




# TOWN OF PORTOLA VALLEY

## STAFF REPORT

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**TO:** Mayor and Members of the Town Council

**FROM:** Howard Young, Interim Town Manager 

**DATE:** May 24, 2023

**RE:** Adoption of Legal Services Agreement Between the Town of Portola Valley and Shute, Mihaly & Weinberger LLP for Interim Town Attorney Services

### RECOMMENDATION

Staff recommends that the Town Council:

1. Authorize the Mayor to execute an agreement between the Town of Portola Valley and Shute, Mihaly & Weinberger, LLP, to provide Interim legal services for Town business and applicants (Attachment 1)

### BACKGROUND

Jorgenson, Siegel, McClure & Flegel (JSMF) has been providing legal services to the Town since 1996. From 2017, JSMF partner Cara Silver has served as the Town Attorney. Cara Silver submitted her resignation to the Town on April 21, 2023, to be effective May 22, 2023. As a result, the Town Council held two closed session meetings (April 28, 2023 and May 11, 2023). The Town Council appointed a subcommittee of Judith Hasko and Mary Hufty to prescreen the applicants. On the May 11<sup>th</sup>, 2023 meeting, the Town Council interviewed candidates for an interim role until a full process can be completed to recruit a Town Attorney.

### DISCUSSION

Three candidates were invited for interviews. After interviewing the candidates at its closed session on May 11, 2023, the Town Council chose to negotiate with Shute, Mihaly, & Weinberger (SMW) partner Catherine Engberg ([bio](#)) to be the primary Interim Town Attorney (as detailed in Attachment 1- Legal Retainer Agreement for Interim Town Attorney Services). The length of the Interim contract is anticipated to be 6-8 months. This also allows time to complete the recruitment of a permanent Town Manager, who may provide further input on the permanent hire.

Staff also notes that the SMW agreement section 7 discloses a legal conflict concerning a current SMW client related to a parcel in the Town. Section 7 outlines a recommended procedure to address this, by the Town acquiring other counsel on such matters.

It is also anticipated that the Town will enter into a legal services agreement with JSMF to assist the new Interim Attorney in the transition. This transition agreement is anticipated to be within the Interim Town Manager's contract authority of \$25,000.

### **FISCAL IMPACT**

Below is a comparison of General, Litigation and Development rates of the current and proposed firms. Development rates are passed through to development applicants.

	<u><b>JSMF (current)</b></u>	<u><b>SMW</b></u>
General Services	\$275/hour	\$340/hour
Litigation Services	\$275/hour	\$390/hour
Development Services	\$375/hour	\$390/hour

Staff also notes that due to high legal service activity this fiscal year due to litigation, Housing Element, CEQA, and other legal matters, the current budget for legal services will need to be amended. Staff intends to bring back a budget amendment at a future Council meeting for consideration.

### **ATTACHMENT**

1. Legal Retainer agreement for Interim Town Attorney Services