

OFFICE OF THE CITY CLERK  
OAKLAND

**OAKLAND CITY COUNCIL**

79861

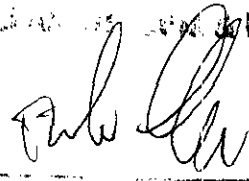
APPROVED FOR LEGALITY

2006 APR 20 PM 5:27

RESOLUTION No. \_\_\_\_\_ C.M.S.

Deputy City

Date



---

**RESOLUTION AUTHORIZING THE CITY'S WAIVER OF ANY CONFLICT OF INTEREST THAT THE LAW FIRM OF BELL, ROSENBERG & HUGHES, LLP MAY HAVE IN REPRESENTING THE CITY OF OAKLAND WITH RESPECT TO THE MACARTHUR BOULEVARD UNDERGROUNDING PROJECT WHICH WILL PLACE EXISTING OVERHEAD FACILITIES SUCH AS WIRING FOR STREET LIGHTS, CABLE, AND PHONE SERVICES UNDERGROUND**

**WHEREAS**, the City of Oakland wishes to retain the law firm of Bell, Rosenberg & Hughes, LLP ("BR&H") to serve as legal counsel to the City and provide advice with respect to the MacArthur Boulevard Project (the "Project"); and

**WHEREAS**, BR&H has provided complex construction contracting legal advice to the City for several years; and

**WHEREAS**, BR&H has been retained previously by Underground Construction Co. Inc. ("Underground"), the general contractor for the Project in a separate unrelated stop notice bond claim matter involving the University of Merced; and

**WHEREAS**, BR&H has requested that the City waive any potential conflict that may arise as a result of the firm's representation of the Underground Construction Co., Inc. ("Underground") in the unrelated stop notice matter described above and BR&H's representation of the City concerning the Project; and

**WHEREAS**, pursuant to Rule 3-310 of the California Rules of Professional Conduct concerning the avoidance of conflict of interest, BR&H requires that the City and Underground execute a written consent agreement ("Consent Agreement") which acknowledges and waives this potential conflict of interest and which attached to this Resolution; and

**WHEREAS**, Underground has agreed to waive any conflict of interest that might arise in the course of BR&H's representation of City with respect to the Project and has executed the Consent Agreement; and

**WHEREAS**, BR&H has requested that the City waive any conflict of interest that might arise in the course of its representation of City with respect to the Project and execute the Consent Agreement; and

**WHEREAS**, the City Attorney's Office is satisfied that BR&H has adequate procedures in place, as more fully described in the Staff Report, to avoid any ethical breaches and the waivers requested do not constitute a violation of the California State Bar Rules of Professional Conduct; and.

**WHEREAS**, the City Attorney has recommended that the City agree to waive any conflict of interest that might arise in the course of BR&H's representation of the City with respect to the Project and authorize the City Attorney to execute the Consent Agreement which waives any such potential conflict of interest; now therefore, be it

**RESOLVED**, That the City Council hereby waives any conflict of interest that the law firm of Bell, Rosenberg and Hughes, LLP may have by virtue of serving as legal counsel to the City with respect to the Project and authorizes the City Attorney to execute the Consent Agreement which waives any such potential conflict of interest.

IN SESSION, OAKLAND, CALIFORNIA, MAY 4, 2006


**PASSED BY THE FOLLOWING VOTE:**

**AYES** - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG AND PRESIDENT DE LA FUENTE — 8

**NOES** - 0

**ABSENT** - 0

**ABSTENTION** - 0

ATTEST:   
LATONDA SIMMONS  
City Clerk of the City of  
Oakland