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CITY AND COUNTY OF SAN FRANCISCO  
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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 THE AMERICAN BEVERAGE  
ASSOCIATION, CALIFORNIA RETAILERS  
13 ASSOCIATION, CALIFORNIA STATE  
OUTDOOR ADVERTISING  
14 ASSOCIATION,

15 Plaintiffs,

16 vs.

17 THE CITY AND COUNTY OF SAN  
FRANCISCO,

18 Defendant.  
19

Case No. 3:15-cv-03415 EMC

**CITY AND COUNTY OF SAN FRANCISCO'S  
ANSWER TO COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF**

Trial Date: None set

1 Defendant the City and County of San Francisco (“City”) hereby responds to the Complaint for  
2 Declaratory and Injunctive Relief (“Complaint”) filed on July 24, 2015 by plaintiffs the American  
3 Beverage Association, California Retailers Association, and California State Outdoor Advertising  
4 Association (“the Associations”) as follows:

5 1. Responding to paragraph 1 of the Complaint, this paragraph states a legal conclusion to  
6 which no response is required.

7 2. Responding to paragraph 2 of the Complaint, the City admits that this action addresses  
8 two ordinances recently enacted by the City, that one of the ordinances by its terms banned certain  
9 advertising on City property but was voluntarily stayed by the City departments responsible for  
10 implementing it, and that the other ordinance requires a warning on certain advertisements. The City  
11 otherwise denies the factual allegations of this paragraph.

12 3. Responding to paragraph 3 of the Complaint, the City denies the allegations of the first  
13 sentence. Responding to the second sentence of paragraph 3, the City lacks information sufficient to  
14 admit or deny allegations concerning cell phone retailers’ beliefs about cell phones and on that basis  
15 denies those allegations but admits the remaining allegations of the second sentence. The City admits  
16 the remainder of paragraph 3.

17 4. Responding to paragraph 4 of the Complaint, in light of the stay of implementation  
18 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
19 No. 98-15, the City denies the allegations.

20 5. Responding to paragraph 5 of the Complaint, the City admits the allegations of the first,  
21 second, and third sentences and denies the remaining allegations.

22 6. Responding to paragraph 6 of the Complaint, this paragraph states legal conclusions to  
23 which no response is required. San Francisco Ordinance No. 98-15 speaks for itself.

24 7. Responding to the factual allegations of paragraph 7 of the Complaint, in light of the  
25 stay of implementation voluntarily entered by the City departments responsible for implementing San  
26 Francisco Ordinance No. 98-15, the City denies the allegations. Responding to the final sentence of  
27 paragraph 7, this sentence states legal conclusions to which no response is required.  
28

1           8.        Responding to paragraph 8 of the Complaint, in light of the stay of implementation  
2 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
3 No. 98-15, the City denies the allegations.

4           9.        Responding to the allegations of the first three sentences of paragraph 9 of the  
5 Complaint, in light of the stay of implementation voluntarily entered by the City departments  
6 responsible for implementing San Francisco Ordinance No. 98-15, the City denies the allegations.  
7 Responding to the final sentence of paragraph 9, this sentence states legal conclusions to which no  
8 response is required. The First Amendment speaks for itself.

9           10.       Responding to paragraph 10 of the Complaint, in light of the stay of implementation  
10 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
11 No. 98-15, the City denies the allegations.

12           11.       Responding to paragraph 11 of the Complaint, this paragraph states legal conclusions to  
13 which no response is required. San Francisco Ordinance No. 100-15 speaks for itself.

14           12.       Responding to paragraph 12 of the Complaint, this paragraph states legal conclusions to  
15 which no response is required. San Francisco Ordinance No. 100-15 speaks for itself.

16           13.       Responding to paragraph 13 of the Complaint, the City denies the allegations.

17           14.       Responding to paragraph 14 of the Complaint, the City denies the allegations.

18           15.       Responding to paragraph 15 of the Complaint, the City denies the allegations.

19           16.       Responding to paragraph 16 of the Complaint, the City admits that Ordinance No. 100-  
20 15 applies only to advertisements for sugar-sweetened beverages and denies all remaining allegations  
21 of this paragraph.

22           17.       Responding to paragraph 17 of the Complaint, the City denies the allegations.

23           18.       Responding to the first sentence of paragraph 18 of the Complaint, this sentence states  
24 legal conclusions to which no response is required. San Francisco Ordinance No. 100-15 speaks for  
25 itself. Responding to the second sentence of paragraph 18, the City denies the allegations.

26           19.       Responding to paragraph 19 of the Complaint, the City denies the allegations. The City  
27 further responds that to the extent this paragraph states legal conclusions, no response is required. San  
28 Francisco Ordinance No. 100-15 speaks for itself.

1 20. Responding to paragraph 20 of the Complaint, the City admits the allegations.

2 21. Responding to paragraph 21 of the Complaint, in light of the stay of implementation  
3 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
4 No. 98-15, the City denies the allegations.

5 22. Responding to paragraph 22 of the Complaint, the City denies the allegations of the  
6 first sentence of this paragraph. The remainder of the paragraph states legal conclusions to which no  
7 response is required. The cited authorities speak for themselves.

