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7 Attorneys for Plaintiff and Cross-Defendant
San Jose Police Officers' Association

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SANTA CLARA

11 SAN JOSE POLICE OFFICERS'
12 ASSOCIATION,

13 Plaintiff,

14 v.

15 CITY OF SAN JOSE, BOARD OF
16 ADMINISTRATION FOR POLICE
AND FIRE DEPARTMENT
17 RETIREMENT PLAN OF CITY OF
SAN JOSE, and DOES 1-10, inclusive,

18 Defendants.

No. 1-12-CV-225926
(and Consolidated Actions
1-12-CV-225928, 1-12-CV-226570,
1-12-CV-226574, 1-12-CV-227864,
and 1-12-CV-233660)

**PLAINTIFF SAN JOSE POLICE OFFICERS'
ASSOCIATION'S REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF OPPOSITION TO
DEFENDANT CITY OF SAN JOSE'S MOTION
FOR SUMMARY ADJUDICATION**

Date: June 7, 2013
Time: 9:00 a.m.
Place: Dept. 2
Judge: Hon. Patricia M. Lucas

Complaint Filed: June 6, 2012
Trial Date: July 22, 2013

21
22 AND RELATED CROSS-COMPLAINT
23 AND CONSOLIDATED ACTIONS.

24 **REQUEST FOR JUDICIAL NOTICE**

25 Plaintiff San Jose Police Officers' Association ("SJPOA") respectfully requests
26 that the Court take judicial notice of the below-described documents in support of its
27 Opposition to Defendant City of San Jose's Motion for Summary Adjudication ("the
28 Opposition").

CBM-SF\SF583541

1 **1. Request for Judicial Notice (“RJN”) 1:**

2 Chapter 5, Statutes of California, First Extraordinary Session 1946 pertaining to
3 Assembly Concurrent Resolution No. 4 – Relative to approving certain amendments to the
4 Charter of the City of San Jose, a true and correct copy of which is attached hereto as
5 Exhibit 1. It is relevant for the reasons delineated in the Opposition to City’s Motion for
6 Summary Adjudication (“the Opposition”), and Plaintiff SJPOA’s Response to Separate
7 Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

8 **Authority for RJN 1:**

9 Evidence Code section 451(a) authorizes a court to take judicial notice of “any
10 charter described in Section 3, 4, or 5 of the California Constitution.”

11 Evidence Code section 452(b) authorizes a court to take judicial notice of
12 “legislative enactments issued by or under the authority of the United States or any public
13 entity in the United States.” (See also *Trinity Park v. City of Sunnyvale* (2011) 193
14 Cal.App.4th 1014, 1027 (“local ordinances and the official resolutions, reports, and other
15 official acts of a city.”))

16 Evidence Code section 452(c) authorizes a court to take judicial notice of
17 “Official acts of the legislative, executive, and judicial departments of the United States
18 and of any state of the United States.” “Official acts include records, reports and orders of
19 administrative agencies.” (*Rodas v. Spiegel* (2001) 87 Cal.App.4th 513, 518.) The Court
20 may also take judicial notice of policy statements and memoranda of governmental
21 agencies, including those published on the internet. (See, e.g., *People ex rel. Totten v.*
22 *Colonia Chiques* (2007) 156 Cal.App.4th 31, 38 fn.3.) Judicial notice may also be taken
23 of rulemaking and other proposals by government officials. (See, e.g., *California Ass’n*
24 *for Health Services at Home v. Department of Health Services* (2007) 148 Cal.App.4th
25 696, 702 fn.2; see also *As You Sow v. Conbraco Industries* (2005) 135 Cal.App.4th 431,
26 438 fn.3.)

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2. Request for Judicial Notice (“RJN”) 2:

The City Attorney’s Impartial Analysis of the City of San Jose’s Measure W – from the November 2, 2010 Election, a true and correct copy of which is attached hereto as Exhibit 2. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 2:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein. Additionally, ballot materials may be judicially noticed. (*Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 31 and cases cited therein.)

