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OAKLAND CITY COUNCIL

Resolution No. 83913 C.M.S.

Resolution To Indemnify Former Oakland Police Officer Ingo Mayer For \$40,000 In Punitive Damages Awarded By The Federal Court In Smith et al. v. City of Oakland et al., Case No. C 07-6298 MHP

WHEREAS, in 2005, Oakland Police Officer Ingo Mayer along with several other officers detained, searched and arrested plaintiffs Spencer Lucas and Kirby Bradshaw; and

WHEREAS, Mr. Lucas and Mr. Bradshaw subsequently filed a lawsuit in U.S. District Court alleging that the City of Oakland and Officer Mayer violated their civil rights by conducting an intrusive search of their persons; and

WHEREAS, upon learning of the allegations, the Oakland Police Department conducted an internal investigation and determined that Officer Mayer's actions were in compliance with policies and procedures in effect at the time of the incident; and

WHEREAS, despite these findings, attempts were made to resolve the matter prior to trial and those attempts were unsuccessful; and

WHEREAS, in 2010, the matter proceeded to trial before the Honorable Marilyn Hall Patel (Smith, et al. v. City of Oakland, et al., C 07-6298 MHP); and

WHEREAS, ultimately, Judge Patel found for plaintiffs, entered judgment in their favor and awarded compensatory damages against the City of Oakland and Officer Mayer in the amount of \$205,000.00 and \$40,000 in punitive damages were also assessed against Officer Mayer; and

WHEREAS, following the trial, Officer Mayer, through his conflict counsel, requested that the City of Oakland indemnify him; and

WHEREAS, the Oakland City Council, having considered this request for indemnification, along with the relevant facts giving rise to the Smith litigation and having been advised by the Office of the Oakland City Attorney of the applicable legal standards and requirements, makes the following findings; and

WHEREAS, at the time of the allegations at issue in the Smith case, the Oakland Police Department had a policy which allowed officers to conduct a search of a person being detained or arrested and

WHEREAS, following an assessment of the allegations in the Smith case, the Oakland City Council concluded that at all relevant times Officer Mayer was acting within the course and

scope of his employment as a police officer with the City of Oakland, that he acted in good faith and in compliance with then existing Oakland Police Department policies in the discharge of his duties and without actual malice toward Mr. Lucas and Mr. Bradshaw and that his actions were in the apparent best interests of the City; and

WHEREAS, subsequent to the filing of the Smith case, the Oakland Police Department implemented policy changes affecting the circumstances under which an officer could conduct a search of a suspect's person, including a change in the method for documenting such searches; and

WHEREAS, the Oakland City Council has determined that it is in the best interests of the community to support the Oakland Police Department and its officers who act in good faith to comply with existing departmental policies; now therefore be it

RESOLVED: that the Oakland City Council agrees to fully indemnify Officer Mayer for the punitive damages awarded by the Northern District of California in the case of Smith, et al v. City of Oakland, et al, C 07- 6298 MHP; namely, \$25,000.00 to Plaintiff Spencer Lucas and \$15,000.00 to Plaintiff Kirby Bradshaw, plus any associated costs and interest.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUN 19 2012

PASSED BY THE FOLLOWING VOTE:

BRUNNER, KERNIGHAN, ~~WATSON~~, SCHAAF, DE LA FUENTE, ~~BROOKS~~, ~~KAPLAN~~ AND PRESIDENT REID

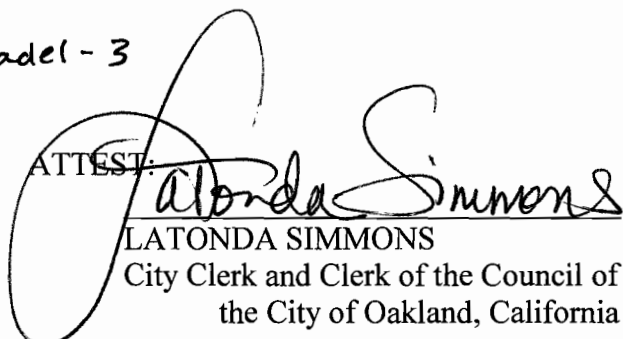
AYES- 5

NOES - Brooks, Kaplan, Nadel - 3

ABSENT - 0

ABSTENTION - 0

ATTEST:



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