8 23. Responding to paragraph 23 of the Complaint, this paragraph states legal conclusions to  
9 which no response is required. The City denies that the Associations are entitled to any relief.

10 24. Responding to paragraph 24 of the Complaint, this paragraph contains no factual  
11 allegations that the City is required to admit or deny.

12 25. Responding to paragraph 25 of the Complaint, this paragraph states legal conclusions to  
13 which no response is required. The cited authorities speak for themselves. The City denies that the  
14 Associations are entitled to any relief.

15 26. Responding to paragraph 26 of the Complaint, this paragraph states legal conclusions to  
16 which no response is required.

17 27. Responding to paragraph 27 of the Complaint, the City admits that it is located in the  
18 State of California and that some acts complained of have occurred or will occur in the State of  
19 California. The remainder of this paragraph states legal conclusions to which no response is required.

20 28. Responding to paragraph 28 of the Complaint, the City admits that it is located in the  
21 Northern District of California and that the events giving rise to this action have occurred or will occur  
22 in the Northern District of California. The remainder of this paragraph states legal conclusions to  
23 which no response is required.

24 29. Responding to paragraph 29 of the Complaint, the City admits that a substantial part of  
25 the events giving rise to this action occurred within San Francisco. The remainder of this paragraph  
26 states a legal conclusion to which no response is required.

27 30. Responding to paragraph 30 of the Complaint, the City admits the following  
28 allegations: Beverage types, including carbonated soft drinks, bottled water, sports drinks, energy

1 drinks, 100% juices, juice drinks, and ready-to-drink teas, are sold in various sizes, and federal  
2 regulations require most beverages to be labeled with a Nutrition Facts label that provides some  
3 nutritional information including calories and total sugar. The Coca-Cola Company, PepsiCo and Dr  
4 Pepper advertise within San Francisco and use their brand names to promote events in San Francisco,  
5 including on property owned or controlled by the City. Some beverage producers maintain  
6 advertisements on transit shelters within San Francisco. The Coca-Cola Company has sponsored the  
7 Chinese New Year Festival and Parade. The Coca-Cola Foundation has supported the San Francisco  
8 Recreation and Parks Department Mobile Recreation Program. The City responds to the remaining  
9 allegations of this paragraph as follows: The City denies that the nutritional labeling information  
10 provided on beverage labels satisfy the aim of providing consumers with sufficient information to  
11 make fully informed beverage choices. The City lacks information concerning the remaining  
12 allegations of this paragraph sufficient to admit or deny them and on that basis denies them.

13 31. Answering paragraph 31 of the Complaint, the City admits that numerous retailers  
14 advertise in San Francisco, and use their names to promote events in San Francisco, including on  
15 property owned or controlled by the City. The City lacks information concerning the remaining  
16 allegations of this paragraph sufficient to admit or deny them and on that basis denies them.

17 32. Answering paragraph 32 of the Complaint, the City admits that some outdoor  
18 advertising companies, including OutFront Media, advertise within San Francisco. The City lacks  
19 information concerning the remaining allegations of this paragraph sufficient to admit or deny them  
20 and on that basis denies them.

21 33. Answering paragraph 33 of the Complaint, the City admits the allegations.

22 34. Answering paragraph 34 of the Complaint, this paragraph states legal conclusions to  
23 which no response is required.

24 35. Answering paragraph 35 of the Complaint, this paragraph states legal conclusions to  
25 which no response is required.

26 36. Answering paragraph 36 of the Complaint, this paragraph states legal conclusions to  
27 which no response is required.

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1           37.     Answering paragraph 37 of the Complaint, this paragraph states legal conclusions to  
2 which no response is required.

3           38.     Answering paragraph 38 of the Complaint, the City admits that some nutrition scientists  
4 have shifted some views regarding what is and is not part of a healthy diet. The City otherwise denies  
5 the allegations of this paragraph and denies that mainstream nutrition scientists have ever shifted their  
6 views regarding whether they recommend consumption of sugar-sweetened beverages for most  
7 Americans.

8           39.     Answering paragraph 39 of the Complaint, the City admits that some researchers'  
9 views regarding optimal diets have changed and that such views are debated and revised. The City  
10 otherwise denies the allegations of this paragraph and denies that mainstream nutrition scientists have  
11 ever encouraged most Americans to consume sugar-sweetened beverages.

12          40.     Answering paragraph 40 of the Complaint, the City responds as follows: The cited  
13 article speaks for itself. The City otherwise lacks information sufficient to admit or deny the  
14 allegations and on that basis denies the allegations. The City further responds that the allegations of  
15 this paragraph are irrelevant; regardless of nutrition scientists' changing views on the value of grains,  
16 mainstream nutrition scientists have never urged Americans to make sugar-sweetened beverages the  
17 centerpiece of their diets.

18          41.     Answering paragraph 41 of the Complaint, the City responds as follows: The cited  
19 article speaks for itself. The City otherwise lacks information sufficient to admit or deny the  
20 allegations and on that basis denies the allegations. The City further responds that the allegations of  
21 this paragraph are irrelevant; regardless of nutrition scientists' changing views on the risks of fat  
22 consumption, mainstream nutrition scientists have never "substantially retreated" from the view that  
23 significant numbers of Americans overconsume sugar-sweetened beverages.

