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CITY OF OAKLAND



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April 16, 2019

HONORABLE CITY COUNCIL
Oakland, California 94612

Re: MOTION PUBLICLY DIRECTING THE CITY ADMINISTRATOR NOT TO COLLECT FIRST YEAR MEASURE AA (THE CHILDREN'S INITIATIVE OF 2018) TAXES; AND RESTATING THAT PURSUANT TO COUNCIL'S DECEMBER 14, 2019 RESOLUTION NO. 87485 C.M.S. THE CITY ADMINISTRATOR IS DIRECTED TO SUBMIT A VALIDATION ORDINANCE FOR THE TAXES AND THE CITY ATTORNEY IS DIRECTED TO FILE A VALIDATION ACTION

Dear President Kaplan and Members of the Council:

Pursuant to the Council's request during the City Council's April 2, 2019 closed session, the City Attorney has prepared a motion to publicly direct the City Administrator not to collect first year Measure AA (The Children's Initiative of 2018) taxes; and restating that pursuant to Council's December 14, 2019 Resolution No. 87485 C.M.S. the City Administrator is directed to submit a validation ordinance for the taxes and the City Attorney is directed to file a validation action (the "Motion.")

The Motion was made by Councilmember Thao, seconded by Councilmember Gallo and passed with 7 ayes (Councilmembers Fortunato Bas, Gallo, Kalb, Reid, Taylor, Thao and President Kaplan). Councilmember Gibson McElhaney was excused. The Council discussed Measure AA under Item 1(c) (*Jobs and Housing Coalition et al. v. City of Oakland et al.*, Alameda County Superior Court Case No. RG19005204) and Item 2 (Anticipated Litigation (multiple threats of lawsuits against the City regarding Measure AA) of the April 2nd closed session agenda.

On December 14, 2018, the City Council passed Resolution No. 87485 C.M.S. "Certifying Measure AA, A Proposed Amendment To The Oakland City Charter Creating The 'Children's Initiative Of 2018' And Approving A Parcel Tax To Fund Early Childhood Education And College Readiness Programs, On The November 6, 2018 Oakland General Election, As Passing And Directing The City Administrator To Present A Validation Ordinance To The Council And Directing The City Attorney To Bring A Validation Action For The Measure."

Requirements to Pass a Motion

The City Charter provides that the Council shall take action by motion, ordinance or resolution. (City Charter section 208.) To pass a motion the majority of the Councilmembers who vote "aye" or "no" must cast votes in favor of the motion. Only ayes and noes count in determining whether a motion passes; abstentions are not counted.

Effect of Passing Motion on April 16

Passage of the motion will direct the City Administrator not to collect the Measure AA tax in the first year.

Effect of Failure of the Motion on April 16

If the Motion fails, i.e., a majority of the Councilmembers who cast votes do not vote "yes" or "aye" on the Motion, pursuant to the provisions of Measure AA, the City Administrator would collect the taxes.

Regardless of whether the Motion passes or fails, pursuant to the December 14, 2018 Resolution No. 87485, the City Administrator will submit a validation ordinance to the Council and the City Attorney will file an action to validate the tax.

Respectfully submitted,

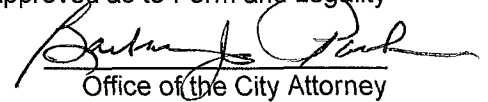


BARBARA J. PARKER
City Attorney

Assigned Attorney:
Doryanna Moreno
2723636v1

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Approved as to Form and Legality


Office of the City Attorney

OAKLAND CITY COUNCIL MOTION

MOTION PUBLICLY DIRECTING THE CITY ADMINISTRATOR NOT TO COLLECT FIRST YEAR MEASURE AA (THE CHILDREN'S INITIATIVE OF 2018) TAXES; AND RESTATING THAT PURSUANT TO COUNCIL'S DECEMBER 14, 2018 RESOLUTION NO. 87485 C.M.S. THE CITY ADMINISTRATOR IS DIRECTED TO SUBMIT A VALIDATION ORDINANCE FOR THE TAXES, AND THE CITY ATTORNEY IS DIRECTED TO FILE A VALIDATION ACTION

WHEREAS, on December 14, 2018, the City Council passed Resolution No. 87485 C.M.S. "Certifying Measure AA, A Proposed Amendment To The Oakland City Charter Creating The 'Children's Initiative Of 2018' And Approving A Parcel Tax To Fund Early Childhood Education And College Readiness Programs, On The November 6, 2018 Oakland General Election, As Passing And Directing The City Administrator To Present A Validation Ordinance To The Council And Directing The City Attorney To Bring A Validation Action For The Measure; and

WHEREAS, on April 2, 2019 the City Council discussed in closed session under Item No. 1(c) pending litigation filed by the Jobs and Housing Coalition against the City of Oakland, and under Item No. 2, multiple threats of litigation challenging the Children's Initiative of 2018, Measure AA on the City of Oakland's November 6, 2018 ballot, and passed a motion directing the City Administrator not to collect first year Measure AA taxes (hereinafter referred to as the "Motion"); and

WHEREAS, the City Attorney reported out the Motion in open session at the April 2, 2019 Council, and the vote on the Motion was made by Councilmember Kalb, seconded by Councilmember Gallo, and passed with 7 Ayes (Councilmember Gibson McElhaney was excused); and

WHEREAS, the Council's direction not to collect first year Measure AA taxes does not evidence any intent of the Council to relinquish or waive the City's rights to collect Measure AA taxes in subsequent years; and

RESOLVED: That the Council directs the City Administrator not to collect first year Measure AA taxes; and be it

FURTHER RESOLVED: That the Council's direction to the City Administrator not to collect first year Measure AA taxes does not waive or relinquish the City's rights to collect Measure AA taxes in subsequent years.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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

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