3. Request for Judicial Notice (“RJN”) 3:

San Jose City Ordinance 27721 (2006), a true and correct copy of which is attached hereto as Exhibit 3. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 3:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

4. Request for Judicial Notice (“RJN”) 4:

Chapter 20, Statutes of California 1960 and 1961, Volume 2, pertaining to Assembly Concurrent Resolution No. 17 – Approving a certain amendment to the charter of the City of San Jose, a true and correct copy of which is attached hereto as Exhibit 4. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

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Authority for RJN 4:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

5. Request for Judicial Notice (“RJN”) 5:

The City of San Jose Resolution No. 40129 (1971), a true and correct copy of which is attached hereto as Exhibit 5. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 5:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

6. Request for Judicial Notice (“RJN”) 6:

The City of San Jose Ordinance No. 19690 (1979), a true and correct copy of which is attached hereto as Exhibit 6. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 6:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

7. Request for Judicial Notice (“RJN”) 7:

San Jose City Ordinance No. 21686 (1984), a true and correct copy of which is attached hereto as Exhibit 7. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 7:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

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8. Request for Judicial Notice (“RJN”) 8:

Chapter 10 of the San Jose Police and Fire Department Retirement Plan Handbook - Fall 1995, a true and correct copy of which is attached hereto as Exhibit 8. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 8:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

9. Request for Judicial Notice (“RJN”) 9:

Chapter 10 of the San Jose Police and Fire Department Retirement Plan Handbook - Fall 1997, a true and correct copy of which is attached hereto as Exhibit 9. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 9:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

10. Request for Judicial Notice (“RJN”) 10:

San Jose City Ordinance No. 25615 (1998), a true and correct copy of which is attached hereto as Exhibit 10. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 10:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

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11. Request for Judicial Notice (“RJN”) 11:

Excerpts from the Notes to Financial Statements and Actuarial Certification Letter from the City of San Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2011, a true and correct copy of which is attached hereto as Exhibit 11. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 11:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

12. Request for Judicial Notice (“RJN”) 12:

Excerpts from the Notes to Financial Statements and Actuarial Certification Letter from the City of San Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2010, a true and correct copy of which is attached hereto as Exhibit 12. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 12:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

13. Request for Judicial Notice (“RJN”) 13:

Excerpts from the Notes to Financial Statements and Actuarial Certification Letter from the City of San Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2009, a true and correct copy of which is attached hereto as Exhibit 13. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

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Authority for RJN 13:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

14. Request for Judicial Notice (“RJN”) 14:

Excerpts from the Notes to Financial Statements and Actuarial Certification Letter from the City of San Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2008, a true and correct copy of which is attached hereto as Exhibit 14. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 14:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

15. Request for Judicial Notice (“RJN”) 15:

Excerpts from the Notes to Financial Statements and Actuarial Certification Letter from the City of San Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2007, a true and correct copy of which is attached hereto as Exhibit 15. It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

Authority for RJN 15:

Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though fully set forth herein.

16. Request for Judicial Notice (“RJN”) 16:

California State Auditor Report 2012-106 City of San Jose Some Retirement Cost Projections Were Unsupported Although Rising Retirement Costs Have Led to Reduced City Services, August 2012, a true and correct copy of which is attached hereto as Exhibit 16. It is relevant for the reasons delineated in the Opposition, and Plaintiff

1 SJPOA's Response to Separate Statement of Undisputed Facts, and Statement of
2 Additional Undisputed Facts.

3 **Authority for RJN 16:**

4 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
5 fully set forth herein.

6 **17. Request for Judicial Notice ("RJN") 17:**

7 The July 5, 2012 First Amended Complaint for Declaratory and Injunctive
8 Relief filed in this action, a true and correct copy of which is attached hereto as Exhibit
9 17. It is relevant for the reasons delineated in the Opposition and Plaintiff SJPOA's
10 Response to Separate Statement of Undisputed Facts, and Statement of Additional
11 Undisputed Facts.

12 **Authority for RJN 17:**

13 Evidence Code 452(d) authorizes a court to take judicial notice of pleadings
14 filed in "any court of this state."

15 **18. Request for Judicial Notice ("RJN") 18:**

16 Total Compensation Information from San Jose Office of City Manager, a true
17 and correct copy of which is attached hereto as Exhibit 18. It is relevant for the reasons
18 delineated in the Opposition, and Plaintiff SJPOA's Response to Separate Statement of
19 Undisputed Facts, and Statement of Additional Undisputed Facts.