24          42.     Answering paragraph 42 of the Complaint, the City responds as follows: The cited  
25 article speaks for itself. The City otherwise lacks information sufficient to admit or deny the  
26 allegations and on that basis denies the allegations. The City further responds that the allegations of  
27 this paragraph are irrelevant; regardless of nutrition scientists' changing views on the risks of high-  
28

1 cholesterol foods, mainstream nutrition scientists have never “abandoned” the view that significant  
2 numbers of Americans overconsume sugar-sweetened beverages.

3 43. Answering paragraph 43 of the Complaint, the City responds as follows: The cited  
4 article speaks for itself. The City otherwise lacks information sufficient to admit or deny the  
5 allegations and on that basis denies the allegations. The City further responds that the allegations of  
6 this paragraph are irrelevant; regardless of nutrition scientists’ changing views on the risks of  
7 overconsumption or underconsumption of salt, mainstream nutrition scientists have never  
8 recommended that most Americans consume more sugar-sweetened beverages or argued that low  
9 levels of consumption of sugar-sweetened beverages endanger Americans’ health.

10 44. Answering paragraph 44 of the Complaint, the City responds as follows: The cited  
11 articles speak for themselves. The City otherwise lacks information sufficient to admit or deny the  
12 allegations and on that basis denies the allegations. The City further responds that the allegations of  
13 this paragraph are irrelevant; regardless of nutrition scientists’ changing views about the nutritional  
14 value of margarine, pasta, white potatoes, eggs, nuts, or iceberg lettuce, mainstream nutrition scientists  
15 have not revised their longstanding view that significant numbers of Americans overconsume sugar-  
16 sweetened beverages.

17 45. Answering paragraph 45 of the Complaint, the City responds as follows: The City  
18 denies that accepted nutrition science has ever recommended increased consumption of sugar-  
19 sweetened beverages or has revised the longstanding view that significant numbers of Americans  
20 overconsume sugar-sweetened beverages. The City otherwise lacks information sufficient to admit or  
21 deny the allegations and on that basis denies the allegations. The City further responds that the  
22 allegations of this paragraph are irrelevant.

23 46. Answering paragraph 46 of the Complaint, the City admits that nutrition scientists  
24 debate how bad added sugar is for most Americans. For example, nutrition scientists debate whether it  
25 is bad simply as a source of empty calories with no nutritional value that contributes to poor health, or  
26 whether it is uniquely bad. The City otherwise denies the allegations of this paragraph.

27 47. Answering paragraph 47 of the Complaint, the City responds as follows: The cited  
28 authority speaks for itself. The City admits that nutrition scientists debate how bad added sugar is for

1 most Americans. For example, nutrition scientists debate whether it is bad simply as a source of  
2 empty calories with no nutritional value that contributes to diabetes, or whether it is uniquely bad. The  
3 City otherwise denies the allegations of this paragraph.

4 48. Answering paragraph 48 of the Complaint, the City responds as follows: The cited  
5 authority speaks for itself. The City admits that nutrition scientists debate how bad added sugar is for  
6 most Americans. For example, nutrition scientists debate whether it is bad simply as a source of  
7 empty calories with no nutritional value, or whether it is uniquely bad. The City otherwise denies the  
8 allegations of this paragraph.

9 49. Answering paragraph 49 of the Complaint, the City responds as follows: The cited  
10 authority speaks for itself. The City admits that nutrition scientists debate how bad added sugar is for  
11 most Americans. For example, nutrition scientists debate whether it is bad simply as a source of  
12 empty calories with no nutritional value that contributes to obesity, or whether it is uniquely bad. The  
13 City otherwise denies the allegations of this paragraph.

14 50. Answering paragraph 50 of the Complaint, the City responds as follows: The City  
15 admits the allegations of the first sentence of this paragraph. The City denies the allegations of the  
16 second sentence of this paragraph.

17 51. Answering paragraph 51 of the Complaint, the City responds as follows: The  
18 allegations of this paragraph are irrelevant: the statements of members of the public or presenters at  
19 legislative hearings concerning Ordinance Nos. 98-15 and 100-15 do not supply the content of the  
20 warning required by Ordinance No. 100-15; instead the text of the ordinance supplies the content of  
21 the warnings. The City further responds that the official legislative records of Ordinance Nos. 98-15  
22 and 100-15 speak for themselves and are available from the San Francisco Board of Supervisors  
23 Legislative Research Center and from SFGOV TV.

24 52. Answering paragraph 52 of the Complaint, the City responds as follows: The cited  
25 authority speaks for itself. The City admits that nutrition scientists debate how bad added sugar is for  
26 most Americans. For example, nutrition scientists debate whether it is bad simply as a source of  
27 empty calories with no nutritional value that contributes to obesity and diabetes, or whether it is  
28 uniquely bad. The City otherwise denies the allegations of this paragraph.



1           53.     Answering paragraph 53 of the Complaint, the City responds as follows: The  
2 allegations of this paragraph are irrelevant: the statements of members of the public or presenters at  
3 legislative hearings concerning Ordinance Nos. 98-15 and 100-15 do not supply the content of the  
4 warning required by Ordinance No. 100-15; instead the text of the ordinance supplies the content of  
5 the warnings. The City further responds that the official legislative records of Ordinance Nos. 98-15  
6 and 100-15 speak for themselves.

