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9 *Attorneys for Defendants*

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

13 **NATIONAL ASSOCIATION FOR GUN**
RIGHTS, INC., a non-profit corporation, and
 14 **MARK SIKES**, an individual,

15 Plaintiffs,

16 v.

17 **CITY OF SAN JOSE**, a public entity,
JENNIFER MAGUIRE, in her official capacity
 as City Manager of the City of San Jose, and the
 18 **CITY OF SAN JOSE CITY COUNCIL**,

19 Defendants.

20 **HOWARD JARVIS TAXPAYERS**
ASSOCIATION; Silicon Valley Taxpayers
 21 Association; Silicon Valley Public Accountability
 Foundation; James Barry; and George Arrington,
 22

23 Plaintiffs,

24 v.

25 **CITY OF SAN JOSE**, and all persons interested
 in the matter of San Jose Ordinance No. 30716,
 26 establishing an Annual Gun Harm Reduction Fee,

27 Defendants.

Case No. 5:22-cv-00501-BLF

**DEFENDANTS' STATUS REPORT ON
IMPLEMENTATION OF THE GUN HARM
REDUCTION ORDINANCE**

1 Defendants City of San Jose, City Manager Jennifer Maguire, and the City of San Jose City
2 Council (collectively, the “City”) provide the following Status Report to the Court and the parties
3 concerning the City’s ongoing efforts to implement the San Jose Gun Harm Reduction Ordinance
4 (“Ordinance”) at issue in these cases.

5 Since the Ordinance was approved by the City Council on February 8, 2022, the City has been
6 working diligently to develop regulations and administrative procedures, and take other actions
7 necessary to ensure the Ordinance, when fully implemented, will have the administrative infrastructure
8 it needs to function effectively.

9 In its August Status Report, the City informed the Court that it had not set a date for when
10 enforcement of the Gun Harm Reduction Fee (“Fee”) requirement will begin and that the liability
11 insurance mandate required finalization. *NAGR* Action, ECF 78, at 1. The City referred the Court to the
12 *Memorandum from Sarah Zárate to San Jose Mayor and City Council Re: Gun Harm Reduction*
13 *Ordinance Update* (July 1, 2022), available at
14 <https://www.sanjoseca.gov/home/showpublisheddocument/87508> (“July Memorandum”). *Id.* The July
15 Memorandum contains a table titled “Implementation Timeline,” which lists the tasks the City needs to
16 complete to implement the Ordinance, notes which tasks have already been completed, and provides
17 estimated completion dates for those yet to be accomplished. July Memorandum at 3-5.

18 The July Memorandum continues to provide an accurate list of the anticipated work the City
19 will, or has, undertaken to implement the Ordinance. Since the August Status Report, the City has
20 achieved certain milestones necessary to implement the Ordinance as detailed below.

21 **I. Revised City Manager’s Office Regulations and Insurance Attestation Form**

22 The City Manager’s Office (“CMO”) published revised regulations necessary to implement the
23 Ordinance on October 21, 2022 (“Revised Regulations”). The Revised Regulations, (consistent with
24 the July Memorandum) set January 1, 2023 as the implementation date for the Ordinance’s insurance
25 requirement, establish the insurance attestation form, define the criteria for a hardship exemption, and
26 describe the peace officer and concealed weapon license exemptions. *See City Manager Regulations*
27 *for the Gun Harm Reduction Ordinance* (October 21, 2022), available at
28 <https://www.sanjoseca.gov/home/showpublisheddocument/90815>.

1 City staff will begin a public outreach campaign to inform resident gun owners of the January 1,
 2 2023 implementation date for the insurance requirement and provide instructions on how to comply
 3 with the insurance requirement through the attestation form. The insurance attestation form has been
 4 translated to Spanish and Vietnamese. Public outreach materials will also be available in these
 5 languages.

6 **II. The City's Other Progress in Implementing the Ordinance's Terms**

7 The City has engaged in other related efforts to progress towards full implementation of the
 8 Ordinance's terms.

9 **A. RFI Process**

10 First, the City has begun outreach efforts to ultimately secure a contract with a non-profit
 11 organization who will administer the programs funded by the Fee. Ordinance §§ 10.32.215, 10.32.220.
 12 To that end, the City recently issued a Request for Information ("RFI") as part of its outreach effort to
 13 any non-profit organization potentially interested in contracting with the City to provide programs and
 14 initiatives consistent with the Ordinance's terms. *Id.* The City posted its RFI on a website entitled
 15 "Biddingo.com," a governmental contract portal the City uses to solicit interest from a variety of
 16 vendors and organizations that it contracts with. The RFI was posted on October 11, 2022 and 3,131
 17 entities have since been directly notified of the City's RFI. These agencies were selected for the
 18 services they provide. The RFI will close on November 1, 2022. Numerous City websites also contain
 19 information for entities to express interest in this contract. The City's Finance Department webpage, for
 20 example, also posts detailed information about Biddingo.com, and directs the public to the City's
 21 current procurement opportunities. *See City of San Jose Finance Department: Bid Opportunities,*
 22 <https://www.sanjoseca.gov/your-government/departments/finance/purchasing/bid-opportunities> (last
 23 visited Oct. 25, 2022).

24 **B. Administrative Citation Schedule of Fines**

25 Second, the Ordinance provides that failure to comply with its terms could result in an
 26 administrative citation. Ordinance § 10.32.240. During the public meeting held on October 18, 2022,
 27 the City amended its Administrative Citation Schedule of Fines, which lists all fines the City cites for
 28 violations of any City law, to list fines for violations of the Ordinance. Escalating fine amounts were

1 set for first, second, and third or subsequent violations of the Ordinance (\$250, \$500, and \$1000
2 respectively), which are proportional to the violation type and severity with amounts set for other
3 municipal code violations. *See Memorandum from Sarah Zárate to San Jose Mayor and City Council*
4 *Re: Amendment to the Administrative Citation Schedule of Fines Resolution* (October 5, 2022),
5 *available at* [https://sanjose.legistar.com/View.ashx?M=F&ID=11295898&GUID=C73A3D41-72E6-](https://sanjose.legistar.com/View.ashx?M=F&ID=11295898&GUID=C73A3D41-72E6-4F64-8DE2-650873A3C04E)
6 [4F64-8DE2-650873A3C04E](https://sanjose.legistar.com/View.ashx?M=F&ID=11295898&GUID=C73A3D41-72E6-4F64-8DE2-650873A3C04E). The fines are also included in the City Manager’s Regulations for the
7 Ordinance, which can be found on the City of San Jose Police Department’s website under Documents
8 & Policies: Gun Harm Reduction Ordinance. *See San Jose Police Department: Gun Harm Reduction*
9 *Ordinance* (October 20, 2022), *available at* [https://www.sjpd.org/records/documents-policies/gun-](https://www.sjpd.org/records/documents-policies/gun-harm-reduction-ordinance)
10 [harm-reduction-ordinance](https://www.sjpd.org/records/documents-policies/gun-harm-reduction-ordinance).

11 **C. Implementation of the Gun Harm Reduction Fee**

12 Third, the Revised Regulations do not establish a date upon which gunowners must comply
13 with the Fee requirement. Resident gun owners are not required to pay the Fee until a payment
14 implementation date is set through future amended regulations.

15 The City will provide additional updates to the Court as appropriate of any further material
16 developments in the City’s ongoing effort to implement the Ordinance.

17
18 Dated: October 25, 2022

Respectfully submitted,

19 **COTCHETT, PITRE & McCARTHY, LLP**

20
21 By: /s/ Tamarah P. Prevost
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