



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/01/2021

ITEM NO: 9

DATE: May 24, 2021
TO: Mayor and Town Council
FROM: Robert Schultz, Town Attorney
SUBJECT: Request for Authorization to Enter into a Legal Services Agreement with the Law Firm of Liebert Cassidy Whitmore for Litigation Defense in the Matter of Jonathon Silva v. Town of Los Gatos for a Total Contract Not-To-Exceed Amount of \$50,000

RECOMMENDATION:

The Town Attorney's Office recommends authorization to enter into an agreement with the law firm of Liebert Cassidy Whitmore to provide for litigation defense services in the Matter of Jonathon Silva v. Town of Los Gatos for a Total Contract Not-To-Exceed Amount of \$50,000.

BACKGROUND:

The Town Attorney's Office is seeking Council approval to enter into a legal services agreement with Liebert Cassidy Whitmore in an amount not-to-exceed \$50,000 for expenses associated with the litigation entitled Jonathon Silva v. Town of Los Gatos. The lawsuit was brought by former Town Police Officer Jonathon Silva and he is seeking "damages and injunctive relief for personal injury suffered by Plaintiff as a result of wrongful termination and the violation of Plaintiff's Due Process Rights under the Fourteenth Amendment of the United States Constitution."

The Town adamantly denies the allegations set forth in the litigation filed by Silva. Officer Silva was hired by the Los Gatos-Monte Sereno Police Department on September 24, 2018. With his hiring, and in accordance with Civil Service employment rules, Officer Silva commenced a one-year probationary period. The probationary period is part of the testing process and is used for closely observing an employee's work to determine fitness for the position. An employee may be rejected at any time during the probationary period without cause and without the right to appeal. Prior to the culmination of Officer Silva's probationary period, he submitted his

PREPARED BY: Robert Schultz
Town Attorney

Reviewed by: Town Manager, Assistant Town Manager, and Finance Director

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SUBJECT: Request for Authorization to enter into a Legal Services Agreement for Litigation
Defense in the Matter of Jonathon Silva v. Town of Los Gatos

DATE: May 24, 2021

BACKGROUND (continued):

resignation effective on July 26, 2019. A Closed Session with Town Council and Legal Counsel will be held on June 15, 2021 to discuss this matter in more detail.

DISCUSSION:

The Town's Attorney's Office maintains a list of qualified outside counsel available to assist with litigation matters. Liebert Cassidy Whitmore has been selected as the most qualified firm to strongly represent and defend the Town's interest in this lawsuit. This contract amount should cover expenses incurred since the initiation of the lawsuit through the end of Fiscal Year (FY) 2021/22. Any additional funding needed for the FY 2022/23 would be brought forward during the FY r 2022/23 budget discussion.

It is recommended that the Council authorize the Town Manager to transfer \$50,000 from savings from FY 2020/21, or other available sources, to the Silva Litigation Fund, which will be established, and authorize the Town Attorney to enter into a contract for legal services with Liebert Cassidy Whitmore in an amount not-to exceed \$50,000.

CONCLUSION:

The Town Attorney's Office recommends authorization to enter into an agreement with the law firm of Liebert Cassidy Whitmore to provide for litigation defense services in the Matter of Jonathon Silva v. Town of Los Gatos for a Total Contract Not-To-Exceed Amount of \$50,000.

ENVIRONMENTAL ASSESSMENT:

This action is not a project as defined under CEQA, and no further action is required.

COORDINATION:

This report was coordinated through the Town Attorney's Office, the Town Manager's Office, and Finance Department.

FISCAL IMPACT:

Defending this litigation is anticipated to cost up to \$50,000. Funding for FY 2021/22 in the amount of \$50,000 will be transferred from FY 2020/21 savings or other available sources.