7           54.     Answering paragraph 54 of the Complaint, the City responds as follows: The cited  
8 authorities speak for themselves. The City otherwise denies the allegations of this paragraph.

9           55.     Answering paragraph 55 of the Complaint, the City denies the allegations.

10          56.     Answering paragraph 56 of the Complaint, the City responds as follows: The cited  
11 authority speaks for itself. The City otherwise denies the allegations of this paragraph.

12          57.     Answering paragraph 57 of the Complaint, the City responds as follows: The cited  
13 authority speaks for itself. The City otherwise denies the allegations of this paragraph.

14          58.     Answering paragraph 58 of the Complaint, the City denies the allegations of the first  
15 sentence of this paragraph. With respect to the second sentence, the City responds that the San  
16 Francisco Health Code speaks for itself.

17          59.     Answering paragraph 59 of the Complaint, the City responds as follows: The cited  
18 authority speaks for itself. The City admits the allegations of the final sentence of this paragraph. The  
19 City denies all remaining allegations of this paragraph.

20          60.     Answering paragraph 60 of the Complaint, the City denies the allegations.

21          61.     Answering paragraph 61 of the Complaint, the City denies the allegations.

22          62.     Answering paragraph 62 of the Complaint, the City responds as follows: The cited  
23 authority speaks for itself. The City otherwise lacks information to admit or deny the remaining  
24 allegations of this paragraph and on that basis denies them.

25          63.     Answering paragraph 63 of the Complaint, the City lacks information to admit or deny  
26 the allegations of this paragraph, and on that basis denies them.

1           64.     Answering paragraph 64 of the Complaint, the City responds that the cited authority  
2 speaks for itself. The City otherwise lacks information to admit or deny the remaining allegations of  
3 this paragraph and on that basis denies them.

4           65.     Answering paragraph 65 of the Complaint, the City responds that the cited authority  
5 speaks for itself. The City otherwise lacks information to admit or deny the remaining allegations of  
6 this paragraph and on that basis denies them.

7           66.     Answering paragraph 66 of the Complaint, the City denies the allegations of the first  
8 sentence except to admit that Type II diabetes and obesity rates have continued to increase. To the  
9 second and third sentences of this paragraph, the City responds that the cited authority speaks for  
10 itself.

11          67.     Answering paragraph 67 of the Complaint, the City lacks information to admit or deny  
12 the allegations and on that basis denies them.

13          68.     Answering paragraph 68 of the Complaint, the City responds that the cited authority  
14 speaks for itself. The City otherwise lacks information to admit or deny the allegations and on that  
15 basis denies them.

16          69.     Answering paragraph 69 of the Complaint, the City responds that the cited authority  
17 speaks for itself. The City otherwise lacks information to admit or deny the allegations and on that  
18 basis denies them.

19          70.     Answering paragraph 70 of the Complaint, the City responds that the cited authority  
20 speaks for itself. The City otherwise lacks information to admit or deny the allegations and on that  
21 basis denies them.

22          71.     Answering paragraph 71 of the Complaint, the City responds that the cited authority  
23 speaks for itself. The City otherwise lacks information to admit or deny the allegations and on that  
24 basis denies them.

25          72.     Answering paragraph 72 of the Complaint, the City admits that Ordinance No. 100-15  
26 targets sugar-sweetened beverage advertisements. The City otherwise lacks information to admit or  
27 deny the allegations and on that basis denies them.

1           73.     Answering paragraph 73 of the Complaint, the City responds that Ordinance No. 98-15  
2 speaks for itself. The City further responds that in light of the stay of implementation voluntarily  
3 entered by the City departments responsible for implementing San Francisco Ordinance No. 98-15, the  
4 City denies the allegations.

5           74.     Answering paragraph 74 of the Complaint, the City responds that Ordinance No. 100-  
6 15 speaks for itself.

7           75.     Answering paragraph 75 of the Complaint, the City responds that Ordinance No. 100-  
8 15 speaks for itself.

9           76.     Answering paragraph 76 of the Complaint, the City responds that Ordinance Nos. 98-  
10 15 and 100-15 speak for themselves. The City further responds that the Code of Federal Regulations  
11 speaks for itself. The remainder of this paragraph contains legal conclusions to which no response is  
12 required.

13           77.     Answering paragraph 77 of the Complaint, the City responds that the cited authority  
14 speaks for itself.

15           78.     Answering paragraph 78 of the Complaint, the City responds that Ordinance No. 98-15  
16 speaks for itself. The City further responds that in light of the stay of implementation voluntarily  
17 entered by the City departments responsible for implementing San Francisco Ordinance No. 98-15, the  
18 City denies the allegations.

19           79.     Answering paragraph 79 of the Complaint, the City responds that Ordinance No. 98-15  
20 speaks for itself. The City further responds that in light of the stay of implementation voluntarily  
21 entered by the City departments responsible for implementing San Francisco Ordinance No. 98-15, the  
22 City denies the allegations.

23           80.     Answering paragraph 80 of the Complaint, this paragraph contains legal conclusions to  
24 which no response is required. The City further responds that in light of the stay of implementation  
25 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
26 No. 98-15, the City denies the allegations.

