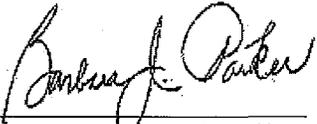


Approved as to Form and Legality



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 88185 C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF NAJARI SMITH V. CITY OF OAKLAND; NIGEL LAWSON, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS POLICE OFFICER FOR CITY OF OAKLAND; JULIAN BORDONA, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS POLICE OFFICER FOR CITY OF OAKLAND; SCOTT HEWITT, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS POLICE SERGEANT FOR CITY OF OAKLAND; CRAIG HANEY, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS POLICE RECORDS SPECIALIST FOR CITY OF OAKLAND; AND DOES 1-50, INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES AS POLICE OFFICERS FOR THE CITY OF OAKLAND, INCLUSIVE; UNITED STATES DISTRICT COURT CASE NO. 19-CV-06527-WHO, CITY ATTORNEY FILE NO. 33166, IN THE AMOUNT OF ONE HUNDRED FORTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$147,500.00) (OAKLAND POLICE DEPARTMENT - CIVIL RIGHTS/WRONGFUL ARREST/RACIAL PROFILING)

WHEREAS, Plaintiff Najari Smith alleges that Oakland Police Department Officers violated federal and state law when they arrested him on August 3, 2018; and

WHEREAS, on August 3, 2018, Mr. Smith rode alongside other bicyclists to honor Nia Wilson, who was tragically murdered. Mr. Smith rode an electric bicycle attached to a sound-system trailer. Towards the end of the ride, the riders merged into a "ritual circle"—as described by Mr. Smith—at West Grand Ave. and Telegraph Ave. Mr. Smith circled the intersection with other riders, playing music from the trailer system; and

WHEREAS, Officers Lawson and Bordona heard the music Mr. Smith was playing from over 100 feet away and saw that the intersection was being blocked. Officer Lawson determined that Mr. Smith violated Cal. Vehicle Code § 27007, which prohibits operating "any sound amplification system which can be heard outside the vehicle from 50 or more feet when the vehicle is being operated upon a highway, unless that system is being operated to request assistance or warn of a hazardous situation;" and

WHEREAS, Officers Lawson approached Mr. Smith and asked him to provide his identification in order to complete the citation for the violation of the Cal. Vehicle Code § 27007. Mr. Smith refused to provide his identification. Although Mr. Smith eventually provided two forms of identification, the information provided therein did not conclusively identify Mr. Smith. As a result, Officer Lawson arrested Mr. Smith for violation of Penal Code section 148(a), obstruction, and transported him to jail for fingerprinting and proper identification; and

WHEREAS, Plaintiff filed the lawsuit listed above against the City of Oakland and Oakland Police Officers alleging violations of federal and state law; and

WHEREAS, the City has considered all the evidence, litigation costs, and litigation risks in this case; and

WHEREAS, the City admits no wrongdoing or liability; now, therefore, be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Najari Smith v. City of Oakland; Nigel Lawson, individually and in his official capacity as police officer for City of Oakland; Julian Bordona, individually and in his official capacity as police officer for City of Oakland; Scott Hewitt, individually and in his official capacity as police sergeant for City of Oakland; Craig Haney, individually and in his official capacity as police records specialist for City of Oakland; and DOES 1-50, individually and in their official capacities as police officers for the City of Oakland, inclusive; United States District Court Case No. 19-CV-06527-WHO, City Attorney File No. 33166, for the total sum of One Hundred Forty-Seven Thousand Five Hundred Dollars And No Cents (\$147,500.00) payable to Najari Smith and his counsel, Walter Riley; and be it

FURTHER RESOLVED: That the City Administrator is authorized and directed to issue settlement payments as negotiated by the City Attorney with Najari Smith and his counsel; and be it

FURTHER RESOLVED: That the City Attorney is further authorized and directed to take whatever steps may be necessary to effect said settlement.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUN 3 0 2020

PASSED BY THE FOLLOWING VOTE:

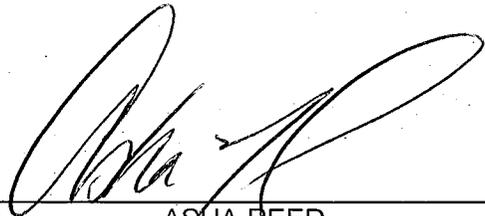
AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO
AND PRESIDENT KAPLAN — 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED

Acting City Clerk and Clerk of the Council of
the City of Oakland, California