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16 Attorneys for Defendants
 17 OFFICE OF THE COMMISSIONER OF BASEBALL,
 an unincorporated association doing business as Major League
 18 Baseball; and ALLAN HUBER "BUD" SELIG

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA / SAN JOSE DIVISION

21 CITY OF SAN JOSÉ; CITY OF SAN
 JOSÉ AS SUCCESSOR AGENCY TO
 22 THE REDEVELOPMENT AGENCY OF THE
 CITY OF SAN JOSÉ; and THE SAN JOSÉ
 23 DIRIDON DEVELOPMENT AUTHORITY,

24 Plaintiffs,

25 v.

26 OFFICE OF THE COMMISSIONER OF
 BASEBALL, an unincorporated association
 doing business as Major League Baseball; and
 27 ALLAN HUBER "BUD" SELIG,

28 Defendants.

Case No. 13-CV-02787-RMW

**DEFENDANTS' REQUEST FOR
 JUDICIAL NOTICE IN SUPPORT OF
 MOTION TO DISMISS PLAINTIFF'S
 COMPLAINT**

Hearing Date: October 4, 2013

Judge: Hon. Ronald M. Whyte
 Date Filed: June 18, 2013
 Trial Date: None Set

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REQUEST FOR JUDICIAL NOTICE

Defendants Office of the Commissioner of Baseball and Allan Huber “Bud” Selig respectfully request that the Court take judicial notice of the following governmental records cited in support of their Motion to Dismiss:

- A. San José City Council Resolution 74908, adopted May 12, 2009 (“2009 City Council Resolution”), attached as Exhibit A;
- B. Excerpts from the record of the 1982 hearings before the Senate Judiciary Committee on Professional Sports Antitrust Immunity, 97th Cong., Serial No. J-97-134, attached as Exhibit B;
- C. The October 29, 1997 Report of the Senate Judiciary Committee on the Curt Flood Act (bill S. 53, later enrolled as 15 U.S.C. § 26B), S. Rep. 105-118, attached as Exhibit C;
- D. The California State Controller’s March 2013 Review Report entitled “Redevelopment Agency of the City of San Jose: Asset Transfer Review January 1, 2011, through January 31, 2012” (“Controller’s Report”), attached as Exhibit D; and
- E. A memorandum of the San José City Manager and San José Redevelopment Agency Executive Director bearing the subject line “Option Agreement for Sale of Property to Athletics Investment Group, LLC,” dated October 24, 2011 (“October 2011 Memorandum”), attached as Exhibit E.

MEMORANDUM OF POINTS AND AUTHORITIES

Courts may take judicial notice of facts that are “not subject to reasonable dispute,” such as when they can be “accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2). Here, Defendants seek judicial notice of public records and reports generated by federal, state, and municipal governmental entities, all of which can be confirmed by reference to publicly available information contained in the Congressional Record or on government websites.¹ Judicial notice of such documents is

¹ Exhibits A, C, D, and E are all available from federal, state, and municipal websites. See Exhibit A, available at http://www3.sanjoseca.gov/clerk/ORDS_RESOS/RESO_74908.pdf; Exhibit C, available at <http://www.gpo.gov/fdsys/pkg/CRPT-105srpt118/pdf/CRPT-105srpt118.pdf>; Exhibit D, available at http://www.sco.ca.gov/Files-AUD/03_2013san_jose_asset_transfer_review.pdf; Exhibit E, available at http://www3.sanjoseca.gov/clerk/Agenda/20111108/20111108_jpa02.pdf.

1 appropriate “at any stage of the proceeding,” Fed. R. Evid. 201(d), including when considering a
2 Rule 12(b)(6) motion to dismiss. *Lee v. City of Los Angeles*, 250 F.3d 668, 688–89 (9th Cir. 2001).
3 As the Northern District of California has recognized, “courts routinely take judicial notice of
4 legislative history and of information on government websites.” *Paralyzed Veterans of Am. v.*
5 *McPherson*, No. C 06-4670 SBA, 2006 WL 3462780, at *4 (N.D. Cal. Nov. 28, 2006); *see also*
6 *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998–99 (9th Cir. 2010) (holding that it was
7 “appropriate to take judicial notice of this information [taken from school district websites], as it
8 was made publicly available by government entities (the school districts), and neither party
9 disputes the authenticity of the web sites or the accuracy of the information displayed therein”).

10 Additionally, courts in this Circuit have recognized that each specific category of
11 document raised here is appropriate for judicial notice:

- 12 1. Exhibit A, the 2009 City Council Resolution, constitutes a record of an
13 administrative proceeding and is therefore subject to judicial notice. *See Lewis v.*
14 *Cnty. of Berkeley*, No. C-08-5089 JCS, 2009 WL 33326, at *3–4 (N.D. Cal. Jan. 6,
15 2009) (taking judicial notice of city council resolution); *see also Santa Monica*
16 *Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006)
17 (“City ordinances fall within the category of ‘common knowledge’ and are
18 therefore proper subjects for judicial notice.”) (quoting *Newcomb v. Brennan*, 558
19 F.2d 825, 829 (7th Cir. 1977)).
- 20 2. Exhibits B and C consist of “materials and testimony . . . in the Congressional
21 Record” or in published Congressional Reports, and are therefore appropriate for
22 judicial notice. *Planned Parenthood Fed’n of Am. v. Ashcroft*, 320 F. Supp. 2d
23 957, 1014 n.42 (N.D. Cal. 2004) (taking judicial notice of hearings before
24 Congressional committees), *rev’d on other grounds, Gonzales v. Carhart*, 550 U.S.
25 124 (2007);

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28 Exhibit B is available in the Congressional Record. *See Professional Sports Antitrust Immunity: Hearing on S. 2784 and S. 2821 Before the S. Comm. on the Judiciary, 97th Cong., Serial No. J-97-134 (1982).*

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3. Exhibit D, the Controller’s Report, and Exhibit E, the October 2011 Memorandum, are “government agency reports of public record,” both “capable of verification by reference to [the government entity’s] website,” and are therefore judicially noticeable. *Lamle v. City of Santa Monica*, No. CV 04-6355-GHK (SH), 2010 WL 3734868, at *5 (C.D. Cal. July 23, 2010); *see also Retired Emps. Ass’n of Orange Cnty., Inc. v. Cnty. of Orange*, 632 F. Supp. 2d 983, 985 (C.D. Cal. 2009) (taking judicial notice of report issued by county controller).

For the foregoing reasons, the documents here may be considered by the Court in ruling on Defendants’ Motion to Dismiss and Defendants therefore request that the Court grant this Request for Judicial Notice.

Dated: August 7, 2013

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