1           81.     Answering paragraph 81 of the Complaint, the City responds as follows: The first  
2 sentence of this paragraph states a legal conclusion to which no response is required. The cited  
3 authority speaks for itself. The City admits the allegations of the second sentence of this paragraph.

4           82.     Answering paragraph 82 of the Complaint, this paragraph states legal conclusions to  
5 which no response is required. The cited authorities speak for themselves.

6           83.     Answering paragraph 83 of the Complaint, this paragraph contains legal conclusions to  
7 which no response is required. The City further responds that in light of the stay of implementation  
8 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
9 No. 98-15, the City denies the allegations.

10          84.     Answering paragraph 84 of the Complaint, in light of the stay of implementation  
11 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
12 No. 98-15, the City denies the allegations.

13          85.     Answering paragraph 85 of the Complaint, in light of the stay of implementation  
14 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
15 No. 98-15, the City denies the allegations.

16          86.     Answering paragraph 86 of the Complaint, the City admits the allegations.

17          87.     Answering paragraph 87 of the Complaint, the City admits that it permits sale of sugar-  
18 sweetened beverages at certain of its properties and otherwise denies the allegations of this paragraph.

19          88.     Answering paragraph 88 of the Complaint, this paragraph contains legal conclusions to  
20 which no response is required. To the extent a response is required, the City denies the allegations at  
21 least as to some City properties.

22          89.     Answering paragraph 89 of the Complaint, the City denies the allegations at least as to  
23 some City properties.

24          90.     Answering paragraph 90 of the Complaint, this paragraph contains legal conclusions to  
25 which no response is required. The City further responds that in light of the stay of implementation  
26 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
27 No. 98-15, the City denies the allegations.

28

1           91.     Answering paragraph 91 of the Complaint, this paragraph contains legal conclusions to  
2 which no response is required. The City further responds that in light of the stay of implementation  
3 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
4 No. 98-15, the City denies the allegations.

5           92.     Answering paragraph 92 of the Complaint, this paragraph contains legal conclusions to  
6 which no response is required. The cited authorities speak for themselves. The City further responds  
7 that in light of the stay of implementation voluntarily entered by the City departments responsible for  
8 implementing San Francisco Ordinance No. 98-15, the City denies the allegations.

9           93.     Answering paragraph 93 of the Complaint, the City denies the allegations at least as to  
10 some City properties.

11           94.     Answering paragraph 94 of the Complaint, the City admits the allegations except that it  
12 denies that San Francisco Ordinance 98-15 is being implemented.

13           95.     Answering paragraph 95 of the Complaint, the City denies the allegations at least as to  
14 some City properties.

15           96.     Answering paragraph 96 of the Complaint, the City responds as follows: The cited  
16 authority speaks for itself. The City further responds that in light of the stay of implementation  
17 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
18 No. 98-15, the City denies the allegations.

19           97.     Answering paragraph 97 of the Complaint, this paragraph contains legal conclusions to  
20 which no response is required. The City further responds that in light of the stay of implementation  
21 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
22 No. 98-15, the City denies the allegations.

23           98.     Answering paragraph 98 of the Complaint, this paragraph contains legal conclusions to  
24 which no response is required. The City further responds that in light of the stay of implementation  
25 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
26 No. 98-15, the City denies the allegations.

27           99.     Answering paragraph 99 of the Complaint, this paragraph contains legal conclusions to  
28 which no response is required. The City further responds that in light of the stay of implementation

1 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
2 No. 98-15, the City denies the allegations.

3 100. Answering paragraph 100 of the Complaint, this paragraph contains legal conclusions  
4 to which no response is required. The cited authority speaks for itself. The City further responds that  
5 in light of the stay of implementation voluntarily entered by the City departments responsible for  
6 implementing San Francisco Ordinance No. 98-15, the City denies the allegations.

7 101. Answering paragraph 101 of the Complaint, this paragraph contains legal conclusions  
8 to which no response is required. The City further responds that in light of the stay of implementation  
9 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
10 No. 98-15, the City denies the allegations.

11 102. Answering paragraph 102 of the Complaint, this paragraph contains legal conclusions  
12 to which no response is required. The City further responds that in light of the stay of implementation  
13 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
14 No. 98-15, the City denies the allegations.

15 103. Answering paragraph 103 of the Complaint, this paragraph contains legal conclusions  
16 to which no response is required. The City further responds that in light of the stay of implementation  
17 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
18 No. 98-15, the City denies the allegations.

19 104. Answering paragraph 104 of the Complaint, this paragraph contains legal conclusions  
20 to which no response is required. The City further responds that in light of the stay of implementation  
21 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
22 No. 98-15, the City denies the allegations.

23 105. Answering paragraph 105 of the Complaint, this paragraph contains legal conclusions  
24 to which no response is required. The City further responds that in light of the stay of implementation  
25 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
26 No. 98-15, the City denies the allegations.

27 106. Answering paragraph 106 of the Complaint, this paragraph contains legal conclusions  
28 to which no response is required. The cited authority speaks for itself. The City further responds that

1 in light of the stay of implementation voluntarily entered by the City departments responsible for  
2 implementing San Francisco Ordinance No. 98-15, the City denies the allegations.

3 107. Answering paragraph 107 of the Complaint, this paragraph contains legal conclusions  
4 to which no response is required.

