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City Attorney

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February 19, 2013

HONORABLE CITY COUNCIL
Oakland, California

Subject: Oakland Police Department (Unlawful Search)

<u>Our File #</u>	<u>File Name</u>	<u>United States District Court No.</u>
SS02484	Taylor, James and Forbes, Robert	C04-04843 SI
SS02705	Foster, Darnell, Duarte, Rafael; Yancie Young	C05-03110 SI
SS02719	Rider, Jimmy	C05-03204 SI
SS24386	Moore, Tyrone; Wash, Deandre	C06-02426 SI
SS25571	Miller, Jeffrie; Tillman, Richard; et al.	C07-01773 SI
SS25818	Smith, John; Davis, Robert, et al	C07-06298 SI
SS25880	Ward, David; Tyson, James et al.	C07-04179 SI
SS26556	Moore, Orlando (Turner, Terrell) et al.	C08-03114 SI
SS26767	Quincy, Smith; Coley, Lawrence; Brown, Courtney,	C08-04255 SI
SS26767-4	Smith, Quincy	C11-04909 SI
SS27508	Kountz, Rashan et al. (Johnson, Stephen)	C09-05316 SI
SS27508-2	Johnson, Stephen	C11-04905 SI
SS27508-3	B.M., a minor, G.A.L. Felicia Williams	C11-04903 SI

President Reid and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney has prepared and requests your approval of a resolution authorizing compromise and settlement of the attorneys' fees and costs plaintiffs incurred for preparation of legal motions in the above-entitled actions for the aggregate sum of One Hundred Seventy-Nine Thousand, Nine Hundred Sixty-Nine Dollars and Ninety-Seven Cents (\$179,969.97) damages payable to Haddad and Shenwin in the amount of One Hundred Forty-Six thousand, Seven Hundred Fifty-Nine Dollars and Ninety-Seven Cents (\$146,759.97) and to the Law Offices of John L. Burriss in the amount of Thirty-Three Thousand, Two Hundred Ten Dollars and No Cents (\$33,210.00).

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Plaintiffs are statutorily entitled to recover their attorneys' fees and costs as the prevailing parties in their motion for summary judgment respecting the constitutionality of the Oakland Police Department's 2004 policy and plaintiff Yancie Young's motion for summary judgment respecting a vehicular stop and search of his person.

The Council authorized settlement of these cases in Closed Session on Tuesday, February 5, 2013 (moved by Councilmember Gallo and seconded by Councilmember Schaaf, 8 ayes, 0 Noes).

Respectfully submitted,



BARBARA J. PARKER
City Attorney

Attorneys Assigned:

Randolph W. Hall

Arlene M. Rosen

OAKLAND

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Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

AMR/ah

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CLAIM FOR ATTORNEYS' FEES AND COSTS INCURRED IN LEGAL MOTIONS IN THE FOLLOWING CASES (OAKLAND POLICE DEPARTMENT - UNLAWFUL SEARCH) IN AMOUNT OF ONE HUNDRED SEVENTY-NINE THOUSAND NINE HUNDRED SIXTY-NINE DOLLARS AND NINETY-SEVEN CENTS (\$179,969.97):

JAMES TAYLOR AND ROBERT FORBES v. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C04-04843 SI; CITY ATTORNEY'S FILE NO. SS26446;

DARNELL FOSTER, RAFAEL DUARTE AND YANCIE YOUNG V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C05-03110 SI; CITY ATTORNEY'S FILE NO. SS02705;

JIMMY RIDER V. CITY OF OAKLAND, ET AL. UNITED STATES DISTRICT COURT NO. C05-03204 SI; CITY ATTORNEY'S FILE NO. SS02719;

TYRONE MOORE AND DEANDRE WASH V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C06-02426SI; CITY ATTORNEY'S FILE NO. SS24386;

JEFFRIE MILLER, RICHARD TILLMAN, JASON CAGLER, JOMAL REED, CURTIS FREEMAN, GLENN LOVELY AND KEVIN BRADLEY V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C07-01773 SI; CITY ATTORNEY'S FILE NO. SS25571;

JOHN SMITH, ROBERT DAVIS, MEHERET ANETENEH, JAMEL PARRISH, YUSEF MORRIS, ELBERT OWENS, RAHEEM HILL AND SHERMAN DUNN V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C07-06298 SI; CITY ATTORNEY'S FILE NO. SS25818;

DAVID WARD, JAMES TYSON, AND TONY ARMSTRONG V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C07-04179 SI; CITY ATTORNEY'S FILE NO. SS25880;

TERRELL TURNER, ROBERT YOUNG, ORLANDO MOORE AND ANTHONY JACKSON V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C08-03114 SI; CITY ATTORNEY'S FILE NO. SS26566;

LAWRENCE COLEY V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C08-04255 SI; CITY ATTORNEY'S FILE NO. SS26767;

