

1 [Zoning - Interim Moratorium on New Residential Uses and Elimination of Production,
Distribution, and Repair Uses in a Portion of the Mission Area Plan of the General Plan]

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3 **Urgency Ordinance approving an interim zoning moratorium on the issuance of any**
4 **permits to demolish, merge, convert, or construct housing projects, as defined, on the**
5 **issuance of any permits to demolish, convert, or eliminate Production, Distribution,**
6 **and Repair (PDR), and to create an exception from the interim zoning moratorium for**
7 **the issuance of permits for 100% affordable housing projects, as defined, and to allow**
8 **the elimination of PDR uses where necessary to permit 100% affordable housing**
9 **projects, in a portion of the Mission Area Plan of the General Plan (comprising the area**
10 **bounded by the north side of Cesar Chavez from the east side of Valencia to the west**
11 **side of Potrero; the west side of Potrero from the north side of Cesar Chavez to the**
12 **south side of 20th Street; the south side of 20th Street from the west side of Potrero to**
13 **the west side of Bryant; the west side of Bryant from the south side of 20th Street to**
14 **the south side of U.S. Route 101; the south side of U.S. Route 101 from the west side of**
15 **Bryant to the east side of Valencia; the east side of Valencia from the south side of U.S.**
16 **Route 101 to the north side of Cesar Chavez); affirming the Planning Department's**
17 **determination under the California Environmental Quality Act; and making findings of**
18 **consistency with the eight priority policies of Planning Code, Section 101.1.**

19 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
20 **Additions to Codes** are in *single-underline italics Times New Roman font*.
21 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
22 **Board amendment additions** are in double-underlined Arial font.
23 **Board amendment deletions** are in ~~strikethrough Arial font~~.
24 **Asterisks (* * * *)** indicate the omission of unchanged Code
25 subsections or parts of tables.

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

1 Section 1. Findings.

2 (a) **General Findings.**

3 (1) In 2008, the Board of Supervisors adopted the Eastern Neighborhoods Plan,
4 including the Mission Area Plan, as part of the General Plan. The Eastern Neighborhoods
5 Plan, specifically including the Mission Area Plan, must be revisited for the following reasons:

6 (A) The economic projections that serve as the foundation for the Eastern
7 Neighborhoods rezoning have changed, because the Great Recession and subsequent
8 recovery created very different market conditions than could have been anticipated in 2006-07
9 when the projections were made.

10 (B) Even though the economic projections could not have forecast the current
11 escalation in housing prices, the Hausrath Economics Group, in a 2007 study entitled "San
12 Francisco's Eastern Neighborhoods Rezoning Socioeconomic Impacts: A Report to Planning
13 Department City and County of San Francisco," on file with the Clerk of the Board of
14 Supervisors in File No. ____ (the "Socioeconomic Impacts Report") and incorporated herein by
15 reference, made a statement about the need for systems and programs to ensure affordable
16 housing: "[t]he socioeconomic analysis indicates that land use regulation alone is not
17 adequate to address the wide range of community needs and planning goals. New financial
18 resources, new programs, and interagency coordination to better target existing programs and
19 resources are required to complement the proposed land use regulations."

20 (C) The Board of Supervisors adopted the Mission Area Plan of the Eastern
21 Neighborhoods in December 2008. The preface states: "[a]t their core, the Eastern
22 Neighborhoods Plans try to accomplish two key policy goals: 1) they attempt to ensure a
23 stable future for Production, Distribution and Repair (PDR) businesses in the City, mainly by
24 reserving a certain amount of land for this purpose; and 2) they strive to provide a significant
25 amount of new housing affordable to low, moderate and middle income families and

1 individuals, along with ‘complete neighborhoods’ that provide appropriate amenities for these
2 new residents.” Despite the fact that there was a conceptual framework for the Eastern
3 Neighborhoods to provide “significant” affordable housing, there was not an adequate funding
4 strategy for purchasing sites or building affordable housing.

