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

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

Plaintiffs,

v.

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

Defendants.

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

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

Judge: Hon. Beth L. Freeman

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

Plaintiffs,

v.

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

Defendants.

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

Defendants City of San Jose, City Manager Jennifer Maguire, and the San Jose City Council (collectively, the “City”) provide the following Status Report concerning the City’s ongoing efforts to implement the San Jose Gun Harm Reduction Ordinance (“Ordinance”) at issue in the above-captioned consolidated cases, referred to herein as the “*NAGR* Action” (Case No. 22-cv-00501-BLF) and the “*HJTA* Action” (Case No. 22-cv-02365-BLF).<sup>1</sup>

### Summary of the City’s Prior Status Reports

Since the San Jose City Council approved the Ordinance in February 2022, the City has been diligently working through the various administrative and legislative tasks necessary to implement the Ordinance, including the City Manager’s Office (“CMO”) promulgating regulations and the City Council passing resolutions as contemplated by the Ordinance’s express terms. The City has previously filed two Status Reports providing updates about these efforts.

The first Status Report, filed on August 17, 2022, referred the Court to a July 2022 memorandum (“July Memorandum”) that sets forth the City’s “Implementation Timeline,” which lists the major tasks necessary to implement the Ordinance and their estimated completion dates. ECF 78 (citing *Mem. from Sarah Zárate to San Jose Mayor and City Council Re: Gun Harm Reduction Ordinance Update* at 3-5 (July 1, 2022), available at <https://www.sanjoseca.gov/home/showpublisheddocument/87508>).

The second Status Report, filed on October 25, 2022 (“October Status Report”), reported that the City had completed three milestones set forth in the Implementation Timeline: (1) the City Manager’s Office (“CMO”) published revised regulations providing details and criteria necessary to implement the Ordinance’s liability insurance mandate and exemptions (*cf.* Ordinance § 10.32.235(A)(1), (4)); (2) the City Council passed a resolution setting the amounts of administrative fines for violations of the Ordinance (*cf. id.* § 10.32.240(B)); and (3) the CMO initiated a Request for Information (“RFI”) process to determine the best path to competitively designate a nonprofit organization with which the City will contract to provide services and programs to be funded by the Ordinance’s Gun Harm Reduction Fee

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<sup>1</sup> All ECF citations herein are to the earlier-filed *NAGR* Action, as the docket in the later-filed *HJTA* Action was ordered closed by the Court as an administrative component of consolidation. *See* ECF 80, at 2:19-20 (Sept. 30, 2022) (Order Consolidating Related Cases).

1 (“Fee”) (*cf. id.* § 10.32.235(A)(2)). ECF 82. In short, the City reported that implementation of the  
 2 Ordinance was proceeding according to the schedule set forth in the Implementation Timeline, with the  
 3 City having completed all tasks with estimated completion dates through October 2022, and thus  
 4 focusing its efforts on the remaining tasks with estimated completion dates of November 2022 or later.

### 5 **New Updates on the City’s Implementation of the Ordinance**

6 With respect to the Ordinance’s Fee requirement, the CMO has now completed all relevant  
 7 tasks in the Implementation Timeline, except for the task listed as “Finalize contract with designated  
 8 nonprofit” with an estimated completion date of December 2022. As stated in the October Status  
 9 Report, the CMO initiated an RFI process for soliciting interest and information from nonprofit  
 10 organizations regarding using the Fee’s funds to provide the programs and services contemplated by  
 11 the Ordinance. In doing so, the CMO followed its customary process of publishing the RFI to a third-  
 12 party platform (biddingo.com) used by the City to inform the public about procurement and contracting  
 13 opportunities, which in turn pushed the RFI to thousands of companies and organizations. When the  
 14 published deadline for responding to the RFI expired, the CMO had received no responses. So it  
 15 reissued the RFI with a new response deadline, which resulted in a response from a single entity. The  
 16 CMO reviewed that entity’s response but deemed it inadequate to move forward because of numerous  
 17 deficiencies, including that the responding entity: was not then a properly-designated nonprofit  
 18 organization, failed to provide a clear timeline for obtaining nonprofit status, failed to explain the  
 19 operational processes it would use to achieve its stated goals, and failed to fully respond to all RFI items.

20 The CMO has decided that the best approach to progress implementation at this point is to do  
 21 additional outreach and publish a full Request for Proposals (“RFP”) to the biddingo.com platform to  
 22 elicit responsive proposals from qualified nonprofit organizations.<sup>2</sup> Unfortunately, the lack of  
 23 satisfactory RFI responses and the upcoming RFP process will delay the steps necessary for full

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 25 <sup>2</sup> The difference between an RFI and RFP at the City is as follows. RFIs are used by the City to solicit  
 26 information about potential solutions and do not typically result in a contract award, whereas RFPs are  
 27 used by the City to gather responses and pricing from potential contractors to deliver a specific City-  
 28 defined scope of work, with the purpose of awarding one or more contracts at the end of the RFP process.

implementation and enforcement of the Fee requirement. *See e.g.*, ECF 78 at 3:1-8 (the August Status Report, describing some of these steps: “the CMO, after it has completed all necessary prerequisites to enforcing the Fee (i.e., after the nonprofit organization has been designated and the City has secured a contract with the nonprofit), will have to re-appear before the City Council and ask it to vote on and approve the CMO’s authority to begin requiring payment of the Fee,” at which time “the City Council may choose to keep the Fee at the current \$25 placeholder amount, or it may set another amount”).

With respect to the Ordinance’s liability insurance mandate, that requirement took effect as scheduled on January 1, 2023. Among other work set forth in the Implementation Timeline and elsewhere related to finalizing this aspect of the Ordinance, the City has engaged in significant outreach to gun owners in multiple languages to inform them about the insurance mandate.

Finally, after the October Status Report, elections for various City offices were held in November 2022, resulting in some changes to the City’s political leadership. Among those were a transition in administrations from that of former Mayor Sam Liccardo to current Mayor Matt Mahan, who took office on January 1, 2023, and changes in the composition of the City Council.

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When there is a further material development in the City’s Ordinance implementation efforts, including its efforts to contract with a nonprofit organization, the City will promptly update the Court by filing a further Status Report.

Dated: January 6, 2023

Respectfully submitted,

**COTCHETT, PITRE & McCARTHY, LLP**

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