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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO**

RAMONA MAYON, ET AL

Petitioners,

vs.

CITY & COUNTY OF SAN FRANCISCO,

Respondent.

) Case No.:

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**EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE**

DATE:

TIME:

DEPT:

**EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER
TO SHOW CAUSE WHY PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

Plaintiffs, self-represented, hereby humbly request that the Court issues a temporary restraining order and an order to show cause why a preliminary injunction should not issue.

NEED FOR A TEMPORARY RESTRAINING ORDER

Plaintiffs seek a temporary restraining order to prevent the various departments of the City and County of San Francisco from continuing to tear down their homeless encampment, and other encampments in general within the City and County, without the required 24-hour notice per *SFPD Ordinance 169* and despite the City's own direct issuance of guidance May 19, 2020 and various statements by City officials March 23, 2020, as well as other medical professionals clearly stating that homeless encampments will not be broken up until after the pandemic is under control. The entire country is seeing numbers climb at present. The media reports that the City is evicting 500 of the more vulnerable homeless from the hotels at the beginning of November 2020 and four of SF supervisors are protesting an "unclear program" with no obvious plans to place people somewhere safe (all below in *Memorandum of Points and Authorities*). Then why would the various departments show up on a rainy day, without warning, and strike like brownshirts, ignoring their own laws? One HOT team social worker, who asked not to be named or photographed, told the author of this complaint that it was labeled as a "Resolution" in the books and by 10:30 am there were to be barricades erected. The "sweep" took until 11:30 am.

STATEMENT OF CASE

On Nov 18, 2020, beginning at approximately 7:15 am until 11.30 am 15 to 20 people were forced to vacate the homeless encampment located at Balboa Street and Great Highway. It has been there since before the pandemic began. The exact times are known because the author of this document, plaintiff Ramona Mayon took photos (Exhibit A) and video(s). All the people being taped clearly

give their names and/ or show their badges and give permission to be recorded. It was stated on video by one of the leaders of the “sweep”, the Park Ranger who was head of the Homeless (in the parks), that the reason that justified this “sweep” was a report that two 14-year-old girls had been in one of the tents making a porn movie. The Park Ranger is then clearly heard on the tape, changing her statement, saying it happened in one of the RVs in the encampments area (approximately 4 RVs, a van and 8 to 10 tents pre-”sweep”). She also stated that there were witnesses and photos. This is what allowed the no-notice “sweep” that was in direct contradiction of the City’s own directives, as well as the CDC’s. Further sweeps are likely to occur and plaintiff Ramona Mayon in particular was made to feel threatened because several of the sixteen (16) City workers (one SFFD paramedic who was said by all the others to be in charge: Mike Mason badge #19; 5 of SFPD; 2 of Park Rangers; and 9 of the Dept of Public Works) asked her directly where she was “camping or staying”. She did NOT tell them she had already removed her shelter and was sheltering-in-place in her small car. She is disabled, on SSI, and widowed four months ago by COVID-19, after a 27-year marriage.

The only tent allowed to remain, only because the plaintiffs physically blocked and refused to allow the tent of a very sick man (enlarged heart and fluid on the lungs) to be taken. It was literally and physically a stand-off between the author of this complaint and another angry homeless woman, also a plaintiff, and the assembled 16 City employees. While he sorted his belongings, stopping to gasp for air every ten minutes, all the while it was misting rain, two of the plaintiffs kept the City workers from taking his belongings by ourselves making trash piles to be taken. He too is a plaintiff. He was in the ER two days before this sweep. Dept of Public Health nurse visited him in the presence of the other plaintiffs on Nov 17, 2020. Along with the RVs, van and a car, this plaintiff’s tent (not on the sidewalk, but in the parking spaces between the RVs) is what remains of the homeless encampment.

Please note that at no time have there been toilets, sanitation, trash dumpsters, much less showers and food, in spite of weekly visits from the HOT team. Therefore, by intentionally failing to provide for the encampment’s sanitation needs, the City empowered itself to take advantage of the first two rainy days of the season to conduct the “sweep”. The only housing offered to the sick man was a

parking lot space downtown for his tent, away from his caregivers, while the rest of the residents were offered to be taken to the Moscone Center which has been made into a congregant shelter (in a pandemic). We were told we could take 2 bags, 1 bike and 1 pet. Told that a transport van would arrive shortly. At no time were we told that there was an option for our personal belongings to be stored. At no time was notice served or posted (in spite of a visit from a social worker on Nov 16, 2020 who verbally warned ONE of the plaintiffs that there was “most likely going to be a sweep on Wednesday.”