5 (D) One of the products of the Eastern Neighborhoods Plan was a project of the
6 San Francisco Department of Public Health to create the Eastern Neighborhoods Community
7 Health Impact Assessment (ENCHIA) “to analyze how development in several San Francisco
8 neighborhoods would affect attributes of social and physical environments that are most
9 important to health.” This became the Healthy Development Measurement Tool in 2007 and in
10 2012 transformed into the Sustainable Communities Index. The measurements for housing
11 include: 1) Preserve and construct housing in proportion to demand with regards to size,
12 affordability and tenure; 2) Protect residents from involuntary displacement; 3) Decrease
13 concentrated poverty; 4) Assure access to healthy quality housing. But, the City has not held
14 the Eastern Neighborhoods Plan to account under these measures for ensuring development
15 of healthy communities since at least 2012. The Sustainable Communities Index website
16 states "Intense development pressures in San Francisco throughout the mid-late 1990's and
17 early 2000's generated a multitude of infrastructure, zoning, public safety and environmental
18 impacts, most especially a shortage of affordable housing. Many communities called on public
19 health officials to evaluate the health impacts of these development pressures and advocate
20 for healthy environments." The website further states, "The [Healthy Development
21 Measurement Tool] HDMT was subsequently applied to planning and development decisions
22 in San Francisco between 2007 and 2012, leading to a number of refinement[s] in the data
23 and application methods." The Healthy Development Measurement Tool is on file with the
24 Clerk of the Board of Supervisors in File No. ____ and incorporated herein by reference.

1 (E) The Impact Fees documented in the “San Francisco Eastern
2 Neighborhoods Nexus Study” published May 2008 by Seifel Consulting and on file with the
3 Clerk of the Board of Supervisors in File No. ____ and incorporated herein by reference have
4 been inadequate for mitigating the impacts of market rate housing among other things. "Table
5 A-2: Current and Future Need (2025 - Option B Revised) Mission Neighborhood" details the
6 needs, existing conditions, current demand, existing need or surplus, the growth in need, the
7 future conditions needed, the net future conditions, and the need projection for a number of
8 different community infrastructure components such as open space, schools, libraries, police,
9 fire, and affordable housing. Page 31 of this report says "ABAG estimates that 64 percent of
10 new housing production in San Francisco will need to be affordable to very low, low and
11 moderate income households as indicated in the Socioeconomic Impacts Report. Within the
12 Eastern Neighborhoods, this translates to 1,901 units affordable to very low income
13 households, 771 to low income households and 2,044 to moderate income households for a
14 total of 4,716 of the 7,385 units anticipated" and the report uses this same ratio of affordable
15 to market rate to establish the needs for affordable housing in each of the Eastern
16 Neighborhoods Plan areas including the Mission.

17 (F) The Mission District in particular is losing its income diversity: Per census
18 data, since 2000, the Mission has lost 3,000 households earning less than 100% of the Area
19 Median Income (AMI) which is approximately 230 households per year. Since 2006, according
20 to the Rent Stabilization Board, the Mission has lost roughly 80 rent-controlled units per year
21 due to Ellis Act conversions, condo conversions and demolition. Also per Census data, 8,000
22 Latinos have been displaced from the Mission between 2000 and 2013.

23 According to the Socioeconomic Impacts Report, “The Eastern Neighborhoods
24 have a greater racial and ethnic mix than the City overall, and the mix varies among
25 neighborhoods. Almost 30 percent of the City’s Latino residents live in the Eastern

1 Neighborhoods, almost all (90 percent) of them live in the Mission - an established Latino
2 cultural hub for San Francisco and the entire Bay Area.” (p. 18). The report continues, “The
3 foreign-born in the Eastern Neighborhoods are less likely than the foreign-born elsewhere in
4 the City to have attained citizenship status. One in eight foreign-born non-citizen residents of
5 San Francisco lives in the Mission.” (p. 18) And underscoring the vulnerability of immigrant
6 Latinos, “A high percentage of the people living in the Eastern Neighborhoods do not speak
7 English at home. One third of native Spanish speakers who have difficulty speaking English
8 live in the Mission.” (p. 18). This vulnerability is underscored by the census data cited above
9 that shows the loss of Latinos from the Mission.