20 **Authority for RJN 18:**

21 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
22 fully set forth herein.

23 **19. Request for Judicial Notice ("RJN") 19:**

24 March 28, 2011 Memorandum from Sean Kaldor Board of Administration
25 Police and Fire Retirement Plan to Chairman David Bacigalupi, Board of Administration
26 Police and Fire Retirement Plan, Subject: P&F Plan ARC Calculation, a true and correct
27 copy of which is attached hereto as Exhibit 19. It is relevant for the reasons delineated in
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1 the Opposition and Plaintiff SJPOA's Response to Separate Statement of Undisputed
2 Facts, and Statement of Additional Undisputed Facts.

3 **Authority for RJN 19:**

4 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
5 fully set forth herein.

6 **20. Request for Judicial Notice ("RJN") 20:**

7 December 1, 2011 Memorandum from Mayor Chuck Reed, Vice Mayor
8 Madison Nguyen and Council members Pete Constant, Rose Herrera and Sam Liccardo to
9 Honorable Mayor and City Council, Subject Fiscal and Service Level Emergency and
10 Pension Reform Ballot Measure, a true and correct copy of which is attached hereto as
11 Exhibit 20. It is relevant for the reasons delineated in the Opposition, and Plaintiff
12 SJPOA's Response to Separate Statement of Undisputed Facts, and Statement of
13 Additional Undisputed Facts.

14 **Authority for RJN 20:**

15 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
16 fully set forth herein.

17 **21. Request for Judicial Notice ("RJN") 21:**

18 July 26, 2012 Memorandum from Dennis Hawkins, City Clerk to Honorable
19 Mayor and City Council, Subject: Certification of the Results of the Primary and Special
20 Municipal Elections Held June 5, 2012, a true and correct copy of which is attached
21 hereto as Exhibit 21. It is relevant for the reasons delineated in the Opposition, and
22 Plaintiff SJPOA's Response to Separate Statement of Undisputed Facts, and Statement of
23 Additional Undisputed Facts.

24 **Authority for RJN 21:**

25 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
26 fully set forth herein.

1 **22. Request for Judicial Notice (“RJN”) 22:**

2 The December 1, 2011 Memorandum from City Manager Debra Figone to
3 Honorable Mayor and City Council, subject: Declaration of Fiscal and Service Level
4 Emergency, a true and correct copy of which is attached hereto as Exhibit 22. It is
5 relevant for the reasons delineated in the Opposition and Plaintiff SJPOA’s Response to
6 Separate Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

7 **Authority for RJN 22:**

8 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
9 fully set forth herein.

10 **23. Request for Judicial Notice (“RJN”) 23:**

11 The July 28, 2010 San Jose Rules and Open Government Committee Meeting
12 Report, a true and correct copy of which is attached hereto as Exhibit 23. It is relevant for
13 the reasons delineated in the Opposition, and Plaintiff SJPOA’s Response to Separate
14 Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

15 **Authority for RJN 23:**

16 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
17 fully set forth herein.

18 **24. Request for Judicial Notice (“RJN”) 24:**

19 The August 3, 2010 Minutes of San Jose City Council, a true and correct copy
20 of which is attached hereto as Exhibit 24. It is relevant for the reasons delineated in the
21 Opposition, and Plaintiff SJPOA’s Response to Separate Statement of Undisputed Facts,
22 and Statement of Additional Undisputed Facts.

23 **Authority for RJN 24:**

24 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
25 fully set forth herein.

26 **25. Request for Judicial Notice (“RJN”) 25:**

27 The May 13, 2011 Memorandum from Mayor Chuck Reed, Vice Mayor
28 Madison Nguyen, and Council members Rose Herrera and Sam Liccardo to City Council,

1 Subject Fiscal Reforms, a true and correct copy of which is attached hereto as Exhibit 25.
2 It is relevant for the reasons delineated in the Opposition, and Plaintiff SJPOA's Response
3 to Separate Statement of Undisputed Facts, and Statement of Additional Undisputed
4 Facts.

