



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: NORA FRIMANN,
CITY ATTORNEY

**SUBJECT: SETTLEMENT OF LAWSUIT
FILED BY SANTA CLARA
UNIFIED SCHOOL DISTRICT**

DATE: May 5, 2022

RECOMMENDATION

Approve the settlement of a lawsuit brought by Plaintiff Santa Clara Unified School District whereby the City of San José will retain \$1,500,000 in traffic mitigation fees previously paid by Santa Clara Unified School District and return \$3,366,432 plus interest in the amount of \$50,957 and authorize the City Attorney to execute a settlement agreement.

OUTCOME

Settlement of a lawsuit brought by Santa Clara Unified School District ("District") related to the North San José Traffic Impact Fees. The City of San José ("City") will retain \$1,500,000 in traffic mitigation fees and return \$3,366,432 plus interest in the amount of \$50,957. Each side will bear its own costs and attorney fees.

BACKGROUND

The District filed a lawsuit on December 17, 2020 against the City seeking the return of \$4,866,432.00 plus interest previously paid by the District to the City pursuant to the California Mitigation Fee Act and San José Municipal Code Chapter 14.29 (North San José Traffic Fee Requirements). The District paid the fees to the City under protest for the Agnews K-12 school campus project located in North San José. The District alleged in the lawsuit that the North San José Area Development Policy does not support a requirement that the District pay traffic impact mitigation fees. The City responded to the lawsuit and alleged that the traffic impact mitigation fees apply to the District consistent with the California Mitigation Fee Act. The case has been fully briefed and a trial court hearing was scheduled for March 7, 2022, but has been continued based upon the parties' settlement discussions.

ANALYSIS

This is a negotiated settlement between the parties to avoid the risks inherent in litigation. Under the proposed settlement agreement, the City will retain \$1,500,000 in fees previously paid by Santa Clara Unified School District and return \$3,366,432 plus interest in the amount of \$50,957. The City will place the \$1,500,000 in an account where the City can easily track spending. The City may use \$1,000,000 of that fund for construction of access roads to the Agnews School campus and/or for demolition of buildings on the future adjacent City park. The remaining \$500,000 will be used for master planning of the future City park. The District will be involved in the master planning process. If requested in writing, the City will have to provide the District annual updates on the funding and master planning efforts. Further, if the City creates any advisory group related to the master planning for the adjacent park, the City must appoint a District representative. The City also agrees not to impose North San José Policy traffic mitigation fees on future District school projects within the North San José Area Development Policy area.

Upon returning the \$3,366,432 and interests, the District will dismiss its entire lawsuit with prejudice. The proposed agreement will conclude the litigation without further cost, expense, or risk of loss to the City and City employees. The parties will bear their own respective attorneys' fees and litigation costs.

PUBLIC OUTREACH/INTEREST

This memorandum and the Settlement Agreement have been posted on the City's website for the May 17, 2022 agenda.

COST SUMMARY/IMPLICATIONS

The settlement will be paid from funds previously paid by the District.

CEQA

Not applicable. Not a project; File No. PP10-066(h), Settlement Agreements

By: /s/ Nora Frimann
NORA FRIMANN
City Attorney

cc: Jennifer Maguire, City Manager

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