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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 CITY OF BERKELEY; MAYOR AND
13 MEMBERS OF THE CITY COUNCIL
OF THE CITY OF BERKELEY,

14 Plaintiffs,

15 v.

16 UNITED STATES POSTAL SERVICE;
17 PATRICK R. DONOHOE AS POSTMASTER
GENERAL OF THE UNITED STATES
18 POSTAL SERVICE; TOM A. SAMRA,
19 VICE PRESIDENT-FACILITIES
OF THE UNITED STATES POSTAL
20 SERVICE; DIANA ALVARADO,
DIRECTOR, REAL ESTATE, USPS PACIFIC
21 REGION,

22 Defendants.

) Case No.: CV-14-04916 WHA

) STIPULATION TO EXTEND TIME FOR
) FEDERAL DEFENDANTS' RESPONSE AND
) CONTINUE HEARING; [PROPOSED] ORDER

23 Pursuant to Civil Local Rules 6-2 and 7-12 of the Northern District of California, Federal
24 Defendants United States Postal Service, Patrick R. Donahoe, Tom A. Samra, and Diana Alvarado
25 ("Federal Defendants")¹ and Plaintiffs City of Berkeley and Mayor and Members of the City Council of
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28 ¹Undersigned counsel for Federal Defendants are appearing for the sole purpose of this stipulated
continuance request and are not waiving any defenses.

STIP TO EXTEND TIME AND CONTINUE HEARING
C 14-04916 WHA

1 the City of Berkeley (“Plaintiffs”) by and through their respective counsel, hereby stipulate that, with
2 this Court’s approval, the Federal Defendants shall have until and including November 25, 2014 to
3 respond to Plaintiffs’ motion for a preliminary injunction, Plaintiffs shall have until and including
4 December 4, 2014 to reply, and the hearing on Plaintiffs’ motion shall be continued to Thursday,
5 December 11, 2014 at 8 a.m. or any date and time this Court chooses.

6 1. On November 5, 2014, Plaintiffs filed a Complaint for Declaratory and Injunctive Relief
7 (ECF 1) and a motion for a temporary restraining order and preliminary injunction (ECF 3), to enjoin
8 named Federal Defendants from completing a sale of the Berkeley Post Office, located at 2000 Allston
9 Way, Berkeley, California. In its motion, Plaintiffs stated “the City believes that USPS will attempt to
10 convey the Post Office property at any moment” (ECF 3, Pls.’ Mem. 1.)

11 2. On November 5, 2014, this Court granted Plaintiffs’ request for a Temporary Restraining
12 Order, enjoining Defendants from completing the sale of the Berkeley Post Office until a hearing on the
13 motion for preliminary injunction can be conducted. (ECF 8.) The Court’s Order set the deadline for
14 Defendants’ opposition to the preliminary injunction motion as 12:00 PM on November 7, 2014 and set
15 a hearing for November 10, 2014 at 8:00 am. In its Order, the Court cited to Plaintiffs’ statement that
16 the City believed the conveyance would occur “at any moment.”

17 3. Although the USPS has entered into an Agreement for the Purchase and Sale of the
18 Berkeley Post Office, a closing of the sale under that Agreement is neither certain nor imminent. (See
19 Declaration of Joseph D. Lowe). For example, the purchaser is still conducting its due diligence review
20 and has the right to terminate the agreement for any reason on or before December 5, 2014. (Lowe
21 Decl. ¶ 4.) Moreover, under the Agreement, the closing deadline is not until December 22, 2014, and
22 Defendants have attested that, in support of this request for an extension, they will not seek to close the
23 sale until at least **December 17, 2014**. (Lowe Decl. ¶ 5.)

24 4. Pursuant to Federal Rule of Civil Procedure 65(b)(2), unless this Court orders otherwise,
25 this Court’s current temporary restraining order is in effect until at least November 19, 2014, or any date
26 to which this Court, for good cause, extends it or to which Federal Defendants consent;

27 5. Should this Court approve this Stipulation, per Federal Rule of Civil Procedure 65(b)(2),
28 Defendants consent to an extension of the temporary restraining order until December 17, 2014.

1 **PROPOSED ORDER**

2 PURSUANT TO STIPULATION, IT IS SO ORDERED.

3 The Federal Defendants shall have until and including November 25, 2014 to respond to
4 Plaintiff's motion for a preliminary injunction.

5 Plaintiffs will have until and including December 4, 2014 to file a reply.

6 The hearing on the preliminary injunction is continued until December 11, 2014 at 8:00 am.

7 The current temporary restraining order (ECF 8) will be extended until December 17, 2014
8 unless lifted by Order of this Court prior to that date.
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12 Date: _____

13 _____
14 WILLIAM ALSUP
15 UNITED STATES DISTRICT JUDGE
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