The TRO and preliminary injunction sought by plaintiffs would only address the cessation of the “sweeps”. Plaintiffs are preparing an administrative claim preceding a lawsuit to address the complete lack of notice and general contempt with which they were treated. It was cruel, inhumane in light of the pandemic raging and all we have are tents and cars. Over a dozen people living in the encampment signed a petition while the “sweep” was happening, affirming their desire to write affidavits and be a part of a lawsuit alleging civil rights abuses of not only the “sweep” itself, but the failure of the City to follow its own guidelines and provide basic essentials of life during a pandemic to the most vulnerable of society, all the while completely ignoring the written notice requirements of *Ordinance 169*. The TRO and preliminary injunction are necessary because another encounter is inevitable based on the City’s willful disregard for both the CDC’s guidance and the voter’s wish to have the homeless in their City receive both notice of the pending “sweep” and notice that belongings could be stored for up to 90 days at no cost. As exhibit A shows, the only thing done on Nov 18, 2020 was to throw away the personal belongings of a dozen people, spread them out into the City to find another place to slept (minus a tent, sleeping bags, coat, shoes, medications, food, etc). All were severely traumatized. The complaint itself will have the videos transcribed and affidavits from all who can be found.

This motion is made on the ground that Plaintiffs have demonstrated they meet the requirements for a TRO: likelihood of success on the merits; likelihood of irreparable harm in the absence of preliminary relief; the balance of equities; and the injunction is in the public interest. *Winter v. Natural Res. Def. Council 555 U.S. 7, 20 (2008)*

RELIEF SOUGHT

Plaintiffs therefore respectfully request the court grant the *ex parte* application as follows:

First, Plaintiffs request that the City and County of San Francisco be restrained from dismantling homeless encampments until the pandemic subsides and the health order to shelter-in-place.

Second, Plaintiffs request that the City and County be made to explain why they refuse to give the sanitation supplies that they themselves insist should be supplied. The language they use in their own guidance is forceful and affirmative, as shown in II of the following Memorandum of Points and Authorities.

DATED: November 20, 2020

RAMONA MAYON
Pro Per

MEMORANDUM OF POINTS AND AUTHORITIES

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- III. March 23, 2020 quote by Trent Rhorer, Director of SF Dept. of Human Services, published by SF Public Press March 27, 2020
- IV. July 17, 2020 Sacramento County Judge Laurie Earl issues a Writ of Mandate to stop that county's sweep of the unsheltered residents of Sacramento County
- V. two local doctors quoted regarding the treatment of homeless encampments during a pandemic published March 11, 2020 by SF Public Press
- VI. Oct 29, 2020 article by SFist.com stating 500 of 2400 homeless in hotels are being put out without a plan
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X. Nov 5, 2018 quote in SF Gate by U.N. Special Rapporteur re. how it's an international human rights violation in its treatment of homeless encampment residents in the Bay area, particularly the denial of water, sanitation and health needs

I.

PROP Q was approved by voters in 2016, which created **Ordinance 169** - Police Code - *Promotion of Safe and Open Sidewalks*.

Be it ordained by the People of the City and County of San Francisco: Section 1 The Police Code is hereby amended by adding Section 169, to read as follows:

Definitions for the purpose of this Section 169

- (1) "Encampment" shall mean a tent or any structure consisting of any material with a top or roof or any upper covering or this is otherwise enclosed by sides that is of sufficient size for a person to fit underneath or inside while sitting or lying down;
- (2) "Homeless Services" shall mean the Human Services Agency's Homeward Bound program or another program offering similar services whereby the City pays for the transportation of homeless individuals living in the City to a destination outside the City if the City can verify with friends or family of the individual that the individual will have a plac to stay and ongoing support at the destination;
- (3) "Housing" shall mean placement in a Navigation Center or another housing option provided by the City;
- (4) "Personal property" shall mean any tangible property, and includes, but is not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, blankets, sleeping bags, personal items such as household items, luggage, backpacks, clothing, food, documents, and medication;
- (5) "Shelter" shall mean temporary shelter or another shelter option provided by the City;
- (6) "Sidewalk" shall mean the area between the fronting property line and the back of the nearest curb;

>>>>>>>>(c) PROHIBITION of placement of a tent on a public sidewalk without a permit.

