



## Agenda Report

20-36

Agenda Date: 1/14/2020

### REPORT TO COUNCIL

#### SUBJECT

Budget Action to implement the terms of the settlement of the various *Sandau v. City of Santa Clara, et al.*, Matters [Council Pillar: Enhance Community Engagement and Transparency]

#### BACKGROUND

Former Silicon Valley Power (SVP) employee Richard Sandau filed several legal challenges to his release from his at-will unclassified employment in 2018 following an extended leave of absence that had begun in 2016, to attend law school full time. He filed challenges in Superior Court, with the Public Employment Relations Board (PERB), and with the Civil Service Commission. SVP has reached a settlement with Mr. Sandau that would dispose of all of his challenges and bring an end to the various protracted and costly disputes.

#### DISCUSSION

A tentative settlement was approved by Council in closed session on December 10, 2019. No report out of closed session was required at that time under California Government Code §54957.1(a)(3) because the settlement was not yet final. Now that all parties have signed on to the Settlement Agreement, it is on file with the City Clerk's Office.

The total settlement with Mr. Sandau is \$462,500 of which \$46,437.30 is credited to the City for its previous payment to Mr. Sandau under the severance pay provisions of the Unit 9 Memorandum of Understanding, obligating the City to make a net payment of \$416,062.70 to Mr. Sandau. The settlement forecloses any possible further liability for the City in any manner related to Mr. Sandau's employment and brings an end to mounting litigation fees and costs associated with the three separate and ongoing disputes.

Since the new City administration came on board in 2017, the Human Resources Department has implemented policies and procedures that align with HR industry best practices as well as risk management. For example, the new tuition reimbursement policy allows the City to support investing in the professional development of its employees in a fiscally responsible manner, while minimizing potential risk to the City. The City has implemented a Working Scholars program through which 20 employees City-wide are currently pursuing a bachelor's degree. These new policies and programs do not require the City to grant an extended leave of absence from City service, do not negatively impact service delivery, and do not create risk management concerns as the prior policy did.

City Charter Section 1305 requires that appropriation for non-budgeted expenditures, such as the payment of a verdict or settlement, be approved by a five-vote majority of the Council. As this settlement deals directly and solely with an SVP personnel issue, regarding salary and benefits of the former SVP employee, the settlement will be effectuated with SVP enterprise funds, as set forth in the Fiscal Impact section below.

**ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

**FISCAL IMPACT**

The budget amendment below allocates funding from the Electric Utility Fund to the Special Liability Insurance Fund for the settlement payments as recommended in this memorandum.

<b>Budget Amendment FY 2019/20</b>			
	<b>Current</b>	<b>Increase/ (Decrease)</b>	<b>Revised</b>
<b>Electric Utility Fund</b>			
<u>Transfers Out</u>			
Transfer to the Special Liability Insurance Fund	\$0	\$416,063	\$416,063
<u>Reserves</u>			
Ending Fund Balance	\$99,134,203	(\$416,063)	\$98,718,140
<b>Special Liability Insurance Fund</b>			
<u>Transfers In</u>			
Transfer from the Electric Utility Fund	\$0	\$416,063	\$416,063
<u>Expenditures</u>			
Insurance and Claims	\$7,899,866	\$416,063	\$8,315,929

**COORDINATION**

This Report has been coordinated with the Finance Department and the City Manager’s Office.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

**RECOMMENDATION**

1. Approve payment from the Special Liability Insurance Fund in the amount of \$416,062.70 to Mr. Sandau and his counsel in accordance with the terms of the settlement agreement; and
2. Approve a Budget Amendment transferring funds from the Electric Utility Fund to the Special Liability Insurance Fund in the amount of \$416,063.

Approved by: Brian Doyle, City Attorney and Deanna J. Santana, City Manager