



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT: SETTLEMENT OF HERNANDEZ  
v. CITY OF SAN JOSE, A  
LAWSUIT FOR PERSONAL  
INJURIES**

**DATE:** December 13, 2019

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## **RECOMMENDATION**

Approve a settlement in the case of *Hernandez v. City of San Jose* in the amount of \$225,000 and authorize the City Attorney to execute a Settlement Agreement.

## **OUTCOME**

Settle the lawsuit brought by Plaintiff Hernandez with a payment by the City of \$225,000, each side to bear their own costs, including attorney fees.

## **BACKGROUND**

This lawsuit arises from a sexual encounter on September 22, 2013 between the Plaintiff and an on-duty San Jose Police officer after the officer responded to Plaintiff's apartment on a domestic violence call. Plaintiff wished to leave the apartment and the officer provided a courtesy transport, taking Plaintiff to a nearby hotel. Plaintiff's complaint alleges that after she received a room assignment and went to her room, the officer came to her room and forcibly raped her. Plaintiff's complaint alleges three causes of action for (1) sexual assault and battery; (2) violation of civil rights under various sections of the California Civil Code; and (3) negligence and breach of mandatory duty. Defendants denied Plaintiff's claims.

December 13, 2019

**Subject: Settlement of *Hernandez v. City*, a Lawsuit For Personal Injuries**

Page 2

### **ANALYSIS**

Under the proposed settlement, Plaintiff will receive \$225,000, inclusive of her litigation expenses, costs and attorney's fee. This is a negotiated settlement, which does not admit liability, to avoid the risks inherent in litigation.

### **PUBLIC OUTREACH/INTEREST**

This memorandum and the Settlement Agreement have been posted on the City's website for the December 17, 2019 agenda.

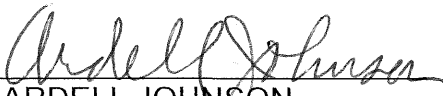
### **COST SUMMARY/IMPLICATIONS**

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

### **CEQA**

Not Applicable. Not a Project; File No. PP10-066(h), Settlement Agreements.

RICHARD DOYLE  
City Attorney

By:   
ARDELL JOHNSON  
Chief Deputy City Attorney

cc: David Sykes, City Manager

For questions, please contact RICHARD DOYLE, City Attorney, at (408) 535-1900.