



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jennifer Schembri

SUBJECT: SEE BELOW

DATE: January 23, 2020

Approved

Date

1/23/20

SUBJECT: APPROVAL OF THE TERMS OF THE SETTLEMENT AGREEMENT CONCERNING ATTORNEY FEES WITH THE SAN JOSE POLICE OFFICERS' ASSOCIATION

RECOMMENDATION

Approve a settlement in the amount of \$300,000 to the San Jose Police Officers' Association (SJPOA) for attorney's fees related to the Alternative Pension Reform Framework Agreement and authorize the City Attorney to execute a Settlement Agreement.

OUTCOME

Settle potential arbitration with the San Jose Police Officers' Associations with a payment by the City of \$300,000 for attorney's fees related to the settlement of Measure B and the Alternative Pension Reform Framework Agreement.

BACKGROUND

In the 2015 Alternative Pension Reform Settlement Framework Agreement (Framework Agreement), the City, San Jose Police Officers' Association (SJPOA), and the International Association of Fire Fighters, Local 230 agreed to move forward with binding arbitration if there were additional claims related to attorney's fees and expenses related to the litigation and resolution of Measure B.

The SJPOA sent the City a formal demand for arbitration on or about March 12, 2019. The SJPOA claimed that their bargaining group was owed attorney's fees for various activities that occurred before and after the parties reached the Framework Agreement. These activities included Santa Clara County Superior Court proceedings, and initiating and defending the quo warranto action, and negotiating and implementing the Framework Agreement through Municipal Code changes and side letters.

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The City and the SJPOA proceeded to schedule an arbitration to resolve the above claims. Concurrently, the parties attempted to discuss a potential settlement to the proceedings after the SJPOA confirmed that they would only be seeking fees that were incurred after the signing of the Framework Agreement. This led to a significant reduction in the amount sought by the SJPOA.

ANALYSIS

As both parties wish to avoid the potential uncertainty, expense, and delays that are inherent to arbitration proceedings, the City and the SJPOA agreed to settle the disputed attorney's fees for \$300,000 through a settlement agreement. A release of claims is also included in the settlement agreement with regard to additional attorneys' fees and expenses related to the litigations and resolution of Measure B. The Settlement Agreement is attached to this memo (Attachment A).

EVALUATION AND FOLLOW-UP

Approval of the Settlement Agreement between the City and the SJPOA will settle arbitration regarding attorney's fees.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memo and the Settlement Agreement have been posted on the City's website for the February 4, 2020 agenda.

COORDINATION

This memo has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The recommended actions in this memorandum will be funded by the General Liability Claims appropriation in the General Fund.

BUDGET REFERENCE

The table below identifies the fund and appropriation proposed to fund the settlement as recommended as part of this memorandum.

Fund #	Appn #	Appn. Name	Current Total Appn	Amt for Settlement	2019-2020 Adopted Operating Budget Page	Last Budget Action (Date, Ord No.)
001	0018	General Liability Claims	\$13,233,335	\$300,000	IX-36	10/22/2019 Ord. No. 30325

CEQA

Not a Project; File No. PP17-003, Settlement Agreement resulting in no physical changes to the environment.



JENNIFER SCHEMBRI
Director of the City Manager's Office of
Employee Relations/Director of Human
Resources

For questions, please contact Cheryl Parkman, Assistant to the City Manager at (408) 535-8152.