10 (b) **Findings Related to imposition of an interim moratorium.**

11 (1) California Government Code Section 65858 provides that local jurisdictions may
12 adopt as an urgency measure an interim ordinance to protect the public, health, safety and
13 welfare prohibiting any uses that may be in conflict with a contemplated zoning proposal.
14 Planning Code Section 306.7 provides for the imposition of interim zoning controls to
15 accomplish several objectives, including preservation of historic and architecturally significant
16 buildings and areas; preservation of residential neighborhoods; preservation of neighborhoods
17 and areas of mixed residential and commercial uses in order to preserve the existing
18 character of such neighborhoods and areas; and development and conservation of the City’s
19 commerce and industry to maintain the City’s economic vitality, provide its citizens with
20 adequate jobs and business opportunities, and maintain adequate services for its residents,
21 visitors, businesses and institutions.

22 (2) These controls are intended and designed to deal with and ameliorate the
23 problems and conditions associated with the overproduction of market rate housing resulting
24 from the implementation of the Eastern Neighborhoods Plan and a period of economic growth,
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1 both of which have led to the under-production of affordable housing, particularly in the
2 Mission Area Plan.

3 (3) In order to evaluate these impacts, the San Francisco Planning Department, in
4 cooperation with the Mayor's Office, the Mayor's Office of Housing and Community
5 Development, and the Office of Economic and Workforce Development, is currently engaged
6 in a community-based planning effort for the Mission District called the "Mission Action Plan
7 2020." The purpose of the Mission Action Plan 2020 is to "stem displacement, to create more
8 affordable housing options for all income levels, and to protect and promote small and locally-
9 owned businesses and jobs that serve the community," according to the outreach flyer for the
10 April 22, 2015 community meeting of the Mission Action Plan 2020.

11 (4) In November 2014, the voters passed Proposition K, establishing as City policy that
12 at least 33% of all new housing be affordable to low and moderate income households, and
13 that at least 50% of all new housing be affordable to low, moderate and middle income
14 households; and

15 (5) There is a current and immediate threat to the public health, safety, and welfare
16 caused by continuing to issue permits under and comply with the current Mission Area Plan of
17 the Eastern Neighborhoods Plan, specifically the approval of housing projects that are not
18 affordable, and continuing to comply with the Mission Area Plan and its implementing zoning,
19 harms the public health, safety and welfare for, among other reasons:

20 (A) The continued approval of market rate housing reduces options for securing
21 sites for affordable housing production: The Socioeconomics Impacts Report, page 1, states
22 that rezoning many of the former industrial lands of the Eastern Neighborhoods for residential
23 development "would almost double the housing development potential in San Francisco."
24 The report continues, "[w]ithout affirmative programs to preserve sites, one potential cost of
25

1 the proposed rezoning would be a reduction in options for securing sites for affordable
2 housing production.”

3 (B) There is very little affordable housing being produced in the Mission Area
4 Plan.

5 (i) The Planning Department published a report on housing production in
6 the Mission Plan Area from 2006 - 2010, and annually it publishes a Housing Inventory report.
7 These two documents show that market rate housing continues to be built but affordable
8 housing does not. According to the “Mission Area Plan Monitoring Report: 2006 - 2010,” and
9 the annual “Housing Inventory Reports,” from 2006 to 2014, the Mission gained 1,327 units
10 total with only 165 of these (12.4%) being affordable which is far less than the 64% goal from
11 the Association of Bay Area Governments (ABAG) as stated in the Socioeconomics Impacts
12 Report "San Francisco's Eastern Neighborhoods Rezoning Socioeconomics Impacts: A
13 Report to Planning Department City and County of San Francisco,"

14 (ii) In the past decade only 151 units of affordable housing have been
15 built in the Mission, and none have been entitled since the adoption of the Mission Area Plan
16 in December, 2008. The 2014 Housing Inventory reports in Section 3.3 that “At the time of the
17 Mission Plan adoption and approval” the Mission had only “5% of the citywide total of
18 affordable housing,” and no new affordable units, and no new affordable housing units
19 were in the pipeline. According to the “Mission Area Plan Monitoring Report: 2006 - 2010”
20 Section 3.4, the only net new affordable units were 151 units built at Mosaica on Alabama
21 Street and first occupied in 2009. These reports are on file with the Clerk of the Board of
22 Supervisors in File No. ____ and incorporated herein by reference.