5 108. Answering paragraph 108 of the Complaint, this paragraph contains legal conclusions  
6 to which no response is required.

7 109. Answering paragraph 109 of the Complaint, this paragraph contains legal conclusions  
8 to which no response is required. The City further responds that in light of the stay of implementation  
9 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
10 No. 98-15, the City denies the allegations.

11 110. Answering paragraph 110 of the Complaint, this paragraph states a legal conclusion to  
12 which no response is required.

13 110.a. Answering paragraph 110.a of the Complaint, the City responds as follows: The City  
14 admits that many restaurants, coffee bars, and other companies produce and sell beverages to which  
15 they add sweeteners. The City lacks information concerning specific products sold by specified  
16 enterprises and on that basis denies the allegations. The remainder of this paragraph states legal  
17 conclusions to which no response is required.

18 110.b. Answering paragraph 110.b of the Complaint, the City responds as follows: The City  
19 admits that many restaurants, coffee bars, and other companies produce and sell beverages to which  
20 they add sweeteners. The City lacks information concerning specific products sold by specified  
21 enterprises and on that basis denies the allegations. The remainder of this paragraph states legal  
22 conclusions to which no response is required.

23 110.c. Answering paragraph 110.c of the Complaint, this paragraph states legal conclusions to  
24 which no response is required. The cited authorities speak for themselves.

25 110.d. Answering paragraph 110.d of the Complaint, this paragraph states legal conclusions to  
26 which no response is required. The City further responds that in light of the stay of implementation  
27 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
28 No. 98-15, the City denies the allegations.

1 111. Answering paragraph 111 of the Complaint, this paragraph states legal conclusions to  
2 which no response is required.

3 112. Answering paragraph 112 of the Complaint, this paragraph states legal conclusions to  
4 which no responses is required. The City further responds that in light of the stay of implementation  
5 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
6 No. 98-15, the City denies the allegations.

7 113. Answering paragraph 113 of the Complaint, this paragraph states legal conclusions to  
8 which no responses is required. The City further responds that in light of the stay of implementation  
9 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
10 No. 98-15, the City denies the allegations.

11 114. Answering paragraph 114 of the Complaint, this paragraph states legal conclusions to  
12 which no responses is required. The City further responds that in light of the stay of implementation  
13 voluntarily entered by the City departments responsible for implementing San Francisco Ordinance  
14 No. 98-15, the City denies the allegations.

15 115. Answering paragraph 115 of the Complaint, the City incorporates its responses to  
16 paragraphs 11-20 and 74-75 of the Complaint as if fully set forth herein. The City further responds  
17 that this paragraph states legal conclusions to which no response is required. Ordinance No. 100-15  
18 speaks for itself.

19 116. Answering paragraph 116 of the Complaint, this paragraph states legal conclusions to  
20 which no responses is required. Ordinance No. 100-15 speaks for itself.

21 117. Answering paragraph 117 of the Complaint, this paragraph states legal conclusions to  
22 which no response is required. Ordinance No. 100-15 speaks for itself.

23 118. Answering paragraph 118 of the Complaint, this paragraph states legal conclusions to  
24 which no response is required. Ordinance No. 100-15 speaks for itself.

25 119. Answering paragraph 119 of the Complaint, this paragraph states legal conclusions to  
26 which no response is required. Ordinance No. 100-15 speaks for itself.

27 120. Answering paragraph 120 of the Complaint, this paragraph states legal conclusions to  
28 which no response is required. Ordinance No. 100-15 speaks for itself.



1           121. Answering paragraph 121 of the Complaint, this paragraph states legal conclusions to  
2 which no response is required. Ordinance No. 100-15 speaks for itself.

3           122. Answering paragraph 122 of the Complaint, this paragraph states legal conclusions to  
4 which no response is required. Ordinance No. 100-15 speaks for itself.

5           123. Answering paragraph 123 of the Complaint, this paragraph states legal conclusions to  
6 which no response is required. Ordinance No. 100-15 speaks for itself.

7           124. Answering paragraph 124 of the Complaint, this paragraph states legal conclusions to  
8 which no response is required. Ordinance No. 100-15 speaks for itself.

9           125. Answering paragraph 125 of the Complaint, this paragraph states legal conclusions to  
10 which no response is required. The cited authorities speak for themselves. The City denies the  
11 allegations.

12           126. Answering paragraph 126 of the Complaint, this paragraph states legal conclusions to  
13 which no response is required. The cited authorities speak for themselves. The City denies the  
14 allegations.

15           127. Answering paragraph 127 of the Complaint, this paragraph states a legal conclusion to  
16 which no response is required. The City denies the allegations.

17           128. Answering paragraph 128 of the Complaint, this paragraph states legal conclusions to  
18 which no response is required. The City denies the allegations.

19           129. Answering paragraph 129 of the Complaint, this paragraph states legal conclusions to  
20 which no response is required. The City denies the allegations.

21           130. Answering paragraph 130 of the Complaint, this paragraph states legal conclusions to  
22 which no response is required. The cited authorities speak for themselves.

23           131. Answering paragraph 131 of the Complaint, this paragraph states legal conclusions to  
24 which no response is required. The City denies the allegations.

