



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: NORA FRIMANN,
City Attorney

SUBJECT: TOVAR v. CITY OF SAN JOSE,
ET. AL. – SETTLEMENT

DATE: June 17, 2025

RECOMMENDATION

Approve a settlement in the case of *Tovar v. City of San Jose, et. al.*, U.S. Dist. Ct., N.D. Cal., case no 5:21-cv-02497, in the amount of \$1,000,000.00 and authorize the City Attorney to execute a Settlement Agreement.

OUTCOME

Settle the lawsuit brought by five Plaintiffs with payments by the City totaling \$1,000,000.00, which amount includes payments to fund the purchase of annuities to facilitate future periodic payments, and each side to bear their own costs, including attorneys' fees.

BACKGROUND

Plaintiffs are Mr. Tovar's father and four minor children. They asserted claims arising from the use of force by San Jose police on January 21, 2021, while executing a warrant for Mr. Tovar's arrest. He was the suspect in three different shootings. Officers located Mr. Tovar at an apartment complex after he had evaded apprehension multiple times. When he saw the officers, Mr. Tovar attempted to escape and ran along a second-floor outdoor walkway. Acting on an informant's tip that Mr. Tovar was armed and prepared to shoot police officers, when he reached for his waistband as he ran, officers fired multiple rounds, and he fell. To ensure he was not a continued threat, officers then released a police canine that bit and held him for two minutes until officers secured him. Mr. Tovar died from the gunshots. No weapon was found on his person. The Federal District Court issued a pre-trial ruling finding the use of the canine was excessive force as a matter of law in this case.

ANALYSIS

This is a negotiated settlement between the parties to avoid the risks inherent in litigation. The proposed agreement will conclude the litigation without further cost, expense, exposure to attorneys' fees, or risk of loss to the City or City employees.

PUBLIC OUTREACH/INTEREST

This memorandum and the Settlement Agreement have been posted on the City's website for the June 17, 2025 agenda.

COST SUMMARY/IMPLICATIONS

The settlement will be paid from the City's claims reserve fund.

CEQA

Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

By /s/
NORA FRIMANN
City Attorney

cc: Jennifer Maguire, City Manager

For questions, please contact NORA FRIMANN, City Attorney, at (408) 535-1900