23 (iii) There is very little future affordable housing development currently
24 planned. The Council of Community Housing Organizations (CCHO) has compiled information
25 from the Planning Department’s list of every project that has received Planning Approval or is

1 under construction including affordable housing developments, and a similar list published by
2 the Mayor's Office of Housing for inclusionary units. CCHO combined these lists and it
3 shows that the Mission has 478 total residential units in the pipeline, with none of these being
4 affordable units produced by nonprofit affordable housing developers, and only 34 (7%) are
5 Below Market Rate (BMR) units. These documents are on file with the Clerk of the Board of
6 Supervisors in File No. ____ and incorporated herein by reference.

7 (iv) San Francisco has over-built market rate units and has under-built
8 affordable units. The latest "Residential Pipeline: Entitled Housing Units 2007 to 2014 Q3"
9 report, on file with the Clerk of the Board of Supervisors in File No. ____ and incorporated
10 herein by reference, which "represents completed units and development project in the
11 current residential pipeline" shows that San Francisco had built at and entitled 202.2% of its
12 RHNA allocation of housing for "above moderate income" households (above 120% AMI),
13 only 30.4% of its RHNA allocation of housing for "moderate income" households (80 - 120%
14 AMI), and only 55.7% of its RHNA allocation of housing for "low income" households (below
15 80% AMI).

16 (C) The lack of affordable housing leads to impacts on the public health, safety
17 and welfare:

18 (i) Many households in San Francisco are living in overcrowded
19 conditions. According to the 2014 Housing Element, "A household is considered overcrowded
20 when there is more than one person per room in the dwelling unit. The 2012 Census reported
21 that 20,520 or 6% of all San Francisco households were overcrowded (Table I-43)." This
22 section continues "Asian-American and Hispanic/ Latino households make up a
23 disproportionate number of overcrowded households (14%) (Table I-44)." This section further
24 explains "High housing costs also forces overcrowding. To afford the cost of housing, many
25 low-income families crowd into smaller units." Overcrowding creates an impact on the public

1 health, safety, peace and general welfare by increasing the likelihood of food insecurity
2 (Children's Healthwatch Policy Action Brief "Overcrowding and Frequent Moves Undermine
3 Children's Health" from November 2011, on file with the Clerk of the Board of Supervisors in
4 File No. ____ and incorporated herein by reference). According to the Robert Wood Johnson
5 Foundation's "Issue Brief #7: Exploring the Social Determinants of Health" published in May,
6 2011, on file with the Clerk of the Board of Supervisors in File No. ____ and incorporated
7 herein by reference: "Residential overcrowding has been linked both with physical illness,
8 including infectious diseases such as tuberculosis and respiratory infections, and with
9 psychological distress among both adults and children; children who live in crowded housing
10 may have poorer cognitive and psychomotor development or be more anxious, socially
11 withdrawn, stressed or aggressive."

12 (ii) The high cost of housing in the Mission is causing negative health impacts
13 documented in such public health reports as the San Francisco Department of Public Health:
14 "Unaffordable Housing: the Costs to Public Health of June 2004," on file with the Clerk of the
15 Board of Supervisors in File No. ____ and incorporated herein by reference.

16 California Newsreel produced in 2008 a series of video documentaries with the National
17 Association of County and City Health Officials called "Unnatural Causes: is inequality making
18 us sick?" A number of the publications and documentary segments aggregated into their
19 website www.unnaturalcauses.org clearly document the linkage between the lack of
20 affordable housing and health impacts. A recent research study by sociologists from Rice and
21 Harvard Universities is "the first to examine the consequences of eviction from housing in a
22 nationally representative dataset" according to Amy McCaig writing for Rice University News
23 & Media in her article "Eviction can result in depression, poorer health and higher stress."

