

SHUTE, MIHALY
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WILLIAM J. WHITE
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May 31, 2022

Via E-Mail

Yibin Shen
City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
E-Mail: yshen@alamedacityattorney.org

Re: Consent to dual representation, Stop Waste proposed Building 39 lease

Dear Yibin:

As you and I have discussed, Shute, Mihaly & Weinberger LLP requests that the City consent to the firm's concurrent representation of (1) the Alameda County Waste Management Authority ("Stop Waste") with respect to its proposal to lease the City-owned Building 39 at Alameda Point for a proposed green building showcase center, and (2) the City in existing and future unrelated matters. As discussed in the attached draft consent request letter, the firm is not representing the City in the Stop Waste matter and has no confidential information of the City pertinent to the matter. However, the firm's concurrent representation of clients that are potentially adverse, even in unrelated matters, raises the possibility of divided loyalty. Accordingly, we request the City's written consent to the concurrent representation, as set forth more particularly in the attached letter. Firm attorneys who are working on City matters will not work on the Stop Waste matter, and the firm has implemented an ethical screen to ensure that information regarding the City matters is not shared with attorneys working on the Stop Waste matter.

Please let me know if there is any other information I can provide.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Bill White

**ATTORNEY-CLIENT COMMUNICATION
PRIVILEGED AND CONFIDENTIAL**

May 31, 2022

Via Email
Yibin Shen
City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
Email: yshen@alamedacityattorney.org

Re: Consent to Concurrent Representation

Dear Mr. Shen:

As you know, Shute, Mihaly & Weinberger LLP (the “Firm”) represents the City of Alameda (the “City”) in connection with a variety of past and current matters. Those matters include advising the City on public trust matters, including at Alameda Point. They also include matters that involve real estate and potential leasing issues. As we have discussed with you, the Firm also serves as General Counsel to the Alameda County Waste Management Authority (“StopWaste”). In that capacity, the Firm works on a wide variety of matters for agency.

The City is the owner of 950 West Tower, Building 39 at Alameda Point in the City of Alameda. StopWaste is contemplating a lease of the property (“Alameda Point Lease”). On May 17, the City Council authorized the City Manager to negotiate with StopWaste regarding a lease. If a lease is approved, the City would be the landlord and StopWaste would be a tenant. StopWaste has requested that the Firm represent it in regard to the proposed Alameda Point Lease.

The City has confirmed that the Firm is not representing the City in regard to the proposed Alameda Point Lease. The matters that the Firm has and is working on for the City are unrelated to the proposed Alameda Point Lease. The Firm does not believe that it has received any confidential information from the City in the course of our work for the City that is relevant to the proposed work for StopWaste on the Alameda Point Lease. Further, both parties are expected to be represented primarily by real estate brokers in the lease negotiations.

Nonetheless, our concurrent representation of the City in unrelated, existing matters and StopWaste in the Alameda Point Lease matter would put the Firm in a position of representing two clients whose interests are adverse. For instance, StopWaste may disagree with the City on proposed lease terms such as rent, length of the lease term, and allocation of risk between landlord and tenant, and may seek the Firm's counsel on those matters. This situation gives rise to the possibility of divided loyalty on the part of our Firm.

Although we are not currently aware of any actual or reasonably foreseeable adverse effects of such potential divided loyalty in this case, it is possible that such effects could arise. Accordingly, we are seeking the City's informed written consent to the Firm's representation of StopWaste in the Alameda Point Lease.

By signing this letter, the City consents to the Firm's representation of StopWaste in regard to the proposed Alameda Point Lease. The City further agrees not to assert any conflict of interest or seek to disqualify the Firm from representing StopWaste in regard to the Alameda Point Lease, notwithstanding any adversity between the City and StopWaste regarding lease.

StopWaste has already provided its consent to this concurrent representation, including its agreement not to assert any conflict of interest or seek to disqualify the Firm from representing the City in regard to the existing matters the Firm is working on for the City.

If the City agrees, please sign below and return a copy to me. If you have any questions about this letter, please do not hesitate to contact me.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

William J. White

ACCEPTED AND AGREED:

City of Alameda, a municipal corporation

Yibin Shen, City Attorney

Date: _____