>>>>>>>>(d) OFFER OF HOUSING, SHELTER, AND HOMELESS SERVICES:

Prior to ordering a person to remove an Encampment or prior to removing the Encampment, the City Officer or employee enforcing subsection (c) shall offer Housing or Shelter to all residents of the encampment who are present. The City officer shall also offer Homeless Services to residents of the encampment who are present. The offer of Housing or Shelter or Homeless Services shall also be made through the notice required by subsection (f). The City shall not enforce the prohibition of subsection (c) unless there is available Housing or Shelter for the persons residing in the encampment;

>>>>>>>>(e) ENFORCEMENT prohibition of subsection (c) may be enforced by (1) the Dept of Public Health; (2) the Dept of Public Works, and (3) the Dept of Homelessness and Supportive Housing;

>>>>>>>>(f) NOTICES The City shall remove encampments in accordance with the following requirements:

(1) Notice of Intent to Remove Encampment. The City shall provide residents of the encampment notice of the City's intent to remove the encampment 24 hours in advance of any action to remove the encampment. Notice shall be in writing and served personally on the resident or residents of the encampment present when the City official enforcing the prohibition of subsection (c) attempts to serve notice. In addition, the City official or employee shall post notice on or near the encampment, so as to reasonably communicate the notice to persons living at the encampment but not present during the attempt to serve notice. The notice shall contain the following information:

- (A) the location of the encampment;
- (B) the date and time notice was served or posted;
- (C) a statement that the encampment violates subsection 169
- (D) an advisement that the City will remove the encampment 24 hours after the date and time of the notice;
- (E) an advisement that there is Housing or Shelter and Homeless Services available for residents of the encampments and the phone number and address to contact in order to obtain the Housing or Shelter and Homeless Services;

- (F) an advisement that any personal property remaining at the encampment site when the City returns to remove the encampment will be impounded for no fewer than 90 days and will be discarded thereafter if not claimed and
- (G) the address, phone number, and operating hours of the location where the personal property will be stored and may be retrieved and that the City will charge no fee storage or retrieval;

(2) Notice regarding personal property seized when the encampment removed:

When the City removes an encampment, a written notice shall be given to any residents of the encampment present and conspicuously posted in the area from which the encampment was removed. The notice shall contain the following information:

- (A) the location of the encampment being removed;
- (B) a statement that the encampment violated subsection (c)
- (C) a general description of any personal property removed;
- (D) the date and time the personal property was removed;
- (E) an advisement that the personal property will be stored at least 90 days, and the address, phone number, and operating hours of the location where the personal property is being stored and may be retrieved and that the City will charge no fee for storage or retrieval;
- (F) an advisement that if the personal property is not retrieved within 90 days, it will be discarded

II.

On May 19, 2020, the City (via agency: *Population Health Division* of the San Francisco Dept. of Public Health) produced and published a document:

Interim Guidance for Safe Sleeping for Unsheltered Persons Experiencing Homelessness to Reduce the Risk of COVID-19

The following guidance was developed by the San Francisco Department of Public Health (SFPDH) for local use, and will be posted at <http://www.sfcddcp.org/covid19>. This interim guidance may change as knowledge, community transmission, and availability of testing changes.

AUDIENCE: Street based outreach workers and Healthy Streets Operation Center (HSOC) staff, and police assessing locations where people experiencing homeless(ness) are living on the streets during shelter in place.

BACKGROUND: Persons experiencing homelessness may have an elevated risk for COVID-19 transmission and be especially vulnerable to outbreaks of COVID-19.

