



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: NORA FRIMANN,
City Attorney

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

DATE: June 14, 2024

RECOMMENDATION

Approve a settlement in the case of *Rubalcava v. City of San José, et al.* in the amount of \$12,000,000.00, and authorize the City Attorney to execute a Settlement Agreement.

OUTCOME

The City will pay the sum of \$12,000,000.00 to settle the lawsuit filed on June 25, 2020 entitled *Lionel Rubalcava v. City of San José, et al.* in the United States District Court for the Northern District of California, case number 5:20-cv-04191.

BACKGROUND

In this case the plaintiff alleged San Jose Police officers, caused the plaintiff to be wrongfully prosecuted for a crime, convicted, and imprisoned in connection with a drive-by shooting that occurred in 2002. After serving 17 years of his sentence the Innocence Project intervened on plaintiff's behalf. The three witnesses who had identified plaintiff as the shooter in plaintiff's criminal trial expressed uncertainty about their earlier statements identifying the plaintiff to investigating officers. Consequently, the Innocence Project successfully persuaded the District Attorney to join an application to the Superior Court pursuant to which the plaintiff obtained an order declaring he was factually innocent. That finding allowed plaintiff to bring this lawsuit. The plaintiff alleged the officers fabricated evidence that identified him as the shooter and further, that the officers concealed exculpatory evidence from his criminal defense attorney relating to witnesses' identification of plaintiff as the shooter. Plaintiff also alleged defendants conspired to violate his constitutional rights to a fair trial; and, further, that defendants maliciously caused the prosecution of criminal proceedings against him. The officers involved and the City denied the allegations.

ANALYSIS

This is a negotiated settlement between the parties to avoid the risks inherent in litigation. The City will pay the plaintiff the sum of \$12,000,000.00 in full satisfaction and settlement of all claims. The plaintiff will dismiss the entire lawsuit against the City and all City employees. The proposed agreement will conclude the litigation without further

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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 June 18, 2024 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.

By /s/
NORA FRIMANN
City Attorney

cc: Jennifer Maguire, City Manager

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