5 **Authority for RJN 25:**

6 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
7 fully set forth herein.

8 **26. Request for Judicial Notice ("RJN") 26:**

9 The June 24, 2011 Special Minutes of the San Jose City Council, a true and
10 correct copy of which is attached hereto as Exhibit 26. It is relevant for the reasons
11 delineated in the Opposition and Plaintiff SJPOA's Response to Separate Statement of
12 Undisputed Facts, and Statement of Additional Undisputed Facts.

13 **Authority for RJN 26:**

14 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
15 fully set forth herein.

16 **27. Request for Judicial Notice ("RJN") 27:**

17 The September 17, 1997 City of San Jose Memorandum, from Susan
18 Devencenzi, Sr. Deputy City Attorney, to Board of Administration Police and Fire
19 Department Retirement Plan, Subject: Allocation of Contribution Rates Between City and
20 Members, a true and correct copy of which is attached hereto as Exhibit 27. It is relevant
21 for the reasons delineated in the Opposition, and Plaintiff SJPOA's Response to Separate
22 Statement of Undisputed Facts, and Statement of Additional Undisputed Facts.

23 **Authority for RJN 27:**

24 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
25 fully set forth herein.

26 **28. Request for Judicial Notice ("RJN") 28:**

27 The December 29, 1997 City of San Jose Memorandum, From Susan
28 Devencenzi, Sr. Deputy City Attorney to Board of Administration Police and Fire

1 Department Retirement Plan, Subject: Allocation of Actuarial Gains and Losses, a true
2 and correct copy of which is attached hereto as Exhibit 28. It is relevant for the reasons
3 delineated in the Opposition, and Plaintiff SJPOA's Response to Separate Statement of
4 Undisputed Facts, and Statement of Additional Undisputed Facts.

5 **Authority for RJN 28:**

6 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
7 fully set forth herein.

8 **29. Request for Judicial Notice ("RJN") 29:**

9 The Police and Fire Department Retirement Plan, City of San Jose California
10 Resolution No. 3761 adopted April 5, 2012, a true and correct copy of which is attached
11 hereto as Exhibit 29. It is relevant for the reasons delineated in the Opposition, and
12 Plaintiff SJPOA's Response to Separate Statement of Undisputed Facts, and Statement of
13 Additional Undisputed Facts.

14 **Authority for RJN 29:**

15 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
16 fully set forth herein.

17 **30. Request for Judicial Notice ("RJN") 30:**

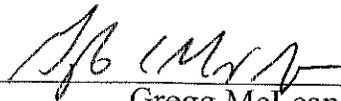
18 The Police and Fire Department Retirement Plan, City of San Jose California
19 Resolution No. 3800 adopted March 7, 2013, a true and correct copy of which is attached
20 hereto as Exhibit 30. It is relevant for the reasons delineated in the Opposition, and
21 Plaintiff SJPOA's Response to Separate Statement of Undisputed Facts, and Statement of
22 Additional Undisputed Facts.

23 **Authority for RJN 30:**

24 Plaintiff SJPOA hereby incorporates its Authority for RJN 1 (above) as though
25 fully set forth herein.

1 Dated: May 3, 2013

2 CARROLL, BURDICK & McDONOUGH LLP

3
4 By 
5 Gregg McLean Adam
6 Gonzalo C. Martinez
7 Amber L. West
8 Attorneys for Plaintiff and Cross-Defendant
9 San Jose Police Officers' Association

10 **DECLARATION OF KEITH A. DOMINGO IN SUPPORT OF PLAINTIFF SAN JOSE POLICE**
11 **OFFICERS' ASSOCIATION'S REQUEST FOR JUDICIAL NOTICE IN OPPOSITION TO**
12 **MOTION FOR SUMMARY ADJUDICATION**

13 I, Keith A. Domingo, declare and say:

14 1. I am a Paralegal at the law offices of Carroll Burdick & McDonough
15 LLP, attorneys for Plaintiff San Jose Police Officers' Association. I am familiar with the
16 facts in this matter, as well as those set forth in this Declaration. If called upon as a
17 witness, I could and would testify competently to these facts.

