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15
16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**
18

19 UNITED STATES POSTAL SERVICE,
20 Plaintiff,
21 v.
22 CITY OF BERKELEY,
23 Defendant.

Case No. 3:16-cv-04815-WHA

**SUPPLEMENTAL DECLARATION
OF ANDREW W. SCHWARTZ IN
SUPPORT OF DEFENDANT'S
MOTION FOR PROTECTIVE
ORDER TO PRECLUDE
DEPOSITIONS OF CITY OFFICIALS**

The Hon. William Alsup

Date: October 11, 2017
Time: 2:00 p.m.
Trial Date: December 4, 2017

DECLARATION OF ANDREW W. SCHWARTZ

I, Andrew W. Schwartz, declare as follows:

1. I am an attorney licensed to practice in the State of California and a partner at Shute, Mihaly & Weinberger LLP, attorneys for Defendant City of Berkeley. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief, and as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein.

2. On August 18, 2017, Plaintiff propounded to the City Plaintiff's Second Set of Requests for Admission by Defendant (Fed. R. Civ. P. 36). The Request contained 49 Requests for Admission.

3. On September 22, 2017, Defendant City of Berkeley served Defendant's Responses to Plaintiff's Second Set of Requests for Admission attached as Exhibit 1. In its response, the City responded to each of the requests for admissions with one of three responses: (a) admitting the request, (b) admitting that the City official who allegedly made the quoted or paraphrased statement cannot recall the precise words used, but made a statement containing the same or similar substance as the quoted or paraphrased statement, or (c) the City official who allegedly made the statement cannot recall making a statement containing the same or similar substance to the statement alleged in the request, and therefore cannot admit or deny the request. The City denied none of the requests.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed September 22, 2017, at San Francisco, California.

_____/s/
Andrew W. Schwartz