



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann,
City Attorney

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

DATE: May 2, 2023

RECOMMENDATION

Approve the settlement in the case *Harper v. City of San José, et al.* in the total amount of \$75,000 and authorize the City Attorney to execute a settlement agreement.

OUTCOME

The City will pay the sum of \$75,000.00 to settle the lawsuit filed on January 21, 2021 entitled *Timothy Harper v. City of San José, et al.* in the United States District Court for the Northern District of California, case number 5:21-cv-00519.

BACKGROUND

On May 29, 2020, San Jose police officers responded to a protest in downtown San Jose, which they then declared to be an unlawful assembly after protestors assaulted drivers on the freeway, vandalized property, and threw objects at officers, causing injuries. Plaintiff alleged that officers violated his civil rights and caused physical and emotional injuries when he was hit with a projectile during the unlawful assembly and when officers detained him as a potential witness at a separate non-protest incident several days later.

ANALYSIS

This is a negotiated settlement between the parties to avoid the risks inherent in litigation. The City will pay plaintiff the total sum of \$75,000 in full satisfaction and settlement of all claims, and plaintiff will dismiss his entire lawsuit against the City and all City employees 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 9, 2023 agenda.

COST SUMMARY/IMPLICATIONS

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

CEQA

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

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.