

RESOLUTION NO. 2007-022

Adopted by the Sacramento City Council

January 16, 2007

SECOND SUPPLEMENTAL AGREEMENT FOR LEGAL SERVICES WITH SHUTE, MIHALY AND WEINBERGER, LLP.

BACKGROUND

- A. On December 6, 2005, the Sacramento City Council certified an Environmental Impact Report ("EIR"), adopted a Mitigation Monitoring Plan and approved the Sutter Medical Center, Sacramento Project ("Project"). The preparation of the EIR was supervised by Shute, Mihaly and Weinberger, LLC.
- B. On January 6, 2006, Service Employees International Union, United Healthcare Workers West ("SEIU") filed a petition for writ of mandate in the Sacramento Superior Court against the City and Sutter Health, Inc ("Sutter") on the grounds the EIR and Project approval did not meet the requirements of CEQA ("Matter").
- C. On March 6, 2006, the City entered into an Agreement for legal services with Shute, Mihaly and Weinberger to represent the City in the Matter in an amount not to exceed \$70,000. The City and Sutter entered into an Agreement whereby Sutter agreed to indemnify the City for all attorneys' fees and costs paid to Shute, Mihaly and Weinberger.
- D. The Agreement was amended on August 16, 2006 by a First Amendment to the Agreement, increasing the maximum sum to be paid under the Agreement to \$90,000. The attorney's fees incurred to date have reached the maximum amount payable under the Agreement.
- E. The Superior Court retains jurisdiction over the parties to the Matter, pending a determination that the City has complied with CEQA.
- F. On November 1, 2006, SEIU filed an appeal in the Third District Court of Appeals from the Court's denial of certain portions of their Petition for Writ of Mandate.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Attorney is authorized to execute Supplemental Agreement No. 2 to the Agreement for Legal Services between the City of Sacramento and Shute, Mihaly and Weinberger, LLC, dated March 6, 2006 for additional legal services in the matters of Service Employees International Union, United Healthcare Workers West v. City of Sacramento, et al.,

Sacramento Superior Court Case number 06CS00026, and Third District Court of Appeals case number C054087, in an amount not to exceed \$200,000.00. The fees and costs incurred by the City as a result of this Agreement will be reimbursed by Sutter Health, Inc.


Adopted by the City of Sacramento City Council on January 16, 2007 by the following vote:

Ayes: Councilmembers, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: Councilmember Cohn.



Mayor, Heather Fargo

Attest:


Shirley Concolino, City Clerk