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7 Attorneys for CITY OF SAN JOSE

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 LORI RODRIGUEZ, THE SECOND
AMENDMENT FOUNDATION, INC., THE
13 CALGUNS FOUNDATION, INC.,

14 Plaintiffs,

15 v.

16 CITY OF SAN JOSE, et al.,

17 Defendants.
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Case Number: 5:15-CV-03698-EJD

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF CITY'S MOTION FOR
SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, PARTIAL SUMMARY
JUDGMENT**

DATE: November 10, 2016
TIME: 9:00 a.m.
COURTROOM: 4
JUDGE: Hon. Edward J. Davila

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20 Defendants City of San Jose and Officer Steven Valentine request that the Court to
21 take judicial notice pursuant to Federal Rule of Evidence 201 of the following:

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23 1) The City filed a Petition under Section 8102 to dispose of the twelve firearms as
24 reflected in the City's Petition initiating *City of San Jose v. Edward V. Rodriguez* (Santa Clara
25 Superior Court No. 1-13-CV-241669). A true and correct copy of the City's Petition is
26 attached as Exhibit B to the Declaration of Mark Vanni, counsel for Defendants.

27 2) Lori Rodriguez intervened Plaintiff in *City of San Jose v. Edward Rodriguez et al.*
28 and argued for return of the firearms as reflected in Lori Rodriguez's Response and Request

1 for Hearing in City of San Jose v. Edward V. Rodriguez, which is attached as Exhibit C to the
2 Declaration of Mark Vanni.

3 3) The Reporter’s Transcript from the hearing before the Honorable Peter Kirwan,
4 which the parties have stipulated is an accurate account of the proceedings, and the
5 arguments, facts, and judicial findings stated therein. A true and correct copy of this
6 transcript is attached as Exhibit D to the Declaration of Mark Vanni.

7 4) Judge Kirwan’s Order, dated September 16, 2013, granting the City’s Petition for
8 Disposition of Weapons in the *City of San Jose v. Edward V. Rodriguez*, a true and correct
9 copy of which is attached as Exhibit E to the Declaration of Mark Vanni.

10 5) The decision of the Sixth District California Court of Appeal in *City of San Jose v.*
11 *Edward V. Rodriguez et al.*, 2015 WL 1541988 (April 2, 2015, H040317) and the judicial
12 findings stated therein. A true and correct copy of this decision is attached hereto as Exhibit
13 F to the Declaration of Mark Vanni.

14 The Court is permitted to take judicial notice of court documents and records, and
15 “may take notice of proceedings in other courts, both within and without the federal judicial
16 system, if those proceedings have a direct relation to matters at issue.” *U.S. ex rel. Robinson*
17 *Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992); cf. Fed. R.
18 App. P. 32.1(b) (instructing parties to submit a copy of an “opinion, order, judgment, or
19 disposition” unavailable on publicly accessible electronic databases). Because the Court
20 records included with Defendants’ motion, and the facts and findings stated therein, involve

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1 prior proceedings among the parties relating to the confiscation and return of the firearms at
2 issue, Defendants request that the Court take judicial notice.

3 Respectfully submitted,

4 Dated: September 1, 2016

RICHARD DOYLE, City Attorney

6 By: /s/ Mark Vanni
7 MARK J. VANNI
8 Deputy City Attorney

9 Attorneys for CITY OF SAN JOSE and
OFFICER STEVEN VALENTINE

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