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CITY OF SAN JOSE
6

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

10 THE PEOPLE OF THE STATE OF CALIFORNIA
on the RELATION of SAN JOSE POLICE
11 OFFICERS' ASSOCIATION,

12 Plaintiff,

13 v.

14 CITY OF SAN JOSE, and CITY COUNCIL OF
SAN JOSE,

15 Defendants.
16

Case No. 113-cv-245503

EXEMPT FROM FEES (GOV. CODE § 6103)

**DEFENDANT CITY OF SAN JOSE'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF OPPOSITION BY CITY OF
SAN JOSE TO APPLICATION TO
INTERVENE**

Date: April 5, 2016
Time: 9:00 a.m.
Dept: 7
Judge: Hon. Beth McGowen

17
18 Defendant City of San José hereby requests that the Court take judicial notice pursuant to
19 California Evidence Code section 450 et seq., and in accordance with California Rules of Court, rules
20 3.1113(l), 3.1306(c), and 3.1350(c)(5), of the following material, true and correct copies of which are
21 attached hereto:

22 Exh. A Memorandum from City Manager Debra Figone to Honorable Mayor and City
23 Council, dated February 21, 2012. "Revised Ballot Measure."

24 Exh. B City of San Jose Resolution No. 76158. "A Resolution of the Council of the City
25 of San Jose Repealing Resolution No. 76087 and Calling and Giving Notice Of,
26 On its Own Motion, the Submission to the Electors of the City of San Jose, At a
27 Special Municipal Election to Be Held On June 5, 2012, A Ballot Measure
28 Proposal to Amend the San Jose City Charter to Add A New Article XV-A to
Reform City Pensions and Benefits Provided to Current Employees and Establish
Reduced Pensions and Benefits for New Employees and To Place Other
Limitations on Pensions and Benefits."

- 1 Exh. C Plaintiff's Verified Complaint in *Quo Warranto* and Attached Leave to Sue, filed
2 on April 29, 2013.
- 3 Exh. D Judgment in Consolidated Cases, filed on April 30, 2014.
- 4 Exh. E *International Association of Firefighters, Local 230 v. City of San Jose, Public*
5 *Employee Relations Board, Unfair Practice Case No. SF-CE-969-M, Proposed*
6 *Decision dated November 5, 2014.*
- 7 Exh. F Letter from Interim City Manager Norberto Duenas, to President of POA Paul
8 Kelly, dated February 11, 2015. "Measure B."
- 9 Exh. G Letter from Mayor Sam Liccardo to fourteen Union Representatives, dated March
10 11, 2015. "Measure B Settlement Discussions."
- 11 Exh. H *Operating Engineers Local 3, International Union of Operating Engineers and*
12 *American Federation of State, County and Municipal Employees Local 2620 v.*
13 *City of San Jose, Public Employee Relations Board, Unfair Practice Case No. SF-*
14 *CE-900-M, Proposed Decision dated May 6, 2015 and Notice of Errata to*
15 *Proposed Decision dated May 13, 2015.*
- 16 Exh. I Memorandum from Director of Employee Relations Jennifer Schembri and Senior
17 Deputy City Manager / Budget Director Jennifer Maguire to Honorable Mayor and
18 City Council, dated July 24, 2015. "Approval of the Terms of the Alternative
19 Pension Reform Settlement Framework Agreement Concerning the Litigation
20 Arising Out of Measure B With the San Jose Police Officers' Association
21 (SJPOA) and the San Jose Fire Fighters, International Association of Fire Fighters,
22 Local 230 (IAFF, Local 230) and Related Appropriation Actions."
- 23 Exh. J Memorandum from Director of Employee Relations Jennifer Schembri to
24 Honorable Mayor and City Council, dated August 17, 2015. "Actions Related to
25 the Settlement Agreement with the San Jose Police Officers' Association and the
26 San Jose Fire Fighters, International Association of Fire Fighters, Local 230," and
27 Addendums #1 and #2.
- 28 Exh. K City of San Jose, "Alternative Pension Reform Settlement Framework Agreement
Executive Summary," dated September 4, 2015.
- Exh. L City of San Jose, "SJPOA and IAFF Alternative Pension Reform Settlement
Framework."
- Exh. M
- San Jose Mercury News, "Mercury News Editorial: Liccardo olive branch is substantial," published February 16, 2015.
 - San Jose Mercury News, "San Jose, unions reach pension settlement," published July 16, 2015.
 - San Jose Mercury News, "Mercury News Editorial: Police settlement on Measure B—a new day for San Jose," published July 16, 2015.

- San Jose Mercury News, “Liccardo’s first six months defined by ‘historic’ Measure B deal,” published July 18, 2015.
- San Jose Mercury News, “Settlement details show struggle to keep San Jose pension cuts,” published July 25, 2015.
- San Jose Mercury News, “Sam Liccardo and Chuck Reed: Measure B settlement is right for San Jose,” published August 07, 2015.
- San Jose Mercury News, “Herhold: San Jose abandons Measure B,” published August 14, 2015.
- San Jose Mercury News, “San Jose police union ratifies Measure B a council votes on Aug. 25,” published August 17, 2015.
- San Jose Mercury News, “San Jose council approves Measure B settlement,” published August, 25, 2015.
- San Jose Mercury News, “How San Jose, San Diego pension measures have fared,” published September 20, 2015.

Exhibit B is properly subject to judicial notice under California Evidence Code sections 453 and 452(b) (providing that courts may take judicial notice of “legislative enactments issued by or under the authority of the United States or any public entity in the United States”). (See *Trinity Park, L.P. v. City of Sunnyvale* (2011) 193 Cal.App.4th 1014, 1027 [“The Evidence Code also expressly provides for judicial notice of a public entity’s legislative enactments and official acts. Thus, we may take notice of local ordinances and the official resolutions, reports, and other official acts of a city.”].)

Exhibits A, E, F, G, H, I, J, K, and L are properly subject to judicial notice as legislative history and governmental acts and records. (Cal. Evid. Code § 452(b), (c), (h); *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 31.)

Exhibits C and D are properly subject to judicial notice as court records. (Cal. Evid. Code §452(d) [a court can take judicial notice of the records of “any court in this state”].)

Exhibit M is properly subject to judicial notice as the publication of these articles is a fact that is not subject to dispute and capable of immediate verification. (Cal. Evid. Code § 452(h); *Sonoma Cty. Employees’ Ret. Ass’n v. Superior Court* (2011) 198 Cal.App.4th 986, 1006.).

For these reasons, the City respectfully requests that the Court take judicial notice of the above-listed documents.

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1 Dated: March 23, 2016

RENNE SLOAN HOLTZMAN SAKAI LLP

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3 By: 
4 Charles D. Sakai

5 Attorneys for Defendant
6 CITY OF SAN JOSE
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