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Staff Report for a Resolution of the City Council of the City of San Leandro Affirming the City's Continued Cooperation with Public Sector Unions in the City of San Leandro to Ensure their Health and Success; and Supporting the Freedom of City of San Leandro Employees to Collectively Bargain After a United States Supreme Court Decision in *Janus v. AFSCME*

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council review and consider adoption of the attached resolution, affirming support for public sector unions and City employees in response to an anticipated ruling by the U.S. Supreme Court in *Janus v. AFSCME*.

BACKGROUND AND ANALYSIS

At the May 21, 2018 City Council meeting, the City Council directed staff to bring forward a resolution affirming support for City workers and unions in the face of an anticipated ruling in *Janus v. AFSCME*.

At the time of writing of this staff report, this case is currently pending before the United States Supreme Court and a decision is anticipated soon. The case involves a challenge to the Illinois Public Labor Relations Act, which, like laws in California and 32 other states, requires public employees represented by unions to pay an "agency fee" to the union if an employee does not wish to pay full dues. The plaintiff contends that the agency fee requirement amounts to "compelled speech" in violation of the First Amendment.

A 1977 Supreme Court case, *Abood v. Detroit Board of Education*, gave public employees represented by a union the right to opt-out of paying full dues, but upheld the legality of requiring them to pay an "agency fee," sometimes referred to as a "fair share" fee. That fee is an amount

calculated to cover the costs of representation. It does not include the costs of political activities. California's Educational Employment Relations Act ("EERA") requires payment of agency fees as a condition of employment. Employers covered by the Meyers-Milias-Brown Act ("MMBA") may negotiate agency fee provisions or employees may establish them via an election.

If the Court rules that agency fee requirements violate the First Amendment, the provisions of the MMBA and EERA that provide for them will no longer be valid. The precise effect on Memorandum of Understanding (MOU) agency fee provisions will depend on the language of the decision.

Based on the Justices' votes in prior cases and their comments and questions during oral argument, the Court is expected by some observers to rule that agency fee requirements do violate the First Amendment. If that happens, public agencies may need to react quickly to achieve compliance. San Leandro's Human Resources Division has already begun preparations including outreach to potentially impacted bargaining groups.

In the meantime, the attached resolution affirms the City's commitment to the rights of public sector employees to fair compensation and working conditions, as well as their right to collectively bargain. Further, the resolution affirms the City Council's acknowledgement of the value of public sector employees in providing a high quality of life for the entire community.

ATTACHMENT(S)

None

PREPARED BY: Jeff Kay, Assistant City Manager