24 Specifically, in the Mission Area Plan, the Mission District has long been home to
25 immigrants, many of whom depend on living in San Francisco, a Sanctuary City, in order to

1 access public health and other services. Many immigrants come to San Francisco because in
2 1989, the “City and County of Refuge” Ordinance was passed, and in 2007 was reaffirmed by
3 Mayoral Executive Order. This enables all City residents to safely access City services
4 including Healthy San Francisco and enrollment in the public school system. For immigrants
5 who are displaced from San Francisco, not only is their housing destabilized, and their
6 commute to work likely much longer and more expensive, but they might not be able to keep
7 their children in school, and also likely won’t be able to access health services. The Mission
8 District has for decades been an important neighborhood for immigrants, especially from
9 Central and South America.

10 (6) There is a current and immediate threat to the public health, safety, and welfare
11 caused by the continued approval of permits to demolish or eliminate Production, Distribution,
12 and Repair facilities (PDR) and continuing to comply with the current zoning ordinance,
13 specifically the Mission Area Plan and its implementing zoning, harms the public health, safety
14 and welfare by eliminating PDR uses which, among other things leads to unemployment and
15 job loss. "Unemployed people are twice as likely as employed people to suffer from
16 psychological problems (34 percent to 16 percent), and blue-collar workers are more
17 distressed by unemployment than those who've lost a white collar job," according to
18 Healthline's "Depression After a Job Loss: Statistics & How to Cope" by Michael Kerr, 29
19 March 2012 and medically reviewed by George Krucik, MD. As stated in the Introduction to
20 the Mission Area Plan, “Retail is a significant business type in the Mission. Mission and 24th
21 Streets in particular offer a variety of shops and services including many small grocery stores,
22 beauty shops and restaurants that serve the local neighborhood and reflect the Latino
23 population. There are about 900 stores and restaurants in the Mission, employing nearly
24 5,000 people. Retail however, does not employ as many people as Production Distribution
25 and Repair (PDR) activities. PDR businesses, concentrated in the northeast Mission, provide

1 jobs for about 12,000 people, making PDR businesses the largest employers in the Mission.
2 These businesses support San Francisco's service and tourist industry and are comprised of
3 everything from furniture makers, sound and video recording studios, wholesale distributors,
4 auto repair shops, plumbing supply stores, lumber yards, and photography studios, to the
5 large PG&E and Muni facilities."

6 (7) This Board has considered the impact on the public health, safety, peace, and
7 general welfare if the interim controls proposed herein were not imposed.

8 (8) This Board has determined that the public interest will be best served by imposition
9 of these interim controls at this time in order to ensure that the legislative scheme that may be
10 ultimately adopted is not undermined during the planning and legislative process for
11 permanent controls, which process shall be conducted within a reasonable time.

12 (9) In order to extend beyond the initial 45-day period an Interim Moratorium that has
13 the effect of denying approvals needed for the development of projects with a significant
14 component of multifamily housing, the Board of Supervisors must make the following written
15 findings:

16 (A) The continued approval of the development of multifamily housing projects
17 would have a specific, adverse impact upon the public health or safety. As used in this
18 paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and
19 unavoidable impact, based on objective, identified written public health or safety standards,
20 policies, or conditions as they existed on the date that the ordinance is adopted by the
21 legislative body.

22 (B) The interim ordinance is necessary to mitigate or avoid the specific, adverse
23 impact identified pursuant to paragraph (1).

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1 (C) There is no feasible alternative to satisfactorily mitigate or avoid the specific,
2 adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome
3 or restrictive effect, than the adoption of the proposed interim ordinance.

4 (c) **Planning Code Section 101.1 Findings.**

5 This interim zoning moratorium advances and is consistent with Priority Policy 2 of
6 Planning Code Section 101.1 in that it attempts to conserve and protect existing housing and
7 neighborhood character by preserving the cultural and economic diversity of our the Mission
8 Area Plan neighborhood. This interim zoning moratorium advances and is consistent with
9 Priority Policy 3 of the Planning Code Section 101.1 in that it preserves and enhances the
10 City's supply of affordable housing. This interim zoning moratorium advances and is
11 consistent with Priority Policy 5 of the Planning Code Section 101.1 in that it preserves and
12 enhances a diverse economic base by protecting our industrial sectors, specifically PDR, from
13 displacement due to commercial office development, and thus enhances future opportunities
14 for resident employment and ownership in these sectors. With respect to Priority Policies 1, 4,
15 6, 7, and 8, the Board finds that the interim zoning moratorium does not, at this time, have an
16 effect upon these policies, and thus, will not conflict with said policies.

