

# CITY OF OAKLAND



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Office of the City Attorney  
John A. Russo  
City Attorney

May 16, 2006

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**President De La Fuente and Members of the City Council**  
Oakland, California

**Subject:** Request of the Law Firm of Farella Braun + Martel that the City of Oakland Approve a Conflict Waiver to Allow the firm which Currently Represents the City of Oakland on Various Insurance Coverage Matters, to Allow the Firm to Represent Neu Investment Corporation Regarding a Proposed Granting of a Pedestrian:Easement to the City along the Waterfront of Property Located at 3675 Alameda Avenue as Part of the Bay Trail

President De La Fuente and Members of the City Council:

## **SUMMARY**

The law firm of Farella Braun + Martel has requested a conflict of interest waiver from the City of Oakland. The law firm currently represents the City in connection with a number of insurance coverage matters, including but not limited to insurance coverage for the Riders' settlements; and it wishes to provide legal advice to Neu Investment Corporation regarding a possible grant of a pedestrian easement to the City of Oakland along the waterfront of property located at 3675 Alameda Avenue as a part of the bay trail. The law firm's proposed representation of Neu Investment Corporation is unrelated to the work that the firm has performed and continues to perform for the City of Oakland on insurance coverage matters. Accordingly, the City Attorney's Office does not object to the waiver.

## **DISCUSSION**

Attorneys are required to comply with strict ethical rules governing potential conflicts of interest. Therefore, although the law firm's proposed representation of Neu Investment corporation is completely unrelated to the work that the firm is performing and has performed for the City, the law firm, in the interest of prudence has determined

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that it is advisable to disclose its proposed representation of Neu Investment Corporation to the City and seek the City's consent to its representation of Neu Investment Corporation on the pedestrian easement matter described above.

The City Attorney's Office does not believe that the law firm's concurrent representation of the City on insurance coverage matters and Neu Investment Corporation on the pedestrian easement to the City of Oakland, violates the California Rules of Professional Responsibility. Although the interests of the City and Neu Investment Corporation are potentially adverse, the law firm has not obtained any confidential City information as a result of its representation of the City in insurance coverage matters that is material to the pedestrian easement matter. The law firm has requested a similar waiver from Neu Investment Corporation.

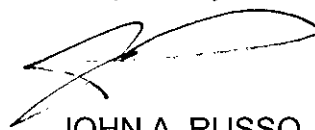
The law firm has agreed to establish an "ethics wall" to prevent any communication of confidential information between attorneys and staff who perform work for Neu Investment Corporation on the grant of the easement at 3675 Alameda Avenue matter, on the one hand, and for the City of Oakland in unrelated insurance matters on the other hand.

Nevertheless, the Council has the right to refuse to grant the conflict waiver. If the City denies the waiver request, the law firm has the option of declining to represent Neu Investment Corporation or terminating its representation of the City on insurance coverage matters. The City Attorney's Office has been very satisfied with the law firm's advice and representation of the City on insurance coverage matters.

### RECOMMENDATION

For the foregoing reasons, the Office of the City Attorney does not oppose the request of Farella Braun + Martel for a waiver and recommends that the City Council grant the waiver.

Respectfully submitted,



JOHN A. RUSSO  
City Attorney

Attorney Assigned:  
Barbara J. Parker

372246

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Approved as to Form and Legality

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

### INTRODUCED BY COUNCILMEMBER

**A RESOLUTION APPROVING A CONFLICT WAIVER FOR THE LAW FIRM OF FARELLA BRAUN + MARTEL, WHICH CURRENTLY REPRESENTS THE CITY OF OAKLAND ON VARIOUS INSURANCE COVERAGE MATTERS, TO ALLOW THE FIRM TO REPRESENT NEU INVESTMENT CORPORATION REGARDING A PROPOSED GRANTING OF A PEDESTRIAN EASEMENT TO THE CITY ALONG THE WATERFRONT OF PROPERTY LOCATED AT 3675 ALAMEDA AVENUE AS PART OF THE BAY TRAIL**

**WHEREAS**, the law firm of Farella, Braun + Martel currently represents the City of Oakland in connection with various insurance coverage matter; and

**WHEREAS**, the law firm proposes to represent Neu Investment Corporation in connection with the possible grant of a pedestrian easement to the City of Oakland along the waterfront of property located at 3675 Alameda Avenue as a part of the bay trail; and

**WHEREAS**, the law firm's proposed representation of Neu Investment Corporation is completely unrelated to the work the firm has performed and continues to perform for the City of Oakland; and

**WHEREAS**, the law firm has not obtained any confidential information in its representation of the City that would be material to the interests of Neu Investment Corporation in pursuing the aforesaid easement; and

**WHEREAS**, attorneys have strict ethical rules governing potential conflicts of interest; and the law firm in the interest of prudence has disclosed the proposed representation of Neu Investment Corporation and has requested that the City Council consent to the firm's representation of Neu Investment Corporation; and

**WHEREAS**, notwithstanding the fact that the matters as to which the law firm represents the City and Neu Investment Corporation are unrelated, there is a possibility that in the future the law firm may learn confidential information that would create a conflict of interest and the law firm will endeavor to apprise the City of any potential future conflicts and resolve them; now therefore be it

**RESOLVED,** that the City Council hereby waives any conflict of interest that the law firm of Farella Braun + Martel may have by virtue of serving as counsel to the Neu Investment Corporation regarding the possible grant of a pedestrian easement to the City of Oakland along the waterfront of property located at 3675 Alameda Avenue as part of the Bay Trail.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –  
ABSENT –  
ABSTENTION –

ATTEST:

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