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VIA ECF

October 5, 2017

The Honorable William Alsup
U.S. District Judge
San Francisco Courthouse, Courtroom 8 - 19th Floor
450 Golden Gate Avenue
San Francisco, California 94102

Re: *United States Postal Service v. City of Berkeley*, No. C 16-04815 WHA

Dear Judge Alsup:

The Postal Service respectfully submits the instant addendum to its September 29, 2017 letter, consistent with the Court's instruction, through the Clerk of the Court, to indicate whether the parties met and conferred regarding the issues raised in the Postal Service's September 29, 2017 letter. As described herein, the parties met and conferred regarding each of the issues raised.

With respect to the City's failure to produce a witness who was adequately prepared to testify to Deposition Topic 4, the parties conferred at the September 27, 2017 deposition and could not reach agreement. *See* Tr. at 53:11–54:16 (attached hereto as Ex. 1). As reflected in Exhibit 1, the City's counsel insisted that the witness's personal knowledge was adequate to address Deposition Topic 4. *Id.* at 54:2–13. For the reasons set forth in the Postal Service's letter of September 29, 2017, ECF No. 73 at 1–2, this plainly was not so. Undersigned counsel terminated the deposition following the City's counsel's response to prevent the further use of the seven hours allotted for the deposition, and the City's counsel left immediately thereafter, preventing further discussion of the subject.

With respect to the City's failure to produce witnesses to testify to topics other than Deposition Topic 4, the parties conferred prior to the September 27, 2017 deposition, as well as at the deposition with respect to certain topics, *see* Tr. at 9:10–11:18 (attached hereto as Ex. 2),¹

¹ Undersigned counsel focused on Deposition Topics 3 and 6 in the conversation cited because those topics were sufficiently related or similar to Deposition Topic 4 to raise the possibility that the same witness would be able to address all three topics. The Postal Service continues to seek testimony as to all ten topics listed in Revised Exhibit 1 to Plaintiff's Notice to Take Deposition Pursuant to Fed. R. Civ. P. 30(b)(6), and understands that the City rests on its

and again could not reach agreement except as to the deferral of deposition topics subsumed by the City's pending motion for a protective order. Finally, as to the City's counsel's persistent speaking objections, undersigned counsel notified counsel that they were contrary to the rules at the deposition, but the disruptions to the deposition continued. *See* September 29, 2017 Letter, ECF No. 73 at 2 (citing portions of transcript).

We thank the Court for its consideration of this submission.

Respectfully submitted,

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objections as to every topic except Deposition Topic 4 and those topics subsumed by its pending motion.