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April 1, 2008

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Honorable City Council
Oakland, California

City Council President Ignacio 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 LLP may have as a Result of the Firm's Representation of Yellow Cab in its challenge to the City's Decision to Revoke Taxi Medallions, to allow the Firm to Provide Specialized Legal Assistance in the Oak to Ninth Project Litigation

I. INTRODUCTION

The purpose of this report is to inform the City Council of a request from the law firm of Hanson Bridgett LLP ("Hanson Bridgett")¹ that the City waive any potential conflict of interest Hanson Bridgett may have as a result of its representation of another client with interests adverse to the City, so that the City Attorney could hire Hanson Bridgett for the on-going Oak to Ninth litigation (at the project sponsor's expense).

The City Attorney proposes to hire Hanson Bridgett to represent the City in the litigation regarding the validity of its approval of the Oak to Ninth Project (the Oak to Ninth Litigation"). The Oak to Ninth Litigation is comprised of two cases—Coalition of Advocates for Lake Merritt v. City of Oakland et al. ("CALM") and Oakland Heritage Alliance v. City of Oakland et al. ("OHA") (Alameda Superior Court Case Nos. RG06280471 and RG06280345). On-going litigation in these cases includes without limitation claims by the petitioners in the CALM case that the City Council violated procedural requirements when it adopted an Ordinance approving a development agreement with the project sponsor and approved an amendment to the General Plan. Hanson Bridgett counsel have specialized experience with respect to such claims.

¹ Hanson Bridgett was formerly known as Hanson, Bridgett, Marcus, Vlahos

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However, Hanson Bridgett presently represents the Yellow Cab Company of the East Bay ("Yellow Cab") in a challenge to the City's decision in 2006 to revoke 10 permits/medallions used by Yellow Cab.

There is no direct conflict of interest because there is no current connection between Hanson Bridgett's representation of Yellow Cab and the Oak to Ninth Litigation. Therefore, the City's interests would not be compromised if Hanson Bridgett represents Yellow Cab and at the same time represents the City in the Oak to Ninth Litigation. The City Attorney's Office is requesting that the City Council grant the "conflict waiver" nevertheless because it is the City's practice to review retention of outside counsel who are in an adverse position to the City in other matters, regardless of whether there is any actual, direct conflict.

II. SUMMARY OF THE ISSUE

The question is whether the City should waive any potential conflict of interest that Hanson Bridgett might have by virtue of its representation of the City in the Oak to Ninth Litigation (at the project sponsor's expense) and its representation of Yellow Cab in its pending challenge to the City's revocation of 10 taxi permits/medallions.

The decision ultimately is a policy question for the Council to determine. From a legal standpoint, there is no conflict of interest as discussed in the introduction to this report. There is not and would not any connection between the two matters. The Hanson Bridgett firm has a number of attorneys, and none of the attorneys representing Yellow Cab would be involved in providing legal advice to the City regarding the Oak to Ninth Litigation, and none of the attorneys representing the City in the Oak to Ninth Litigation would be involved in representing Yellow Cab.

III. DISCUSSION

Recently, by Resolution No. 80940 C.M.S (December 4, 2007), the City Council waived a potential conflict with Hanson Bridgett in connection with the retention of Hanson Bridgett to provide specialized legal assistance related to a dispute regarding Union Pacific Railroad's plans to use a rail spur track in Oakland known as the Fruitvale lead.

The City Council previously waived conflicts Hanson Bridgett had. In the past Hanson Bridgett has been the City's outside counsel for deferred compensation matters. The Council waived the potential conflict resulting from the Hanson Bridgett's advice to the City on deferred compensation matters and its subsequent representation of Yellow Cab.

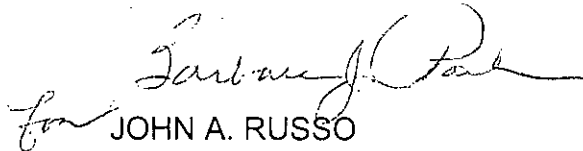
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Hanson Bridgett continues to represent Yellow Cab in its challenge to the City Council decision to revoke 10 taxi medallions issued to Yellow Cab. However, Hanson Bridgett counsel working on the Yellow Cab matter would not represent the City in the Oak to Ninth Litigation, and none of the attorneys representing the City in the Oak to Ninth Litigation would be involved in representing Yellow Cab.

IV. CONCLUSION

As discussed in this report there is no legal conflict of interest between Hanson Bridgett's provision of advice to Yellow Cab and the firm's representation of the City in the Oak to Ninth Litigation. Thus, we respectfully request that you approve the waiver.

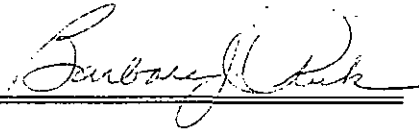
Respectfully submitted,


for JOHN A. RUSSO
City Attorney

Attorney Assigned:
Kevin Siegel

CITY OF OAKLAND

Resolution No. _____ C.M.S.



Resolution Authorizing Waiver of any Potential Conflict of Interest that the Law Firm of Hanson Bridgett LLP May Have as a Result of the Firm's Representation of Yellow Cab in its Challenge to the City's Decision to Revoke Taxi Medallions, to Allow the Firm to Provide Specialized Legal Assistance in the Oak to Ninth Project Litigation

WHEREAS, the City is engaged in litigation regarding the validity of its approval of the Oak to Ninth Project—Coalition of Advocates for Lake Merritt v. City of Oakland et al. ("CALM") and Oakland Heritage Alliance v. City of Oakland et al. ("OHA"), Alameda Superior Court Case Nos. RG06280471 and RG06280345, collectively referred to herein as the "Oak to Ninth Litigation"—including without limitation claims by the petitioners in the CALM case that the City Council violated procedural requirements when it adopted an Ordinance approving a development agreement with the project sponsor and amended the General Plan;

WHEREAS, the City Attorney would like to retain Hanson Bridgett LLP ("Hanson Bridgett") to assist the City with the Oak to Ninth Litigation, at the project sponsor's expense, because the Hanson Bridgett counsel have specialized expertise with respect to above-referenced claims by CALM;

WHEREAS, Yellow Cab Company ("Yellow Cab") previously retained Hanson Bridgett to provide legal assistance in challenging the City's decision in 2006 to revoke 10 permits/medallions Yellow Cab was using; and

WHEREAS, the proposed representation would not constitute a direct conflict, but it is the City's policy and Hanson Bridgett's desire to obtain "conflict waivers" in such cases; and

WHEREAS, none of the Hanson Bridgett counsel involved in the Yellow Cab matter would not be involved in the Oak to Ninth litigation, and none Hanson Bridgett counsel involved in the Oak to Ninth Litigation would not be involved in the Yellow Cab matter;

WHEREAS, by City of Oakland Resolution No. 80940 C.M.S. (December 4, 2007) the City waived a potential conflict with Hanson Bridgett so that the City Attorney could retain Hanson Bridgett to assist the City in responding to Union Pacific Rail Road's plans to use a rail spur track in Oakland known as the Fruitvale Lead;

WHEREAS, the City Attorney desires to engage Hanson Bridgett for the Oak to Ninth Litigation because of its expertise with respect to the above-referenced litigation; and now therefore be it,

RESOLVED: That the City waives Hanson Bridgett's conflict of interest, to the extent one exists, so that Hanson Bridgett may represent the City regarding the Oak to Ninth Litigation at the project sponsor's expense.

OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES-
ABSENT-
ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
CITY CLERK
CITY OF OAKLAND