18 2. I submit this declaration in support of the SJPOA's Request for Judicial
19 Notice in Opposition to City of San Jose's Motion for Summary Adjudication ("MSA").

20 3. Attached hereto as Exhibit 1 is a true a correct copy of the Chapter 5,
21 Statutes of California, First Extraordinary Session 1946 pertaining to Assembly
22 Concurrent Resolution No. 4 – Relative to approving certain amendments to the Charter
23 of the City of San Jose. This document was obtained from the California State Assembly
24 Office of the Chief Clerk website, clerk archives at the following publically available
25 URL: (<http://192.234.213.35/clerkarchive/>).

26 4. Attached hereto as Exhibit 2 is a true a correct copy of the City
27 Attorney's Impartial Analysis of the City of San Jose's Measure W – from the November
28 2, 2010 Election. I obtained this copy from the publically available California Public
Policy Center website at the following URL:

(<http://www.californiapublicpolicycenter.org/wp->

1 content/uploads/2012/07/San_Jose_Nov_2010_Measure_W_City_Attorney_Analysis.pdf)

2 . The text from this document is also available from the publically available
3 Smartvoter.org website at the following URL:

4 (<http://www.smartvoter.org/2010/11/02/ca/scl/meas/W/>).

5 5. Attached hereto as Exhibit 3 is a true and correct copy of San Jose
6 Ordinance 27721 (2006). This document was obtained from the City of San Jose Clerk's
7 Office publically available website at the following URL:

8 (http://www3.sanjoseca.gov/clerk/ORDS_RESOS/ORD_27721.pdf).

9 6. Attached hereto as Exhibit 4 is a true a correct copy of Chapter 20,
10 Statutes of California 1960 and 1961, Volume 2, pertaining to Assembly Concurrent
11 Resolution No. 17 – Approving a certain amendment to the charter of the City of San
12 Jose. This document was obtained from the California State Assembly Office of the
13 Chief Clerk website, clerk archives at the following publically available URL:

14 (<http://192.234.213.35/clerkarchive/>).

15 7. Attached hereto as Exhibit 5 is a true a correct copy of the City of San
16 Jose Resolution No. 40129. This document was obtained directly from the San Jose City
17 Clerk's Office.

18 8. Attached hereto as Exhibit 6 is a true a correct copy of a certified copy of
19 the City of San Jose Ordinance No. 19690. I obtained this document directly from the San
20 Jose City Clerk's Office.

21 9. Attached hereto as Exhibit 7 is a true and correct copy of San Jose City
22 Ordinance No. 21686. This document was obtained directly from the San Jose City
23 Clerk's Office.

24 10. Attached hereto as Exhibit 8 is a true and correct copy of Chapter 10 of
25 the San Jose Police and Fire Department Retirement Plan handbook – Fall 1995. This
26 document was obtained directly from the San Jose Police Officers Association.

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1 11. Attached hereto as Exhibit 9 is a true and correct copy of Chapter 10 of
2 the San Jose Police and Fire Department Retirement Plan handbook – Fall 1997. This
3 document was obtained directly from the San Jose Police Officers Association.

4 12. Attached hereto as Exhibit 10 is a true and correct copy of San Jose City
5 Ordinance No. 25615. This document was obtained directly from the San Jose City
6 Clerk's Office.

7 13. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from
8 the Notes to Financial Statements and Actuarial Certification Letter from the City of San
9 Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial
10 Report for the Fiscal Year Ended June 30, 2011. This document was obtained from the
11 City of San Jose Police and Fire Department Retirement Plan public website located at the
12 following URL: (<http://www.sjretirement.com/PF/Plan/CAFR.asp>).

13 14. Attached hereto as Exhibit 12 is a true and correct copy of excerpts from
14 the Notes to Financial Statements and Actuarial Certification Letter from the City of San
15 Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial
16 Report for the Fiscal Year Ended June 30, 2010. This document was obtained from the
17 City of San Jose Police and Fire Department Retirement Plan public website located at the
18 following URL: (<http://www.sjretirement.com/PF/Plan/CAFR.asp>).

