June 7, 2004

THE HONORABLE CITY COUNCIL
Palo Alto, California

RE: REQUEST FOR AUTHORIZATION TO REQUEST OPINION FROM ATTORNEY GENERAL REGARDING ABILITY OF COUNCIL MEMBER TO PARTICIPATE IN DECISIONS REGARDING STANFORD UNIVERSITY

Dear Members of the City Council:

Council Member Judy Kleinberg has requested that, with the Council’s consent, we obtain an opinion from the Attorney General of California as to whether, as a newly hired executive with the American Electronic Association ("AEA"), she may participate in decisions to contract with Stanford University. The AEA, as a trade association, is exempt from taxation, but it is not exempt under Internal Revenue Code Section 501(c)(3). Stanford is both an institutional member of the AEA and its partner in an annual executive seminar.

We have previously, with the assistance of Steven Dorsey of Richards Watson & Gershon, determined that Councilmember Kleinberg may participate in regulatory decisions involving Stanford. However, we cannot definitively rule out a possible “remote interest” conflict under Government Code Section 1090. If Councilmember Kleinberg’s employment by the AEA, and the AEA’s partnership with Stanford, are a “remote interest,” then the City may still contract with Stanford University, but she may not participate in any decision to do so. The Council has previously indicated that it favors full participation by elected officials to the extent permitted by law. There is no case law in this area, but the Attorney General’s opinion on this matter would be entitled to great weight from any reviewing court.
THE HONORABLE CITY COUNCIL
June 7, 2004
Page 2

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We estimate the cost of obtaining the opinion at approximately $1,000. The time for issuing such opinions varies, but it is normally several months. We will need the support of a State senator or assembly member to request the opinion. Therefore, if you authorize us to proceed, we also ask for your authorization to work with the Mayor to obtain such support.

Respectfully submitted,

[Signature]
WYNNE S. FURTH
Interim City Attorney

WSF: syn

cc: Frank Benest, City Manager
    Emily Harrison, Assistant City Manager