17 (d) **Environmental Findings.**

18 The Planning Department has determined that the actions contemplated in this
19 ordinance comply with the California Environmental Quality Act (California Public Resources
20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. ____ and is incorporated herein by reference. The Board of
22 Supervisors hereby affirms this determination.

23
24 Section 2. The following interim zoning moratorium shall be adopted as an Urgency
25 Ordinance:

1 (a) This Interim Moratorium shall apply in the geographic area that is a portion of the
2 Mission Area Plan of the General Plan, comprising the area bounded by the north side of
3 Cesar Chavez from the east side of Valencia to the west side of Potrero; the west side of
4 Potrero from the north side of Cesar Chavez to the south side of 20th Street; the south side of
5 20th Street from the west side of Potrero to the west side of Bryant; the west side of Bryant
6 from the south side of 20th Street to the south side of U.S. Route 101; the south side of U.S.
7 Route 101 from the west side of Bryant to the east side of Valencia; the east side of Valencia
8 from the south side of U.S. Route 101 to the north side of Cesar Chavez.

9 (b) In the geographic area covered, no City department shall issue:

10 (1) any permit for the demolition, merger, conversion, or new construction of any
11 housing project containing five or more units. For purposes of this urgency ordinance
12 “housing project” shall mean any development which includes residential use as defined in
13 Planning Code Section 102, including but not limited to Dwellings, Group Housing, Single
14 Room Occupancy Units, independent living units, live/work units, and other forms of
15 development which are intended to provide long-term housing to individuals and households.

16 (2) any permit to demolish, convert, or eliminate Production, Distribution and
17 Repair (PDR) use, as defined in Planning Code Section 102, unless the elimination of the
18 PDR use is necessary to construct a project that consists of 100% affordable housing, as
19 defined in subsection (c), on the site.

20 (c) This Interim Moratorium shall not apply to the issuance of permits for “100%
21 affordable housing projects.” For purposes of this urgency ordinance a 100% affordable
22 housing project shall mean a project where, except for a dedicated manager’s unit, every unit
23 in the residential portion of the project is: (1) affordable to a household at or below 120% of
24 the Area Median Income (as published by HUD), including units that qualify as replacement
25 Section 8 units under the HOPE SF program; (2) subsidized by MOHCD, the San Francisco

1 Housing Authority, and/or the Office of Community Investment and Infrastructure (OCII); and
2 (3) subsidized in a manner which maintains its affordability for a term no less than 55 years,
3 whether it is a rental or ownership opportunity. Project sponsors must demonstrate to the
4 Planning Department staff that a governmental agency will be enforcing the term of
5 affordability and reviewing performance and service plans as necessary.

6 (d) This interim zoning moratorium shall remain in effect for 45 days unless extended
7 in accordance with California Government Code section 65858 or permanent controls are
8 adopted to address changes in use that better conserve neighborhood character in the
9 identified area, whichever first occurs.

10 (e) Due to the urgency of establishing this interim zoning moratorium and
11 notwithstanding the requirements of Planning Code Section 306.7(g), the Board finds that the
12 standard public notice for Board of Supervisors hearings is adequate to inform the public of
13 any hearing(s) on this legislation.

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15 Section 3. Within 25 days of the Board's adoption of this ordinance, the Planning
16 Department shall submit to the Clerk of the Board a written report describing the measures
17 taken to alleviate the conditions that led to the adoption of the ordinance. Upon receipt of the
18 report, the Clerk shall calendar a motion for the full Board to consider and approve said report.
19 Said hearing and the action taken thereon shall be no later than 35 days after this ordinance
20 is effective.

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22 Section 4. Effective Date. This urgency ordinance shall become effective immediately
23 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns
24 the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the
25 Board of Supervisors overrides the Mayor's veto of the ordinance by a 4/5ths vote.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 SUSAN CLEVELAND-KNOWLES
5 Deputy City Attorney

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