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CITY OF OAKLAND



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December 8, 2015

HONORABLE CITY COUNCIL
Oakland, California 94612

**Re: Waiver of Attorney-Client Privilege for Certain Legal Opinions
on the Applicability of the Surplus Land Act**

Dear President Gibson McElhaney and Members of the Council:

On November 17th the Council passed a motion scheduling Council consideration of action to waive the attorney-client privilege with respect to certain confidential legal opinions on the applicability of the Surplus Land Act to real property dispositions.

This Office prepared the referenced resolution pursuant to the Council's motion scheduling the item.

Respectfully submitted,

A handwritten signature in cursive script that reads "Barbara J. Parker".

BARBARA J. PARKER
City Attorney

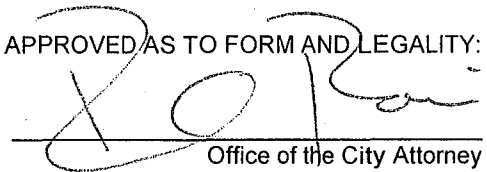
Assigned Attorney:
Daniel Rossi

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15 DEC -3 PM 2:26

APPROVED AS TO FORM AND LEGALITY:


Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

A RESOLUTION WAIVING ATTORNEY-CLIENT PRIVILEGE FOR CERTAIN LEGAL OPINIONS ON THE APPLICABILITY OF THE CALIFORNIA SURPLUS LAND ACT TO CITY REAL PROPERTY TRANSACTIONS

WHEREAS, applicable law has long established that the attorney-client privilege protects confidential communications between an attorney and the attorney's client and the client has the privilege to refuse to disclose such confidential communications; and

WHEREAS, applicable law further authorizes a client to waive the attorney-client privilege and consent to disclosure of confidential attorney-client communications; and

WHEREAS, any waiver must be knowing and voluntary; and

WHEREAS, City Charter section 401(6) provides that the "City Attorney shall serve as counsel to the Mayor, City Council, and each and every department of the City, except departments specifically enumerated by this Charter as an independent department of the City, in their official capacities pursuant to state law and the Charter, and as counsel, shall assert and maintain the attorney-client privilege pursuant to state law"; and

WHEREAS, pursuant to City Charter section 207, the City Council as the governing body of the City of Oakland holds the privilege with respect to confidential legal opinions that the City Attorney or outside counsel retained by the City Attorney (hereafter sometimes collectively referred to as "City Attorney") provide to the Council; and

WHEREAS, the City Attorney has provided the City Council confidential legal opinions on the applicability of the California Surplus Land Act to real estate dispositions; and

WHEREAS, at its November 17, 2015, meeting, the City Council passed a motion scheduling consideration of an action that would waive the attorney-client privilege and consent to disclosure of the City Attorney's opinion on the applicability of the Surplus

Land Act to disposition of the 12th Street Remainder Parcel and an opinion by outside counsel on the applicability of the Surplus Land Act to real property dispositions; and

WHEREAS, the City Council has been fully apprised of the privilege and the consequences of waiving the privilege; now, therefore, be it

RESOLVED: That the City Council hereby waives the attorney-client privilege with respect to the City Attorney's opinion on the applicability of the Surplus Land Act to the disposition of the 12th Street Remainder Parcel and an opinion by outside counsel on the applicability of the Surplus Land Act to real property dispositions, and hereby consents to disclosure of those opinions notwithstanding their confidential nature.

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IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2015

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID and
PRESIDENT GIBSON McELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California