COUNCIL AGENDA: 6-4-2019

**ITEM:** 2.10



# Memorandum

**TO:** HONORABLE MAYOR

AND CITY COUNCIL

FROM: Richard Doyle

City Attorney

SUBJECT: SETTLEMENT OF LABLANC v.

**DATE:** May 23, 2019

CITY OF SAN JOSE

## RECOMMENDATION

Approve a settlement in the case of LaBlanc v. Tri-City Recovery, Mark Staton, & City of San Jose in the amount of \$100,000.00, and authorize the City Attorney to execute a Settlement Agreement.

## **OUTCOME**

Settle the lawsuit brought by Plaintiffs Steven and Gina LaBlanc with a payment by the City of \$100,000.00, each side to bear their own costs, including attorney fees.

# **BACKGROUND**

Plaintiffs are the parents of Kyle LaBlanc, an 18-year-old young man who was struck and killed on Curtner Ave. shortly after midnight on January 25, 2016. Kyle LaBlanc was on foot in the bike lane of westbound Curtner Ave. beneath the Hwy 87 overpass when he was hit by a tow truck driven by Mark Staton, employee of Tri-City Recovery. The City-maintained lights under the overpass above the westbound lanes were not functioning at the time of the accident.

Plaintiffs sued Staton, Tri City Recovery, and the City. Plaintiffs allege that Staton was negligent and that the City is responsible for a dangerous condition of public property. The City cross-complained against Staton and Tri City, who cross-complained against the City.

#### **ANALYSIS**

Under the proposed settlement, Plaintiffs will receive \$100,000.00 from the City and \$500,000.00 from Staton and Tri-City. This is a negotiated settlement between the parties to avoid the risks inherent in litigation.

## PUBLIC OUTREACH/INTEREST

This memorandum and the Settlement Agreement have been posted on the City's website for the June 4, 2019 agenda.

HONORABLE MAYOR AND CITY COUNCIL

May 22, 2019

Subject: Settlement of LaBlanc v. City, a Lawsuit Alleging Dangerous Condition of Public Property

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# **COST SUMMARY/IMPLICATIONS**

The settlement will be paid from the City's claims reserve fund.

# **CEQA**

Not Applicable. Not a Project; File No. PP10-066(h), Settlement Agreements.

RICHARD DOYLE City Attorney

MAREN J. CLOUSE

Senior Deputy City Attorney

cc: David Sykes, City Manager

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