COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

Maria M. Oms
Auditor-Controller
John F. Krattli
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

May 1, 2006

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Rouvenie Robianes, et al. v. County of Los Angeles**
Lancaster Superior Court Case No. MC 013 949

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of $1,750,000.

2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Department of Public Works.

Enclosed is the settlement request and a summary of the facts of the case.

Also enclosed for your information is the Corrective Action Report submitted by the Department of Public Works.

Return the executed, adopted copy to Georgene Salisbury, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1803.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO:gs

Enclosures

MEMORANDUM

March 22, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: TIGHE F. HUDSON
Principal Deputy County Counsel
General Litigation Division

JOHN COLLINS, ESQ.
Collins, Collins, Muir, and Stewart

RE: **Rouvenie Robianes, et al. v. County of Los Angeles**
Lancaster Superior Court Case No.: MC 013949

DATE OF INCIDENT: December 8, 2001

AUTHORITY REQUESTED: $1,750,000

COUNTY DEPARTMENT: Department of Public Works

CLAIMS BOARD ACTION:

☐ Approve ☐ Disapprove ☒ Recommend to Board of Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on May 1, 2006

HOA.350247.5

SUMMARY

This is a recommendation to settle for $1,750,000 the dangerous condition lawsuit brought by Rouvenie Robianes and her husband Rodel Robianes, for the personal injuries they sustained in an automobile accident which occurred on December 8, 2001.

LEGAL PRINCIPLE

The County may be held liable for injuries caused or contributed to by a dangerous condition of County roadways and property.

SUMMARY OF FACTS

This action arises out of a head-on vehicle accident which occurred in the late evening hours of December 8, 2001, on a curve of Sierra Highway southerly of its intersection with Pearblossom Highway in unincorporated County territory.

Sierra Highway is classified as a major highway in the County Roadway System. It is an important cross mountain commuter route acting as an alternative to the Antelope Valley Freeway (SR 14) between the Antelope Valley and the Santa Clarita Valley.

On that portion of Sierra Highway from the Antelope Valley Freeway Junction to Pearblossom Highway, the roadway runs essentially in a north-south direction, north leading to the City of Palmdale and south leading to the Antelope Valley Freeway Junction. This segment experiences relatively high speed and high volume in vehicular traffic. The property adjacent to the roadway in this area is undeveloped. The highway grade runs slightly uphill from north to south. In this area there existed two striped lanes in each direction and a solid yellow centerline separating the directions of travel. The subject accident occurred at 0.4 mile south of Pearblossom Highway, where Sierra Highway curves to the right for southbound traffic, and to the left for northbound traffic.

Rouvenie and Rodel Robianes were driving northbound on Sierra Highway after exiting the Antelope Valley Freeway, when a southbound vehicle failed to negotiate the curve and crossed over the center line, colliding into the northbound Robianes vehicle.

Mrs. Robianes, 45 years of age, sustained permanent and disabling personal injuries in the accident, including cervical spine fracture and broken legs, necessitating extensive hospitalization and disabling her from her employment as

a nurse at Hollywood Hospital. Mr. Robianes, 47 years of age, suffered chest injuries in the accident requiring open heart surgery. The driver of the other vehicle, 51-year-old Gary Plyley, sustained fatal injuries.

South of the Pearblossom Highway intersection there was no regulatory speed limit posted for Sierra Highway southbound traffic. The subject curve was signed with speed advisory and warning signs in each direction. This is an unlit stretch of roadway. The roadway was relinquished by the State of California to the County when the Antelope Valley freeway opened. The road has a history of crossover and other traffic collisions.

The California Highway Patrol investigated the accident and determined that the southbound motorist was the cause of the accident, without discussion of the circumstances which may have explained his crossing over into the northbound traffic lanes or the failure to drive through the curve in a safe manner.

Mr. and Mrs. Robianes brought suit against the Estate of Gary Plyley and the County of Los Angeles. As to the decedent driver, they allege negligence in operation of his vehicle. As to the County, they allege that the roadway was in a dangerous condition and lacked necessary and appropriate safety features and controls, such as a median guardrail, to protect and safeguard motorists from cross-over accidents at the subject location.

DAMAGES

If the matter proceeds to trial, Mr. and Mrs. Robianes will likely seek the following:

Rouvenie Robianes

For past medical treatment	$ 470,000
For future medical treatment (including private home care)	$ 425,000
For loss of earnings and earning capacity, past and present	$ 1,600,000
For general damages (including pain, suffering and non-economic damages)	$ 6,000,000

Rodel Robianes

For general damages, including loss of consortium	$ 1,000,000
For medical treatment	$ 46,000
Loss of earnings	$ 4,000
Total	$ 9,545,000

The proposed settlement calls for the County to pay Mr. and Mrs. Robianes a total of $1,750,000 for all of their respective claims for damages and costs.

STATUS OF CASE

The County was originally successful in defending this lawsuit through a Motion for Summary Judgment granted in January 2003. On appeal, the Second District Court of Appeal reversed the trial court judgment and remanded the case for further proceedings in March 2005.

Mediation was commenced in October 2005 in an attempt to reach an amicable disposition of the litigation. This eventually resulted in the proposed settlement.

The decedent driver was an uninsured motorist; however, Mr. and Mrs. Robianes were able to recover $135,000 in a good faith settlement with the Estate of Gary Plyley.