25           131.a. Answering paragraph 131.a of the Complaint, this paragraph states a legal conclusion  
26 to which no response is required. Ordinance No. 100-15 speaks for itself.

27           131.b. Answering paragraph 131.b of the Complaint, this paragraph states legal conclusions to  
28 which no response is required. The City denies the factual allegations.

1 131.c. Answering paragraph 131.c of the Complaint, this paragraph states legal conclusions to  
2 which no response is required. Ordinance No. 100-15 speaks for itself.

3 131.d. Answering paragraph 131.d of the Complaint, the City denies the allegations.

4 131.e. Answering paragraph 131.e of the Complaint, this paragraph states legal conclusions to  
5 which no response is required. The City denies the allegations.

6 131.f. Answering paragraph 131.f of the Complaint, this paragraph states legal conclusions to  
7 which no response is required.

8 132. Answering paragraph 132 of the Complaint, this paragraph states legal conclusions to  
9 which no response is required. The City denies the allegations.

10 132.a. Answering paragraph 132.a of the Complaint, this paragraph states legal conclusions to  
11 which no response is required. The City denies the allegations.

12 132.b. Answering paragraph 132.b of the Complaint, the City denies the allegations.

13 133. Answering paragraph 133 of the Complaint, the cited authority speaks for itself. The  
14 City denies the allegations.

15 134. Answering paragraph 134 of the Complaint, this paragraph states legal conclusions to  
16 which no response is required. The City denies the allegations.

17 134.a. Answering paragraph 134.a of the Complaint, this paragraph states legal conclusions to  
18 which no response is required. The City denies the allegations of the first, third, and fourth sentences  
19 of this paragraph. The City admits that it can, and does, deliver health warnings concerning  
20 consuming sugar-sweetened beverages through its own advertisements and messaging.

21 134.b Answering paragraph 134.b of the Complaint, the City admits that some sugar-  
22 sweetened beverage packages disclose the total amount of sugar in each serving and otherwise denies  
23 the allegations.

24 135. Answering paragraph 135 of the Complaint, this paragraph states legal conclusions to  
25 which no response is required. The City denies the allegations.

26 136. Answering paragraph 136 of the Complaint, this paragraph states legal conclusions to  
27 which no response is required. The cited authority speaks for itself. The City admits the factual  
28 assertions of the third sentence.

1           137. Answering paragraph 137 of the Complaint, this paragraph states legal conclusions to  
2 which no response is required. The City denies the allegations.

3           138. Answering paragraph 138 of the Complaint, the City denies the allegations.

4           138.a. Answering paragraph 138.a of the Complaint, the City admits the allegations.

5           138.b. Answering paragraph 138.b of the Complaint, the City denies the allegations.

6           138.c Answering paragraph 138.c of the Complaint, the City incorporates its response to  
7 paragraphs 46-49, 52, 54, and 56-57 of the Complaint as if fully set forth herein. The City lacks  
8 information concerning experts' beliefs about pizza, steak, burritos, Ghirardelli chocolate, ice cream,  
9 Caesar salads, doughnuts, milkshakes, and sourdough bread and on that basis denies the allegations  
10 concerning those foods. Concerning sugar-sweetened beverages, the City denies the allegations.

11           139. Answering paragraph 139 of the Complaint, the City denies the allegations.

12           139.a. Answering paragraph 139.a of the Complaint, the City denies the allegations except  
13 with respect to the cited authority. As to that citation, the City responds that the cited authority speaks  
14 for itself.

15           139.b. Answering paragraph 139.b of the Complaint, the City denies the allegations except  
16 with respect to the cited authority. As to that citation, the City responds that the cited authority speaks  
17 for itself.

18           140. Answering paragraph 140 of the Complaint, the City denies the allegations.

19           140.a. Answering paragraph 140.a of the Complaint, this paragraph states legal conclusions to  
20 which no response is required.

21           140.b. Answering paragraph 140.b of the Complaint, this paragraph states legal conclusions to  
22 which no response is required. Ordinance No. 100-15 speaks for itself.

23           140.c. Answering paragraph 140.c of the Complaint, the City denies the allegations except  
24 with respect to the cited authority. As to those citations, the City responds that the cited authorities  
25 speak for themselves.

26           140.d. Answering paragraph 140.d of the Complaint, the City admits the allegations of the first  
27 sentence. The second sentence contains legal conclusions to which no response is required.  
28

1 140.e. Answering paragraph 140.e of the Complaint, the City lacks information concerning the  
2 calorie and sugar content of the listed products and on that basis denies the allegations concerning  
3 them. The remainder of this paragraph states legal conclusions to which no response is required.

4 140.f. Answering paragraph 140.f of the Complaint, the City denies the allegations.

5 141. Answering paragraph 141 of the Complaint, the City denies the allegations.

6 141.a. Answering paragraph 141.a of the Complaint, the City admits the allegations.

7 141.b Answering paragraph 141.b of the Complaint, the City denies the allegations except  
8 with respect to the citations. As to those citations, the City responds that the cited authorities speak for  
9 themselves.

10 141.c. Answering paragraph 141.c of the Complaint, the City denies the allegations.

11 142. Answering paragraph 142 of the Complaint, this paragraph states legal conclusions to  
12 which no response is required. The City denies the allegations.

