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January 16, 2007

HONORABLE REDEVELOPMENT AGENCY AND CITY COUNCIL
Oakland, California

President De La Fuente and Members of the City Council:

**SUBJECT: RESOLUTION AUTHORIZING WAIVER OF ANY POTENTIAL
CONFLICT OF INTEREST THAT THE LAW FIRM OF HANSON,
BRIDGETT, MARCUS, VLAHOS, RUDY MAY HAVE AS A
RESULT OF PROVIDING REPRESENTATION TO YELLOW
CAB OF THE EAST BAY**

I. INTRODUCTION

The purpose of this report is to inform the City Council of request of Hanson, Bridgett, Marcus, Vlahos, Rudy, the City's outside counsel for deferred compensation matters, that the City waive any potential "conflict of interest" to allow the law firm to represent Yellow Cab of the East Bay ("Yellow Cab") in its pending taxi permit revocation appeal.

There is not a **legal** conflict of interest because there is no current connection between the firm's representation of the City in deferred compensation matters and the law firm's proposed representation of Yellow Cab. Therefore, the City's interests would not be compromised if the firm represents Yellow Cab. The City Attorney's Office is requesting that the City Council consider the "conflict waiver" nevertheless because it is the City's practice to review retention of outside counsel that is in an adverse position to the City in other matters, regardless of whether there is any legal conflict.

Because the law firm is not representing the City on any pending litigation, there are no grounds for discussing this waiver in closed session.

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II. SUMMARY OF THE ISSUE

The question is whether the City should waive any potential conflict of interest of Hanson, Bridgett, Marcus, Vlahos, Rudy, the City's outside counsel for deferred compensation matters, to allow the law firm to represent Yellow Cab in its pending taxi permit revocation appeal.

The decision ultimately is a policy question for the body to decide. From a legal standpoint, there is no conflict of interest as discussed in the introduction to this report. The law firm has an Employee Benefits section and other sections related to Business, Litigation, etc. The Employee Benefits attorney in the firm who is giving deferred compensation advice to the City will not be working on the Yellow Cab matter and will not discuss or disclose any information s/he may have obtained from advising the City to her fellow lawyers working on the Yellow Cab .

III. DISCUSSION

The law firm, Hanson, Bridgett, Marcus, Vlahos, Rudy, has been the City's outside counsel for deferred compensation matters. Deferred compensation is the retirement system where City employees can have portions of their paycheck deducted and invested so that their income is "deferred" until after retirement. The law firm has provided valuable and necessary advice in drafting and maintaining the deferred compensation plan for City employees.

The law firm has made the following request, received January 2, 2007.

Dear City Of Oakland:

Our firm and its Employee Benefits section was recently retained by the City of Oakland ("City") to opine on certain City employee retirement issues. While the bulk of that work is completed, the City continues to seek advice from our firm from time to time.

Recently, Yellow Cab of the East Bay ("Yellow Cab") requested that different lawyers within our firm represent it in appealing the City's decision to revoke 10 of Yellow Cab's taxi permits/medallions. We understand that you have graciously agreed to consider our representation of Yellow Cab. Because Yellow Cab will be adverse to the City in this appeal, the California Rules of Professional Conduct may require that we make certain disclosures to you and obtain the informed written consent of both the City and Yellow Cab before the appeal hearing. Even if not technically required, we believe that obtaining informed written consent is the better practice. A lawyer owes a client a duty of loyalty, which, among other things, requires a lawyer to exercise judgment that is not influenced by factors other than the client's best interests. Accordingly, we must represent Yellow Cab in this matter without regard to our representation of you in other matters. We have informed Yellow Cab that if we undertake its representation in this matter, the firm's loyalties in this matter will run solely to Yellow Cab and that the firm will continue to aggressively pursue a favorable result for Yellow Cab, including pursuing a result that may be opposed to the City's interests.

