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October 20, 2009

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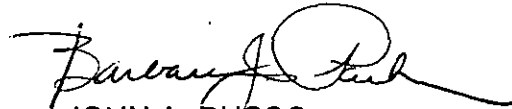
President Brunner and Members of the City Council
Oakland, California

Subject: SUPPLEMENTAL REPORT ON A RESOLUTION APPROVING A CONFLICT WAIVER FOR THE LAW FIRM OF ORRICK, HERRINGTON & SUTLIFFE WHICH HAS REPRESENTED THE CITY OF OAKLAND ON VARIOUS BOND MATTERS FOR DECADES AND ALSO REPRESENTS THE CITY IN *DEBORAH EDGERLY V. CITY OF OAKLAND* TO ALLOW THE FIRM TO REPRESENT SEVERAL DEFENDANTS IN *CITY OF LOS ANGELES, ET AL. V. INFINEON TECHNOLOGIES AG*, AN ANTI-TRUST LAWSUIT FILED ON BEHALF OF THE CITY OF LOS ANGELES, THE CITY OF OAKLAND AND MORE THAN 90 OTHER PLAINTIFFS AGAINST A NUMBER OF MANUFACTURERS OF MEMORY CHIPS FOR ILLEGAL PRICE-FIXING

President Brunner and Members of the City Council:

The name of the law firm of Orrick, Herrington & Sutcliffe ("Orrick") has been corrected in the title of the resolution which inadvertently listed Herrick instead of Herrington as the firm's name.

Respectfully submitted,


JOHN A. RUSSO
City Attorney

Attorney Assigned:
Barbara J. Parker

2009 OCT 15 PM 6:27

Revised

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 ORRICK, HERRINGTON & SUTLIFFE WHICH HAS REPRESENTED THE CITY OF OAKLAND ON VARIOUS BOND MATTERS FOR DECADES AND ALSO REPRESENTS THE CITY IN *DEBORAH EDGERLY V. CITY OF OAKLAND* TO ALLOW THE FIRM TO REPRESENT SEVERAL DEFENDANTS IN *CITY OF LOS ANGELES, ET AL. V. INFINEON TECHNOLOGIES AG*, AN ANTI-TRUST LAWSUIT FILED ON BEHALF OF THE CITY OF LOS ANGELES, THE CITY OF OAKLAND AND MORE THAN 90 OTHER PLAINTIFFS AGAINST A NUMBER OF MANUFACTURERS OF MEMORY CHIPS FOR ILLEGAL PRICE-FIXING

WHEREAS, the law firm of Orrick, Herrington & Sutcliffe ("Orrick") has represented the City of Oakland on various bond matters for decades and Orrick currently represents the City in a lawsuit former City Administrator Deborah Edgerly has filed against the City, challenging her termination; and

WHEREAS, Orrick has established a one-year fellowship program under which it is placing with public entities fifty (50) 2009 law school graduates who have been hired by Orrick as first year associates; and Orrick has agreed to place one of the fellows in the City Attorney's Office and Orrick will pay the fellow's stipend; and

WHEREAS, Orrick has represented Nanya Technology Corporation and Nanya Technology Corporation USA (collectively "Nanya"), and Mosel Vitelic, Inc. and Mosel Vitelic Corporation (collectively "Mosel") since 2004 and 2006 respectively, in anti-trust litigation that the California Attorney General filed against various memory chip manufacturers alleging price-fixing; and

WHEREAS, the California Attorney General is funding and prosecuting the anti-trust litigation and the City became a party plaintiff to the litigation this year, several years after Orrick began representing Nanya and Mosel in the litigation; and

WHEREAS, Orrick's representation of Nanya and Mosel 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 Nanya or Mosel in its defense of the anti-trust litigation; and

WHEREAS, attorneys have strict ethical rules governing potential conflicts of interest; and Orrick has disclosed its representation of Nanya and Mosel and has requested that the City Council consent to the firm's representation of Nanya and Mosel in the anti-trust litigation; and

WHEREAS, notwithstanding the fact that the matters as to which the law firm represents the City and Nanya and Mosel 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; and

WHEREAS, Orrick will erect an ethical wall at its firm to prevent any attorney in the firm who handles the anti-trust defense from working on or having access to confidential information regarding the matters that the firm handles for the City; and

WHEREAS, the City Attorney's Office likewise will erect an ethical wall to prevent the Orrick fellow, who will be placed in the City Attorney's Office for a year, from working on or being privy to information regarding the City's work to assist the California Attorney general in prosecuting the anti-trust litigation; now therefore be it

RESOLVED, that the City Council hereby waives any conflict of interest that the law firm of Orrick, Herrington & Sutcliffe may have by virtue of serving as counsel to Nanya and Mosel in the anti-trust, price-fixing litigation that the City of Los Angeles, the City of Oakland and more than 90 other plaintiffs have filed against Nanya and Mosel and a number of other memory chip manufacturers.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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