



## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** State of California ex rel. Armenta  
v. James Jones Co., Mueller Co.,  
Tyco Int'l (US) Inc., Watts  
Industries, Inc.

**DATE:** October 22, 2009

### RECOMMENDATION

Approve a global settlement in *State of California ex rel. Armenta v. James Jones Co. et al.*, Los Angeles Superior Court case no. B173487, and authorize the City Attorney to execute a Settlement Agreement and Mutual Release relating to the City of San Jose's claim against James Jones Co., Mueller Co., Tyco International (US) Inc., and Watts Industries, Inc. ("defendants") for allegedly out-of-specification water distribution parts in exchange for a payment to the City in a net amount ranging between \$750,000 and \$800,000.

### OUTCOME

Approval of a Settlement Agreement and Mutual Release to resolve a lawsuit filed by Nora Armenta against defendants, in which the City of San Jose, together with other California public entities, intervened on the plaintiff's side.

### BACKGROUND

The City Council considered this case during the Closed Session held on June 23, 2009. This is a False Claims Act case, filed by a whistleblower ("relator" or "qui tam plaintiff") Nora Armenta in 1997 against James Jones Co., a manufacturer of metal water distribution parts and its parent companies. James Jones Co. produced and sold to public entities, directly through distributors or indirectly through developers, parts such as fittings and valves that allegedly did not meet contract and industry specifications, and that would potentially degrade prematurely.

In 2001, the City of San Jose intervened in the lawsuit as a plaintiff together with ten other public entities. Nearly 150 California public water systems and cities were real parties in interest in the case. After protracted litigation and settlement negotiations, the

Armenta case together with a companion case of *City of Banning et al. v. James Jones et al.* to which the City was not a party, settled, subject to public entities' approval, for a global amount of \$39 million that covers the estimated cost of all James Jones parts installed during the relevant time.

Of the \$39 million, about \$1,100,000 is attributed to the City of San Jose. Thirty percent of that amount, i.e. about \$333,000, is subtracted from that sum as the relator's statutory share. According to the Allocation of Settlement Funds submitted for the Court's approval, the City's net recovery is anticipated to be \$778,021.78. The final amount approved by the Court may vary slightly. State law also requires that 33% (here, about \$366,000) of the total amount attributed to the City be used to support ongoing investigation and prosecution of false claims made against the City. (Gov't Code §12652(g)(2).)

## **ANALYSIS**

Settlement is recommended to avoid further litigation, in which the City participated since 2001, and because settlement terms are reasonable. The City's settlement share is based on the estimated number of James Jones' parts installed in the City between 1991 and 1998. Nearly all those parts were installed by real estate developers and then accepted by the City into the municipal water system through dedication. The City determined that there were 6,765 new service connections made in the City during the relevant period. The estimated cost, including tax, of James Jones parts in the City's municipal water system installed during the relevant period is approximately \$700,000. The City is recovering the cost of 100% of the estimated number of James Jones parts installed in the City's system between 1991 and 1998 regardless of whether they were out of specifications. Plaintiffs' metallurgy tests and analysis of James Jones foundry records indicate that only 27% of all James Jones parts were out of specifications.

Following the City's receipt of the settlement payment, this Office will work with the Budget Office to bring forward appropriation actions for the City Council's approval.

## **PUBLIC OUTREACH/INTEREST**

This memorandum and the settlement agreement have been posted on the City's website for the November 3, 2009 agenda.

## **COORDINATION**

The Director of the Environmental Services Department and the City Manager were advised of the proposed settlement.

**CEQA**

Not a Project.

RICHARD DOYLE  
City Attorney

By   
Margo Laskowska  
Deputy City Attorney

cc: Debra Figone, City Manager  
John Stufflebean, Director, Environmental Services Dept.

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