RECOMMENDATIONS FOR SAFE SLEEPING ON THE STREET:

General Guidance

- Per CDC guidance, if individual housing options are not available, allow people who are living in or in encampments to remain where they are. Clearing encampments can cause people to disperse throughout the community and break connections with their service providers. This increases the potential for infectious diseases to spread. *See CDC Interim Guidance on Unsheltered Homelessness and COVID-19 for Homeless Service Providers and Local Officials at <http://www.cdc.gov/coronavirus/2019-ncov-community/homeless-shelters/unsheltered-homelessness.html>*
- If possible, work with the residents of a known encampment area to create conditions that will benefit the entire city and community by limiting the spread of COVID-19, as detailed below.
- If there is no overcrowding, community safety or sanitation issues, the recommendation is not to ask people to leave the area where they have been staying in one encampment and move to another encampment.
- The City will prioritize moving individuals who are vulnerable to poor health outcomes from COVID-19 to Alternative Locations when it is safe to do so. These people over 60 years old and/or have chronic co-morbidities.

Structural Guidance

(please note this is bolded in the document, not by author of this complaint)

Individuals in encampments must have access to the following services and hygiene supplies:

- Toilets: 1 per 10-15 people;

- Sinks or handwashing stations: 1 per 15 - 20 persons, stocked with hand hygiene materials (soap, drying materials);
- Hand sanitizer stations: 1 per 10 persons;
- Showers: 1 per 20 to 30 people;
- Garbage: 1 dumpster/ waste area per 20 people;
- Drinking water, minimum of 2 liters per person per day;
- Three meals a day;
- Cloth coverings or face masks - with replacement if soiled;
- Facial tissues or facial wipes;
- Harm reduction supplies and syringe disposal.

Tent recommendations/ Sleeping on the Street

- Encampment Spacing for Sleeping:
at least 12 x 12 feet of space per individual structure
(Ex. 10 individuals would need 1500 sq. feet to be safe);

tents should ideally be occupied by one individual;

number of tents or people in an area should be determined by safety and health parameters
tents and people should not exceed capacity to support hand hygiene, bathroom, garbage pick-up, and physical space as follows: 144 sq ft of space per tent (10 people or tents need 1500 sq ft; 20 people or tents need 3000 sq ft); 10-15 people per toilet; 15-20 people per hand hygiene station; 20 people per dumpster/ waste area per 20 people

MINIMIZE NEIGHBORHOOD IMPACT

Sidewalk and paths must be passable, with enough space so that people can stay 6 feet apart while walking on them. Tents and other sleeping quarters:

- may not be within six feet of the entrance to a residence, business or public transit stop
- cannot interfere with pedestrian traffic on commercial corridors or recreational walkways
- cannot be established in parks except in designated areas

- must follow all guidelines and directives from the SF Fire Dept. related to emergency services and fire safety
- must uphold environmental health standards and regulations
- the number of tents should be determined by the safety/health parameters described above

If people are unable or decline to move from an unsafe sleeping location, or have inadequate hygiene facilities or support for safe sleeping and social distancing on the street:

- if possible, do not immediately clear encampments without a plan for moving residents safely to another location;
- remind people that there is a health order to social distance and shelter in place, and the impact of overcrowding and poor sanitation on their health and the health of others;
- inquire about barriers to hygiene, spacing safely and following the neighborhood impact guidance for the individual or tent grouping, if able;
- contact the Healthy Streets Operation Center (HSOC) at 415-558-2723 to obtain support for the area so outreach workers can engage the impacted person(s). HSOC will work to help address their needs and maintain safety.

III.

Statement by Trent Rhorer, Director of San Francisco’s Dept. of Human Services in March 23, 2020 press conference (as published March 27, 2020 by SF Public Press) in an article titled: S.F. Still Taking Tents From Homeless People During Deadly Pandemic

In (the) March 23, 2020 press conference, Rhorer said the City would follow federal Center for Disease Control guidelines on how to mitigate the spread of the new coronavirus among unsheltered homeless people. “Cities should be taking care to allow individuals and keep individuals on the street, to not bring encampments inside where they can infect others or increase the risk of infection,” Rhorer said, “Rather, the guidance is very clear, we should be dispatching teams to ensure proper distancing in our encampments, ensure that proper hygiene is adhered to.”

The article goes on to quote CDC’s website which advises city governments **not** to clear encampments during the outbreak.

IV.