19 15. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from
20 the Notes to Financial Statements and Actuarial Certification Letter from the City of San
21 Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial
22 Report for the Fiscal Year Ended June 30, 2009. This document was obtained from the
23 City of San Jose Police and Fire Department Retirement Plan public website located at the
24 following URL: (<http://www.sjretirement.com/PF/Plan/CAFR.asp>).

25 16. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from
26 the Notes to Financial Statements and Actuarial Certification Letter from the City of San
27 Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial
28 Report for the Fiscal Year Ended June 30, 2008. This document was obtained from the

1 City of San Jose Police and Fire Department Retirement Plan public website located at the
2 following URL: (<http://www.sjretirement.com/PF/Plan/CAFR.asp>).

3 17. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from
4 the Notes to Financial Statements and Actuarial Certification Letter from the City of San
5 Jose Police and Fire Department Retirement Plan Comprehensive Annual Financial
6 Report for the Fiscal Year Ended June 30, 2007. This document was obtained from the
7 City of San Jose Police and Fire Department Retirement Plan public website located at the
8 following URL: (<http://www.sjretirement.com/PF/Plan/CAFR.asp>).

9 18. Attached hereto as Exhibit 16 is a true and correct copy of the California
10 State Auditor Report 2012-106 City of San Jose Some Retirement Cost Projections Were
11 Unsupported Although Rising Retirement Costs Have Led to Reduced City Services,
12 August 2012. This document was obtained from the California State Auditor publically
13 available website at the following URL: ([http://www.bsa.ca.gov/pdfs/reports/2012-
14 106.pdf](http://www.bsa.ca.gov/pdfs/reports/2012-106.pdf)).

15 19. Attached hereto as Exhibit 17 is a true and correct copy of the July 5,
16 2012 First Amended Complaint for Declaratory and Injunctive Relief previously filed in
17 this matter by Plaintiff San Jose Police officers' Association.

18 20. Attached hereto as Exhibit 18 is a true and correct copy of the Total
19 Compensation Information from the San Jose Office of City Manager. I obtained this
20 document from the San Jose Office of City Manager's publically available website located
21 at the following URL: (<http://www.sanjoseca.gov/index.aspx?nid=2413>).

22 21. Attached hereto as Exhibit 19 is a true and correct copy of the March 28,
23 2011 Memorandum from Sean Kaldor Board of Administration Police and Fire
24 Retirement Plan to Chairman David Bacigalupi, Board of Administration Police and Fire
25 Retirement Plan, Subject: P&F Plan ARC Calculation. I obtained this document from the
26 City of San Jose Department of Retirement Services publically available website, located
27 at the following URL: (<http://www.sjretirement.com/uploads/PF/item6.6aPFMay11.pdf>).

1 22. Attached hereto as Exhibit 20 is a true and correct copy of the December
2 1, 2011 Memorandum from Mayor Chuck Reed, Vice Mayor Madison Nguyen and
3 Council members Pete Constant, Rose Herrera and Sam Liccardo to Honorable Mayor
4 and City Council, Subject Fiscal and Service Level Emergency and Pension Reform
5 Ballot Measure. I obtained this document from the City of San Jose's publically available
6 website located at the following URL:

7 (http://www.sanjoseca.gov/archives/120/PensionReformBallotMeasure_12_RN678.PDF).

8 23. Attached hereto as Exhibit 21 is a true and correct copy of the July 26,
9 2012 Memorandum from Dennis Hawkins, City Clerk to Honorable Mayor and City
10 Council, Subject: Certification of the Results of the Primary and Special Municipal
11 Elections Held June 5, 2012. I obtained this document from the San Jose City Clerk's
12 publically available website located at the following URL:

13 (http://www3.sanjoseca.gov/clerk/Agenda/20120807/20120807_0207.pdf).

14 24. Attached hereto as Exhibit 22 is a true and correct copy of the December
15 1, 2011 Memorandum from City Manager Debra Figone to Honorable Mayor and City
16 Council, subject: Declaration of Fiscal and Service Level Emergency. I obtained this
17 document from the San Jose City Clerk's publically available website located at the
18 following URL:

19 (http://www3.sanjoseca.gov/clerk/Agenda/20111206/20111206_0303sup.pdf).