RAHSAN KOUNTZ V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C09-05318 SI; CITY ATTORNEY'S FILE NO. SS27508;

COURTNEY BROWN V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C11-04904; CITY ATTORNEY'S FILE NO. SS26767-1;

LARRY NOBLE, JR. V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C11-04906 SI; CITY ATTORNEY'S FILE NO. SS26767-2;

NKUKWE OKOLI V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C11-04907 SI; CITY ATTORNEY'S FILE NO. SS26767-3;

QUINCY SMITH V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C11-04909 SI; CITY ATTORNEY'S FILE NO. SS26767-4;

THOMAS ROMERSON V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C11-04908 SI; CITY ATTORNEY'S FILE NO. SS27508-1;

STEPHEN JOHNSON V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C11-04905; CITY ATTORNEY'S FILE NO. SS27508-2;

B. M., A MINOR, BY AND THROUGH HIS NEXT FRIEND, FELICIA WILLIAMS V. CITY OF OAKLAND, ET AL., UNITED STATES DISTRICT COURT NO. C11-04903 SI; CITY ATTORNEY'S FILE NO. SS27508-3

WHEREAS, the above-named plaintiffs prevailed in their legal challenge to the Oakland Police Department's strip search policy and in plaintiff Yancie Young's motion that he was unlawfully stopped and searched, thereby entitling them to recovery of their attorneys' fees and costs incurred in connection with said legal challenges;

WHEREAS, on February 5, 2013, the City Council authorized settlement of said fees and costs in Closed Session (moved by Councilmember Gallo and seconded by Councilmember Schaaf, 8 ayes, 0 noes); and

RESOLVED: That the City Attorney is authorized and directed to pay the attorneys' fees and costs incurred for legal motions in the above related actions: Taylor, et al v. City of Oakland, et al., United States District Court No. C04-04843 SI, City Attorney's File No. SS26446; Foster, et al. v. City of Oakland, et al., United States District Court No. C05-03110 SI, City Attorney's File No. SS-02705; Rider v. City of Oakland, et al., United States District Court No. C05-03240 SI, City Attorney's File No. SS02719; Moore, et al. v. City of Oakland, et al., United States District Court No. C06-02426SI, City Attorney File No. SS24386; Miller, et al. v. City of Oakland, et al., United States District Court No. C07-01773SI, City Attorney's File No. SS25571; John Smith, et al. v. City of Oakland, et al., United States District Court No. C07-06298 SI, City Attorney's File No.

SS25818; Ward v. City of Oakland, et al., United States District Court No. C07-04179 SI, City Attorney's File No. SS25880; Turner, et al. v. City of Oakland, et al., United States District Court No. C08-03114 SI, City Attorney's File No. SS26556; Coley v. City of Oakland, et al., United States District Court No. C08-04255, City Attorney's File No. SS26767; Kountz v. City of Oakland, et al., United States District Court No. C09-05316 SI, City Attorney's File No. SS27508; Brown v. City of Oakland, et al., United States District Court No. C11004904 SI, City Attorney's File No. SS26767-1; Noble v. City of Oakland, et al., United States District Court No. C11004906 SI, City Attorney's File No. SS26767-2; Okoli v. City of Oakland, et al., United States District Court No. C11-04907 SI, City Attorney's File No. SS26767-3; Quincy Smith v. City of Oakland, et al., United States District Court No. C11-04909 SI, City Attorney's File No. SS26767-4; Romerson v. City of Oakland, et al., United States District Court No. C11-04908 SI, City Attorney's File No. SS27508-1; Johnson v. City of Oakland, et al., United States District Court No. C11-04905 SI, City Attorney's File No. SS27508-2; B. M. , a minor, by and through his next friend, Felicia Williams v. City of Oakland, et al., United States District Court No. C11-04903 SI, City Attorney's File No. SS27508-3, in the amount of One Hundred Seventy-Nine Thousand, Nine Hundred Sixty-Nine Dollars and Ninety-Seven Cents (\$179,969.97) made payable Haddad & Sherwin in the amount of One Hundred Forty-Six Thousand, Seven Hundred Fifty-Nine Dollars and Ninety-Seven Cents (\$146,757.97) and in the amount of Thirty-Three Thousand, Two Hundred Ten Dollars and No Cents (\$33,210.00) made payable to the Law Offices of John L. Burris; 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; and be it

FURTHER RESOLVED: That the aggregate sum of One Hundred Seventy-Nine Thousand, Nine Hundred Sixty-Nine Dollars and Ninety-Seven Cents (\$179,969.97) be made payable to Haddad & Sherwin in the amount of One Hundred Forty-Six Thousand, Seven Hundred Fifty-Nine Dollars and Ninety-Seven Cents (\$146,757.97) and to the Law Offices of John L. Burris in the amount of Thirty-Three Thousand, Two Hundred Ten Dollars and No Cents (\$33,210.00).

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

AYES-

NOES -

ABSENT -

ABSTENTIONS -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California