Davis Vanguard July 17, 2020

Judge: City of Sacramento Sweeps of Homeless Camps Violate County COVID-19 Health Orders

a published media report of Sacramento city and county being issued a Writ of Mandate, by Superior Court Judge Laurie Earl, requiring the City of Sacramento to comply with County Health orders prohibiting the clearing of homeless encampments during the COVID-19 pandemic.

V.

SF Public Press in an article published March 11, 2020:

Local doctors have expressed concern that forcing unhoused people to relocate frequently and confiscating their clothes, sleeping bags, and tents can leave those people vulnerable to infection. “That means you’re more at risk of not being fully prepared to be at your best, healthwise,” said Dr. David Ofmann, chief medical officer at the San Francisco Community Clinic Consortium. “You may not have all the clothing you need. You may lose your jacket so you’ll get colder than you would have been.” Ofmann said he is not in the position to say whether the changes to Public Works confiscation procedure would be sufficient in mitigating the spread of the virus among City workers or people who visit the facility to retrieve property, adding that the “more serious threat to a homeless person is they don’t get their possessions back.”

(same article continues) Dr. Margot Kushel, director of the UCSF Center for Vulnerable Populations at Zuckerberg General Hospital, told the Mercury News that San Jose’s policy of suspending encampment removal in response to the outbreak “makes a lot of sense.”

VI.

SFist.com Oct 29, 2020

Hotels-for-Homeless Program Begins Wind-Down Next Week With 500 Moving Out

(The) temporary program of housing vulnerable and elderly homeless in hotel rooms during the pandemic is set to wind down over the next 7 to 8 months and next week the first wave of hotel closures began. About 2400 previously homeless people are being housed in 2088 hotel rooms - representing about one-third of the estimated total pre-pandemic homeless population, This is coming at a cost to the City of about \$8000 per person per month or between \$15 and \$18 million per month. With the first group of 500 individuals set to be moved out of their hotel rooms beginning Monday, four SF supervisors are sounding alarm bells over what they say is an unclear program of next steps to prevent people from returning directly to living on the streets, with the pandemic far from over.

VII.

ABC News Nov 2, 2020

The City of SF will reportedly begin moving more than 500 people out of hotels Monday according to the City's Dept. of Homelessness and Supportive Housing. So where will they go? According to SF Chronicle, there's still no clear plan on where they will live. The report says several hotels are closing by the end of the year. ... case managers will work with people who live in seven different hotels to figure out their options, such as one-way ticket to anywhere in the country to live with friends or family. Right now there are more than 8000 homeless people in the City, including about 2400 currently living in hotels.

VIII.

San Francisco Examiner Nov 16, 2020

SF Shuts Down Non-Essential Offices After State Re-Imposes Tougher COVID-19 Restrictions

San Francisco jumped Monday from the least restrictive COVID-19 state tier to the second highest, joining some 40 counties moving backwards as cases increase at record rates. In response, Mayor London Breed announced the City will roll back its re-opening further from last week, when the City

shut down indoor dining. Non-essential offices can no longer remain reopened. Those offices will have to return to remote working. New restrictions go into effect immediately. (Governor) Newsom also announced he was considering a curfew for the state. He said he was looking at studies of how curfews have worked in places like Germany and France as well as states like Massachusetts and Virginia. “All of that is being assessed,” Newsom said. “We have a lot of questions.”

Dr. Grant Colfax, head of San Francisco Department of Public Health said at a separate press conference with Breed that “we are really focusing on trying to keep from moving further backward. explosion of new cases throughout the City.” Colfax recommended no one travel for the Thanksgiving holiday. “Please do not travel,” Colfax said. “Stay at home with your immediate household.” Breed also called on people not to travel or have people visit them for the holidays, warning it could exacerbate the spread of the virus and lead to increased hospitalizations weeks later. “This year we are asking people to sacrifice.” Breed said.

IX.

