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**OAKLAND CITY COUNCIL**

Resolution No. 79961 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 DESILVA GROUP, LLC AND DESILVA GATES CONSTRUCTION, LP IN RESPONDING TO MILLSMONT HOMEOWNERS ASSOCIATION'S NOTICE OF INTENT TO FILE A CITIZENS' SUIT ALLEGING VIOLATIONS OF THE CLEAN WATER ACT AT THE LEONA QUARRY PROJECT, AND ANY LITIGATION ARISING FROM THE CLAIM**

**WHEREAS**, the law firm of Farella, Braun + Martel currently represents the City of Oakland in connection with various insurance coverage matters, including the Riders' and Port of Oakland protest litigation involving allegations of police excessive force and civil rights violations; and

**WHEREAS**, the law firm proposes to represent DeSilva Group, LLC and DeSilva Gates Construction, LP ("DeSilva") in connection with the Millsmont Homeowners Association's claim alleging violations of the Clean Water Act at the Leona Quarry Project, and any litigation arising from the claim; and

**WHEREAS**, the claim also names the City of Oakland; and

**WHEREAS**, the law firm's proposed representation of DeSilva 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 DeSilva in pursuing the aforesaid easement; and

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

**WHEREAS**, notwithstanding the fact that the matters as to which the law firm represents the City and DeSilva 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 that a conflict of interest may arise between the interests of the City and DeSilva regarding the claim; and

**WHEREAS**, the law firm will create an ethical wall to assure that attorneys who represent the City are not involved in the representation of DeSilva 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 DeSilva regarding the Millsmont Homeowners Association's claim alleging violations of the Clean Water Act at the Leona Quarry Project, and any litigation arising out of the claim.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 20 2006

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, ~~NOBLE~~, QUAN, BROOKS, REID,  
CHANG, AND PRESIDENT DE LA FUENTE - 7

NOES - 1 Nadel  
ABSENT - 0  
ABSTENTION - 0

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