

1 Joseph W. Cotchett (SBN 36324)
 2 jcotchett@cpmlegal.com
 3 Tamarah P. Prevost (SBN 313422)
 4 tprevost@cpmlegal.com
 5 Andrew F. Kirtley (SBN 328023)
 6 akirtley@cpmlegal.com
 7 Melissa Montenegro (SBN 329099)
 8 mmontenegro@cpmlegal.com
COTCHETT, PITRE & McCARTHY, LLP
 9 San Francisco Airport Office Center
 10 840 Malcolm Road, Suite 200
 11 Burlingame, CA 94010
 12 Telephone: (650) 697-6000
 13 Facsimile: (650) 697-0577

Attorneys for Defendant City of San Jose

11
 12 **UNITED STATES DISTRICT COURT**
 13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN JOSE DIVISION**

16 **Howard Jarvis Taxpayers Association;**
 17 Silicon Valley Taxpayers Association; Silicon
 18 Valley Public Accountability Foundation; James
 19 Barry; and George Arrington,

Plaintiffs,

v.

21 **City of San Jose**, and all persons interested in the
 22 matter of San Jose Ordinance No. 30716,
 23 establishing an Annual Gun Harm Reduction Fee,

Defendants.

Case No. 5:22-cv-02365-BLF

**DECLARATION OF SARAH ZARATE
 IN SUPPORT OF DEFENDANT CITY
 OF SAN JOSE’S MOTION TO
 DISMISS PLAINTIFFS’ COMPLAINT**

Date: TBD
 Time: 9:00 a.m.
 Courtroom: Via Zoom Webinar
 Judge: Hon. Beth Labson Freeman

1 I, Sarah Zarate, hereby declare as follows:

2 1. I am the Director of the City of San Jose’s Office of Administration, Policy, and
3 Intergovernmental Relationships, which handles public policy, City Council or Committee items,
4 intergovernmental relations, and administrative functions for City of San Jose’s City Manager’s
5 Office (“CMO”). I submit this declaration in support of Defendants’ Motion to Dismiss Plaintiffs’
6 Complaint.

7 2. Part of my role is to work with the CMO to promulgate the necessary regulations and
8 accomplish the logistical items required to effectuate the Gun Reduction Ordinance at issue in this
9 underlying case (“the Ordinance”). I have personal knowledge of each of the facts stated herein, and
10 if called as a witness, I could and would testify competently to all facts thereto.

11 3. On February 8, 2022, the San Jose City Council read Ordinance No. 30716 and
12 adopted the Ordinance. Attached hereto as **Exhibit 1** is a true and correct copy of the February 8,
13 2022, San Jose City Council Meeting Synopsis.

14 4. Under Section 10.32.235 of the Ordinance, the CMO is authorized to promulgate all
15 regulations necessary to implement the requirements and fulfill the policies of the Ordinance relating
16 to the reduction of gun harm, including, but not limited to, the following subjects: (1) Processes and
17 procedures related to the implementation of the liability insurance requirement, and forms necessary
18 thereto; (2) Designation of the nonprofit organization that will receive the Gun Harm Reduction Fee,
19 any processes and procedures related to the payment of the fee, and any additional guidelines or
20 auditing of the use of the monies from the fee; (3) Designation of any third-party agency and/or
21 organization that will aid in the implementation of the noticing of the requirements of the Ordinance
22 or any other administrative tasks related to the requirements of the Ordinance; and (4) The criteria
23 by which a person can claim a financial hardship exemption from the Ordinance pursuant to Section
24 10.32.225(C). (See Ordinance, Section 10.32.235)

25 5. There are still several areas of work that the CMO must complete before the
26 Ordinance can be fully effectuated. As part of its processes and procedures related to the
27 implementation of the liability insurance requirement, and forms necessary thereto, the CMO first
28 needs to create an insurance form and a process for gun owning residents to find more information

1 regarding the insurance form and their responsibilities under the Ordinance. This has not yet
2 occurred. Further, the CMO is working to implement a notice program, to notify individuals about
3 the Ordinance’s requirements, but the notice program has not yet been finalized or confirmed.

4 6. As part of its processes and procedures related to the designation of the nonprofit
5 organization, the CMO first needs to write a Request for Proposal (“RFP”) that requires it work with
6 a number of different stakeholders. The RFP will also need to define the services that the nonprofit
7 will ultimately deliver to residents. Once the RFP is submitted, it must be open for a certain amount
8 of time in order to receive proposals from interested nonprofits and for the CMO to respond to
9 inquiries from potential respondents. At the end of this process, the CMO will award the RFP to the
10 chosen nonprofit. The CMO will then work with the nonprofit towards implementing programs or
11 services geared towards: (1) Suicide prevention; (2) Violence or gender based violence reduction;
12 (3) Addiction intervention and substance abuse treatment; (4) Mental health services related to gun
13 violence; or (5) Firearms safety education or training, as set forth in the Ordinance. (See Ordinance,
14 Section 10.32.220).

15 7. Before the CMO can even promulgate regulations related to the use of the monies
16 from the Annual Gun Harm Reduction Fee (“Fee”), the CMO must present to the San Jose City
17 Council the Fee amount. The San Jose City Council must then adopt the Fee in a budget action.

18 8. As part of its processes and procedures related to how the monies from Fee will be
19 used, the CMO needs to create an expenditure plan that will require outreach with potential service
20 providers as well as an educational campaign for people to understand their responsibilities as to the
21 Fee.

22 I declare under penalty of perjury that the foregoing is true and correct. Executed this 22nd
23 day of April 2022 at San Jose, California.

Sarah Zarate

SARAH ZARATE