KRON4 News Nov 19, 2020

SF Supervisors Propose Legislation to Keep Shelter-in-Place Hotels Open

Four San Francisco supervisors on Thursday announced a plan to introduce legislation to keep the city’s shelter-in-place hotels open for more than 2300 vulnerable homeless residents during the COVID-19 pandemic. The proposed legislation is in response to an announcement last week by Mayor London Breed and the City’s Department of Homelessness and Supportive Housing that the City would be all of the City’s 29 SIP hotels in phases and move to re-house all of the residents by June 2021. Under phase 1, 500 residents will be moved from seven hotels by Dec 21. During a hearing on the plan last week, homeless service providers and some supervisors called it unfeasible and dangerous amid a new COVID-19 surge. They also warned the rushed timeline could result in a large portion of those residents returning to the streets. New legislation proposed by Supervisors Matt Haney, Hillary Ronen, Shamman Walton, and Dean Preston calls on the City to do away with deadlines and instead provide people with supportive housing to the residents as the housing becomes available and continue placing homeless people currently on the streets in hotels as rooms become

vacant. “For the last eight months, San Francisco has led the nation in providing safe, non-congregate living spaces for people experiencing homelessness to shelter-in-place during the pandemic,” he said. “We cannot have a plan to move people out of shelter-in-place hotels when we cannot state explicitly where they are going. Evicting people from these hotels out onto the streets is definitely a step in the wrong direction,” Walton said. “This legislation will allow us to put a halt on any plans on removing individuals from SIP hotels and it’ll guarantee that anyone that is moved from a SIP hotel will go to permanent or supportive housing opportunity or a shelter opportunity.”

During last week’s hearing City Controller Ben Rosenfield said the SIP hotel program costs the City \$178 million. However, with \$114 million of that presumed to be reimbursed by the Federal Emergency Management Agency as well as additional federal and state resources reaching up to \$61 million, the plan should only cost the City \$3 million, supervisors pointed out. The supervisors are set to introduce the legislation next month.

The video attached to this article also mentioned in passing that the state had *just* awarded the City another \$10 million for the SIP hotel program.

X.

SF Gate on Nov 5, 2018

[United Nations Report: SF Homeless Problem is a “Violation of Human Rights”](#)

Leilani Farha, a special rapporteur on adequate housing for intergovernmental organizations, visited San Francisco, Oakland in January 2017 as part of a world tour of encampments that included stops in Belgrade, Buenos Aires, Delhi, Lisbon, Mexico City, Mumbai, and Santiago.

Farha has summarized her findings in a report titled “On Adequate Housing as a Component of the Right to an Adequate Standard of Living” and in it, she includes one paragraph with an assessment of the informal tent encampments homeless people in the Bay Area are creating:

“Attempting to discourage residents from remaining in informal settlements or encampments by denying access to water, sanitation, health services and other basic necessities, as has been witnessed by the Special Rapporteur in San Francisco and Oakland constitutes cruel and

unusual and inhuman treatment and is a violation of multiple human rights including the right to life, housing, health, water, and sanitation. the right to a secure home is a universal right under international human rights law. Lack of security of tenure can never justify forced evictions of those residing in informal settlements.”

During her January visit, Farha told SFGATE she spoke with about 50 people living on the street (in the Bay area) and said she

“can’t help but be completely shocked. Every single person, whether it was in passing or in a long conversation, said they just wanted to be treated like a human being,” said Farha, who is a lawyer by training and lives in Canada. “What does that say? That is bleak. If I could add, the other thing that struck me, but I’m sorry, California is a rich state, by any measure. The United States is a rich country, and to see these deplorable conditions that the government is allowing, by international human rights standards, it’s unacceptable. I’m guided by human rights law.”

San Francisco has doubled the money it spends annually on homelessness to more than \$300 million.

SOLE EXHIBIT

75 photos taken of the encampment throughout the grueling 4-hour “sweep”

PROPOSED ORDER

I hereby order that the Temporary Restraining Order is granted as to the City and County of San Francisco forcing residents of homeless encampments throughout the City and County of San Francisco to vacate and confiscating their personal belongings while the COVID-19 Shelter-in-Place order is in effect.

I hereby order to the City and County of San Francisco to show cause why this should not be a preliminary injunction and why they are failing to provide this encampment sanitation services, etc.

Signed

PROOF OF SERVICE

I am above the age of 18 and I am not a party to this action. I hereby certify that on this 20th day of November, I served the foregoing *Request for Temporary Restraining Order* by causing it to be mailed to:

City Attorney's Office
1 Dr Carlton B Goodlet Plaza
San Francisco, California 94102

dated