



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** NORA FRIMANN,  
City Attorney

**SUBJECT:** SETTLEMENT OF SANTA CRUZ,  
ET AL. v. CITY OF SAN JOSE,  
ET AL.

**DATE:** September 2, 2021

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## **RECOMMENDATION**

Approve a settlement in the case of *Santa Cruz, et al. v. City of San Jose, et al.* in the amount of \$400,000.00, and authorize the City Attorney to execute a Settlement Agreement.

## **OUTCOME**

The City will pay the sum of \$400,000.00 to settle the lawsuit filed on January 16, 2020 entitled *Marissa Santa Cruz, Paea I'suva Tukuafu v. City of San Jose, et al.* in the United States District Court for the Northern District of California, case number 5:20-cv-00351.

## **BACKGROUND**

On May 18, 2019, San Jose police officers responded to a call from a local hotel for assistance with complaints about excessive noise involving two guests at the hotel. The officers spent at least half an hour trying to get the guests to respect the hotel staff concerns about noise and to leave the premises as requested by the hotel. Plaintiffs claimed through their lawsuit that their civil rights were violated during their removal from the hotel, and that excessive force was used causing them physical and emotional injuries. The use of force occurred after the plaintiffs repeatedly delayed complying with the officers' direction to leave the hotel.

## **ANALYSIS**

This is a negotiated settlement between the parties to avoid the risks inherent in litigation. The City will pay plaintiffs the sum of \$400,000.00 in full satisfaction and settlement of all claims and plaintiffs will dismiss their entire lawsuit. 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.

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**PUBLIC OUTREACH/INTEREST**

This memorandum and the Settlement Agreement have been posted on the City's website for the September 14, 2021 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.

Nora Frimann  
By Nora Frimann (Sep 2, 2021 11:26 PDT)  
NORA FRIMANN  
City Attorney

cc: Jennifer Maguire, City Manager

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