The trial date of April 9, 2006, has now been vacated pending the approval of this recommended settlement.

Expenses incurred by the County in defense of this matter are attorneys' fees in the amount of $280,321 and costs in the amount of $90,538. These expenses reflect the significant and substantial liability exposure of the County, and the protracted nature of the litigation, including the extensive litigation efforts in the initial stages, in obtaining a defense judgment, thereafter in the appeal process, and further and additional proceedings on remand from the Court of Appeal.

EVALUATION

The County was initially successful in establishing the defense of lack of notice of the alleged dangerous condition. In ruling in favor of the County at that time, the court held that the accident history on the road largely could not be considered by the trier of fact, and based thereon, it could not be established that County knew or should have known of the alleged dangerous roadway condition. The Court of Appeal determined that the trial court was in error and that triable issues of fact existed on whether a dangerous condition of roadway existed in December 2001, whether the County knew or should have known of its existence, and whether the County took reasonable measures to remedy the alleged dangerous condition.

Although we believe that the traffic controls at the incident location were reasonable and appropriate, a jury could find that additional measures were needed to safeguard motorists driving through this curve.

The adverse ruling by the Court of Appeal severely burdens the County's position and will negatively impact the defense at trial. The settlement will avoid further litigation expenses and a potential jury verdict against the County substantially in excess of the settlement amount. We believe this disposition is in the best interests of the County.

We join with our private counsel, Collins, Collins, Muir, and Stewart, and our third party administrator, Carl Warren and Company, in recommending settlement in the amount of $1,750,000. The Department of Public Works concurs with this settlement.

APPROVED:

ROGER H. GRANBO
Assistant County Counsel
General Litigation Division

RGF:TFH:bh

DEPARTMENT OF PUBLIC WORKS

CORRECTIVE ACTION PLAN

LAWSUIT OF: Rouvenie Robianes

INCIDENT DATE: December 8, 2001

INCIDENT LOCATION: Sierra Highway South of Pearblossom Highway

RISK ISSUE: Dangerous condition of the roadway due to poor design and traffic control

INVESTIGATIVE REVIEW:

Sierra Highway, between the Antelope Valley Freeway and Pearblossom Highway, is a 44 to 54 feet wide north-south highway and is striped for two lanes in each direction with a solid yellow centerline separating the directions of travel. The incident location was 0.4 miles south of Pearblossom Highway where Sierra Highway curves to the right and runs slightly uphill for southbound travel.

In July 2001, the City of Palmdale completed a cooperative roadway improvement project with the County that included minor widening and resurfacing of Sierra Highway from Fort Tejon Road to 0.39 miles south of Pearlblossom Highway (the incident location). The portion of the roadway southerly of the terminus of this project was not included in the project limits. Lane striping between the existing roadway and the resurfacing project was reasonable and appropriate. On February 15, 2001, as part of an Engineering and Traffic Study, an Average Daily Traffic (ADT) survey recorded 41,388 Vehicles Per Day using this portion of Sierra Highway. On October 29, 2001, a prevailing speed of 54 mph was measured.

There are no intervening highway intersections nor street lights between the Antelope Valley Freeway and Pearlblossom Highway, and there are two curves along this segment of the highway. For southbound travel there was no posted speed limit signage south of Pearlblossom Highway. The incident curve was signed with a speed advisory and curve warning signs in each direction. The roadway was relinquished by the State to the County when the Antelope Valley Freeway opened. The Department is aware of crossover and other traffic collisions along this section of the roadway.

The collision, which is the subject of this claim, occurred December 8, 2001. Gary Michael Plyley, 51 years old, was driving southbound in a 1990 Toyota Corolla. His estimated travel speed was approximately 55 mph at impact. Toxicology tests reflected the presence of blood alcohol that may have impacted the driver behavior.

Rouvenie Garvida Robianes, a 45-year-old nurse at Hollywood Hospital, was driving a 1998 Toyota Four Runner northbound accompanied by her husband, Rodel Robianes, a Title Searcher for North American Title. Mrs. Robianes regularly drove the road commuting to her work. Her estimated travel speed was approximately 50 mph at impact.

Mr. Plyley failed to negotiate the 1st of the southbound curves in the road. His vehicle left the southbound lane of travel, crossed over the solid yellow centerline, and struck the Robianes' vehicle head on. Mr. Plyley died at the scene. The Robianes' were both seriously injured.

POLICY ISSUES: None

CORRECTIVE ACTION:

On October 1, 2002, a 50 mph speed limit was adopted for Sierra Highway from 0.54 miles north of Angeles Forest Highway to Pearlblossom Highway (previously 55 mph). As a result of the investigative review, the Department resurfaced and re-striped Sierra Highway from 270 feet north of the Antelope Valley Freeway to 1,500 feet south of Pearlblossom Highway in late 2003. Signage indicating the 50 mph speed limit was installed south of Pearlblossom Highway for southbound travel. Public Works also installed a driver feedback sign in the southbound direction on Sierra Highway. This feedback sign uses radar to display the speed of a vehicle when it is traveling faster than the speed limit. It is our expectation that the motorist will take action to comply with the posted speed limit.

Public Works will continues to monitor traffic conditions for this segment of the highway.