13 142.a. Answering paragraph 142.a of the Complaint, this paragraph states a legal conclusion  
14 to which no response is required.

15 142.b. Answering paragraph 142.b of the Complaint, the City denies the allegations.

16 143. Answering paragraph 143 of the Complaint, this paragraph states legal conclusions to  
17 which no response is required. The City denies the allegations.

18 144. Answering paragraph 144 of the Complaint, this paragraph states legal conclusions to  
19 which no response is required. The City denies the allegations.

20 144.a. Answering paragraph 144.a of the Complaint, this paragraph states legal conclusions to  
21 which no response is required. Ordinance No. 100-15 speaks for itself.

22 144.b. Answering paragraph 144.b of the Complaint, the City denies the allegations.

23 144.c. Answering paragraph 144.c of the Complaint, the City denies the allegations.

24 144.d. Answering paragraph 144.d of the Complaint, the City denies the allegations.

25 144.e Answering paragraph 144.e of the Complaint, this paragraph in part states legal  
26 conclusions to which no response is required. The City otherwise denies the allegations.

27 145. Answering paragraph 145 of the Complaint, the City denies the allegations.

28 145.a. Answering paragraph 145.a of the Complaint, the City denies the allegations.

1 145.b. Answering paragraph 145.b of the Complaint, the City denies the allegations.

2 145.c. Answering paragraph 145.c of the Complaint, the City denies the allegations.

3 146. Answering paragraph 146 of the Complaint, this paragraph states legal conclusions to  
4 which no response is required. The City denies the allegations.

5 147. Answering paragraph 147 of the Complaint, this paragraph states legal conclusions to  
6 which no response is required. The City denies the allegations.

7 148. Answering paragraph 148 of the Complaint, the City denies the allegations.

8 149. Answering paragraph 149 of the Complaint, this paragraph states legal conclusions to  
9 which no response is required.

10 150. Answering paragraph 150 of the Complaint, the City incorporates its responses to  
11 paragraphs 1-149 by reference as if fully set forth herein.

12 151. Answering paragraph 151 of the Complaint, this paragraph states legal conclusions to  
13 which no response is required. The First Amendment speaks for itself.

14 152. Answering paragraph 152 of the Complaint, this paragraph states legal conclusions to  
15 which no response is required. The Fourteenth Amendment speaks for itself.

16 153. Answering paragraph 153 of the Complaint, the City denies the allegations.

17 154. Answering paragraph 154 of the Complaint, the City denies the allegations.

18 155. Answering paragraph 155 of the Complaint, the City denies the allegations.

19 156. Answering paragraph 156 of the Complaint, the City denies the allegations.

20 157. Answering paragraph 157 of the Complaint, the City denies the allegations.

21 158. Answering paragraph 158 of the Complaint, the City denies the allegations.

22 159. Answering paragraph 159 of the Complaint, the City denies the allegations.

23 160. Answering paragraph 160 of the Complaint, the City incorporates its responses to  
24 paragraphs 1-159 by reference as if fully set forth herein.

25 161. Answering paragraph 161 of the Complaint, the City denies the allegations.

26 162. Answering paragraph 162 of the Complaint, the City denies the allegations.

27 163. Answering paragraph 163 of the Complaint, the City denies the allegations.

28 164. Answering paragraph 164 of the Complaint, the City denies the allegations.

1 165. Answering paragraph 165 of the Complaint, the City denies the allegations.

2 166. Answering paragraph 166 of the Complaint, the City incorporates its responses to  
3 paragraphs 1-165 by reference as if fully set forth herein.

4 167. Answering paragraph 167 of the Complaint, the City denies the allegations.

5 168. Answering paragraph 168 of the Complaint, the City denies the allegations.

6 169. Answering paragraph 169 of the Complaint, the City denies the allegations.

7 170. Answering paragraph 170 of the Complaint, the City denies the allegations.

8 171. Answering paragraph 171 of the Complaint, the City denies the allegations.

9 172. Answering paragraph 172 of the Complaint, the City denies the allegations.

10 173. Answering paragraph 173 of the Complaint, the City denies the allegations.

11 174. Answering paragraph 174 of the Complaint, the City denies the allegations.

12 175. Answering paragraph 175 of the Complaint, the City denies the allegations.

13 176. Answering paragraph 176 of the Complaint, the City incorporates its responses to  
14 paragraphs 1-175 by reference as if fully set forth herein.

15 177. Answering paragraph 177 of the Complaint, the City denies the allegations.

16 178. Answering paragraph 178 of the Complaint, the City denies the allegations.

17 179. Answering paragraph 179 of the Complaint, the City denies the allegations.

18 180. Answering paragraph 180 of the Complaint, the City denies the allegations.

19 181. Answering paragraph 181 of the Complaint, the City denies the allegations.

20 **ANSWER TO PRAYER**

21 The City denies each and every legal conclusion and factual assertion in the Associations’  
22 prayer for relief, and further denies that the Associations are entitled to any of the relief sought.

23 **AFFIRMATIVE DEFENSES**

24 The City asserts the following affirmative defenses:

25 1. The Complaint, and each purported cause of action contained herein, fails to state facts  
26 sufficient to constitute a cause of action under law.

27 2. The Complaint is moot with respect to Ordinance No. 98-15.