Ultimately, in deciding whether to consent, the City must be comfortable with the firm representing Yellow Cab in this matter. We do not want our representation of Yellow Cab to create any tensions or hostilities between you and this firm. In order to ameliorate concerns you or Yellow Cab may have with respect to this situation, we will institute a screening procedure whereby the lawyers and staff working for Yellow Cab on the permit/medallion appeal will not do any work for the City while the matter is pending and will not discuss the Yellow Cab matter with lawyers or staff who are currently doing work for you. Similarly, lawyers and staff working for you will refrain from discussing any of your matters with the lawyers and staff representing Yellow Cab and will not be given access to any of Yellow Cab's files in the matter. We have advised Yellow Cab that the lawyers representing it in this matter would not have access to information the firm has obtained or may obtain in representing you.

In deciding whether you are comfortable with our representation of Yellow Cab, you should also consider that there is a remote possibility that the firm may acquire or have already acquired information from or about you which the firm might otherwise have a duty to disclose to Yellow Cab or use on its behalf. That would not, however, prevent the lawyers representing Yellow Cab in this matter from discovering such information on their own from other sources and using that information for its benefit, such as through independent investigation or discovery processes in litigation.

If you are uncomfortable about this or feel that you could not freely communicate with the lawyers in this firm who represent you because of this arrangement, you should not consent to the firm representing Yellow Cab in this matter. Of course, the firm will also not discuss with you any confidential information obtained in its representation of Yellow Cab.

If you agree that we may represent Yellow Cab under the terms set forth in this letter, we request that you provide your informed written consent by signing and returning this letter to us. We encourage you to seek independent counsel regarding the import of this consent if you so desire, and we emphasize that you remain completely free to seek independent counsel at any time even if you decide to sign the consent

IV. CONCLUSION

From a legal standpoint, there is no conflict of interest.

Respectfully submitted,


JOHN A. RUSSO
City Attorney

Attorney Assigned:
Mark T. Morodomi

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January 16, 2007

A. Gordon

CITY OF OAKLAND

Resolution No. _____ C.M.S.

67-101-4 FILED:56

RESOLUTION AUTHORIZING WAIVER OF ANY POTENTIAL CONFLICT OF INTEREST THAT THE LAW FIRM OF HANSON, BRIDGETT, MARCUS, VLAHOS, RUDY LLP MAY HAVE AS A RESULT OF PROVIDING EMPLOYEE BENEFIT ADVICE TO THE CITY, AND PERMITTING THEM TO REPRESENT YELLOW CAB IN ITS UPCOMING APPEAL OF THE DECISION REVOKING 10 OF YELLOW CAB'S TAXI PERMITS/MEDALLIONS.

WHEREAS, the Employee Benefits Section of the Hanson, Bridgett, Marcus, Vlahos, Rudy LLP law firm (the "Firm"), is the City's outside counsel for deferred compensation matters ; and

WHEREAS, Yellow Cab of the East Bay ("Yellow Cab") has appealed the decision to revoke 10 of its taxi permits/medallions to the City Council; and

WHEREAS, Yellow Cab has requested that different lawyers within the Firm represent Yellow Cab's interests in this appeal; and

WHEREAS, while the proposed representation is not a legal conflict, it is the City's policy and the Firm's desire to obtain "conflict waivers"; and

WHEREAS, none of the Firm's Employee Benefits lawyers would represent Yellow Cab in the appeal, and none of the lawyers working on the appeal have or will handle Employee Benefits issues; and

WHEREAS, Yellow Cab desires to engage the Firm because it is experienced in transportation and permit matters;

Now, therefore, be it

RESOLVED: That the City waives the Firm's conflict of interest, to the extent one existed, and allows the Firm to represent Yellow Cab regarding the taxi permit/medallion appeal.

OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

**AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND
CHAIRPERSON DE LA FUENTE BRUNNER,**

NOES-

ABSENT-

ABSTENTION-

Attest: _____

Latonda Simmons
CITY CLERK
CITY OF OAKLAND