighborhood serving~~
7 ~~business," by definition, is comprised of customers who live and/or work nearby.~~

8 ~~———— While a neighborhood serving business may derive revenue from customers outside the~~
9 ~~immediately surrounding neighborhood, it is not dependent on out-of-neighborhood clientele.~~

10 ~~———— A neighborhood serving use provides goods and/or services which are needed by residents and~~
11 ~~workers in the immediate neighborhood to satisfy basic personal and household needs on a frequent~~
12 ~~and recurring basis, and which if not available require trips outside of the neighborhood.~~

13 ~~———— A use may be more or less neighborhood serving depending upon its trade area. Uses which,~~
14 ~~due to the nature of their products and service, tend to be more neighborhood serving, are those which~~
15 ~~sell convenience items such as groceries, personal toiletries, magazines, and personal services such as~~
16 ~~cleaners, laundromats, and film processing. Uses which tend to be less neighborhood oriented are~~
17 ~~those which sell more specialized, more expensive, less frequently purchased comparison goods such as~~
18 ~~automobiles and furniture.~~

19 ~~———— For many uses (such as stores selling apparel, household goods, and variety merchandise),~~
20 ~~whether a business is neighborhood serving depends on the size of the establishment: the larger the~~
21 ~~use, the larger the trade area, hence the less neighborhood oriented.~~

1 ~~Whether a business is neighborhood serving or not also depends in part on the number and~~
2 ~~availability of other similar establishments in other neighborhoods: the more widespread the use, the~~
3 ~~more likely that it is neighborhood oriented.~~

4 **SEC. 790.68. BASIC NEIGHBORHOOD SERVICE.** A use within a neighborhood commercial
5 district or within a quarter-mile from the boundaries thereof, that provides goods and/or services which
6 are needed by residents and workers in the surrounding neighborhoods. Basic Neighborhood Services
7 shall be considered to include, but not be limited to the following goods and/or services: Other Retail
8 Sales and Services as defined in Section 790.102 (including but not limited to greeting cards, office
9 supplies, magazines, jewelry, art supplies, and pet stores), Personal Services as defined in Section
10 790.116, Medical Services as defined in Section 790.114, Liquor Stores as defined in Section 790.55,
11 Movie Theaters as defined in Section 790.64, Video Stores as defined in Section 790.135, Trade Shops
12 as defined in Section 790.124 (including but not limited to shoe repair stores, tailors, upholstery stores,
13 and printing/copying services) and Animal Hospitals as defined in Section 790.6.

16
17 Section 5. The San Francisco Planning Code is hereby amended by adding new Section
18 790.142, to read as follows:

19 **SEC. 790.142. BONA FIDE EATING ESTABLISHMENT.** A “Bona-Fide Eating Establishment”
20 shall mean a place which is regularly and in a bona fide manner used and kept open for the service of
21 meals to guests for compensation and which has suitable kitchen facilities connected therewith,
22 containing conveniences for cooking of an assortment of foods which may be required for ordinary
23 meals.

1 (a) "Meals" shall mean an assortment of foods commonly ordered at various hours of the day for
2 breakfast, lunch or dinner. Certain specialty entrees, such as pizza, fish, ribs, etc., together with an
3 assortment of other foods, such as soups, sandwiches, salads and desserts, may be considered a meal.
4 Incidental food service, including but not limited to various kinds of appetizers or snacks to accompany
5 drinks are not meals. Incidental, sporadic or infrequent sales of meals or a mere offering of meals
6 without actual sales is not compliance.

7 (b) "Guests" shall mean persons who, during the hours when meals are regularly served therein, come
8 to a Bona Fide Eating Establishment for the purpose of obtaining, and actually order and obtain at
9 such time, in good faith, a meal therein. Nothing in this section, however, shall be construed to require
10 that any food be sold or purchased with any beverage.

11 (c) Actual and substantial sales of meals are required, during the normal days and meal hours that a
12 Bona-Fide Eating Establishment is open; provided that "normal days of operation" shall mean a
13 minimum of five days a week and "normal hours" of operation for meal service shall mean, at a
14 minimum, 7:00 a.m. to 2:00 p.m. if open for breakfast and lunch; 11:00 a.m. to 10:00 p.m. if open for
15 lunch and dinner, or 5:00 p.m. to 10:00 p.m. if open for dinner only.

16 (d) The premises must be equipped and maintained in good faith. This means the premises must
17 possess working refrigeration and cooking devices, pots, pans, utensils, table service, condiment
18 dispensers, menus, signs and enough goods to make substantial meals. The premises must comply with
19 all regulations of the San Francisco Health Department.

1 (e) A minimum of 51 percent of the restaurant's gross receipts shall be from food sales prepared and
2 sold to guests on the premises. Records of the restaurant's gross receipts shall be provided to the
3 Planning Department upon request.

4 (f) A "Bona-Fide Eating Establishment" does not include any billiard or pool hall, bowling alley, or
5 adult entertainment business as defined in Planning Code Section 790.36.
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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 Andrea Ruiz-Esquide
12 Deputy City Attorney
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