20 25. Attached hereto as Exhibit 23 is a true and correct copy of the July 28,
21 2010 San Jose Rules and Open Government Committee Meeting Report. I obtained this
22 document from the San Jose City Clerk's publically available website located at the
23 following URL:

24 (http://www3.sanjoseca.gov/clerk/Agenda/20100817/20100817_0203a.pdf).

25 26. Attached hereto as Exhibit 24 is a true and correct copy of the August 3,
26 2010 Minutes of San Jose City Council. I obtained this document from the San Jose City
27 Clerk's publically available website located at the following URL:

28 (<http://www3.sanjoseca.gov/clerk/Agenda/20100803/20100803min.pdf>).

1 27. Attached as Exhibit 25 is a true and correct copy of the May 13, 2011
2 Memorandum from Mayor Chuck Reed, Vice Mayor Madison Nguyen, and Council
3 members Rose Herrera and Sam Liccardo to City Council, Subject Fiscal Reforms. I
4 obtained this document from the San Jose City Clerk's publically available website
5 located at the following URL:
6 (http://www3.sanjoseca.gov/clerk/Agenda/20110524/20110524_0304att.pdf).

7 28. Attached hereto as Exhibit 26 is a true and correct copy of the June 24,
8 2011 Special Minutes of the San Jose City Council. I obtained this document from the
9 San Jose City Clerk's publically available website located at the following URL:
10 (<http://www3.sanjoseca.gov/clerk/Agenda/20110624/20110624min.pdf>).

11 29. Attached hereto as Exhibit 27 is a true and correct copy of the September
12 17, 1997 City of San Jose Memorandum, from Susan Devencenzi, Sr. Deputy City
13 Attorney, to Board of Administration Police and Fire Department Retirement Plan,
14 Subject: Allocation of Contribution Rates Between City and Members. I obtained this
15 document from the City of San Jose Retirement Services Department's publically
16 available website located at the following URL:
17 (http://www.sjretirement.com/Uploads/PF/6_6b1itemPFJune2011.pdf).

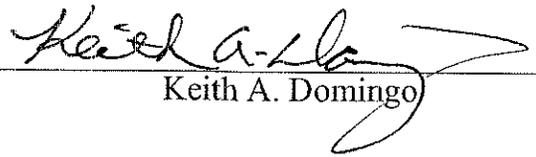
18 30. Attached hereto as Exhibit 28 is a true and correct copy of the December
19 29, 1997 City of San Jose Memorandum, From Susan Devencenzi, Sr. Deputy City
20 Attorney to Board of Administration Police and Fire Department Retirement Plan,
21 Subject: Allocation of Actuarial Gains and Losses. This document was an attachment to
22 the memorandum from the City of San Jose Retirement Services Department's publically
23 available website located at the following URL beginning at page 5 of the PDF document:
24 (<http://www.sjretirement.com/uploads/PF/item6.6aPFMay11.pdf>).

25 31. Attached hereto as Exhibit 29 is a true and correct copy of the Police and
26 Fire Department Retirement Plan, City of San Jose California Resolution No. 3761
27 adopted April 5, 2012. I obtained this document from the City of San Jose Retirement
28

1 Services Department's publically available website located at the following URL:
2 (http://www.sjretirement.com/uploads/PF/2_3aitemPFApr12.pdf).

3 32. Attached hereto as Exhibit 30 is a true and correct copy of the Police and
4 Fire Department Retirement Plan, City of San Jose California Resolution No. 3800
5 adopted March 7, 2013. I obtained this document from the City of San Jose Retirement
6 Services Department's publically available website located at the following URL:
7 (http://www.sjretirement.com/uploads/PF/2_7citemPFMar13.pdf).

8 I declare under penalty of perjury under the laws of the State of California that
9 the foregoing is true and correct and that this declaration is executed this 3rd day of
10 May, 2013, San Francisco, California.

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13 _____
14 Keith A. Domingo

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