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7 CITY OF ALBANY

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

11 THE LIONS CLUB OF ALBANY,
CALIFORNIA, A Nonprofit Corporation,

12 Plaintiff,

13 v.

14 THE CITY OF ALBANY, a Charter City; and
15 DOES 1 through 25,

16 Defendants.

Case No. 3:22-cv-05377-WHO

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEFENDANT CITY OF
ALBANY'S OPPOSITION TO
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

[Filed concurrently with

- 1. Opposition to Plaintiff's Motion for Preliminary Injunction; and*
- 2. Declaration of Scott W. Ditfurth]*

Date: November 2, 2022
Time: 2:00 p.m.
Courtroom: 2 , 17th Floor
Judge: Hon. William H. Orrick
Trial Date: None Set

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REQUEST FOR JUDICIAL NOTICE

Pursuant to Federal Rules of Evidence, Rule 201, Defendant City of Albany (“Defendant” or “City”) hereby requests the Court to take judicial notice of the following documents in support of its opposition to Plaintiff’s Motion for Preliminary Injunction:

1. The Declaration of Jeff Bond in Support of the City’s Motion for Prejudgment Possession in the lawsuit pending in the Alameda County Superior Court, styled as *City of Albany v. Albany Lions Club, Lions International* (Case No. 22CV010822) (“*Lions Club II*”), a true and correct copy of which is attached to the Declaration of Scott W. Ditfurth as ***Exhibit A***.
2. The City’s Complaint in *Lions Club II*, a true and correct copy of which is attached to the Declaration of Scott W. Ditfurth as ***Exhibit B***.
3. The Order Granting in Part and Denying in Part Cross-Motions for Summary Judgment in *Lions Club of Albany, California v. City of Albany*, 323 F.Supp.3d 1104 (N.D. Cal. 2018) (“*Lions Club I*”), a true and correct copy of which is attached to the Declaration of Scott W. Ditfurth as ***Exhibit C***.
4. The City’s Motion for Prejudgment Possession and the Reply brief in support thereof, both of which were filed in *Lions Club II*, true and correct copies of which are attached to the Declaration of Scott W. Ditfurth as ***Exhibit D***.
5. The Notice of Deposit of Probable Just Compensation in *Lions Club II*, a true and correct copy of which is attached to the Declaration of Scott W. Ditfurth as ***Exhibit E***.
6. Plaintiff’s opposition to the City’s Motion for Prejudgment Possession in *Lions Club II*, a true and correct copy of which is attached to the Declaration of Scott W. Ditfurth as ***Exhibit F***.
7. The court in *Lions Club II* granting the City’s Motion for Prejudgment Possession, a true and correct copy of which is attached to the Declaration of Scott W. Ditfurth as ***Exhibit G***.

Judicial notice is appropriate pursuant to Federal Rule of Evidence 201(b), which provides that the Court may notice a fact that is not subject to reasonable dispute because it “can be

1 accurately and readily determined from sources whose accuracy cannot reasonably be questioned.”
2 Judicial notice may be taken of court filings and other matters of public record. *Reyn’s Pasta Bella,*
3 *LLC v. Visa USA, Inc.*, 442 F.3d 741, 746, fn. 6 (9th Cir. 2006) (citing *Burbank-Glendale-Pasadena*
4 *Airport Auth. V. City of Burbank*, 136 F.3d 1360, 1364 (9th Cir. 1998)). Because all the
5 aforementioned exhibits are public records on file with federal and state courts, whose accuracy
6 cannot reasonably be questioned, the City respectfully requests that the Court take judicial notice
7 of these matters in considering its opposition to Plaintiff’s Motion for Preliminary Injunction.

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9 Dated: October 7, 2022

BEST BEST & KRIEGER LLP

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11 By: /s/ Scott W. Ditfurth

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13 ANDREW G. SAGHIAN

14 Attorneys for Defendant
15 CITY OF ALBANY
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