

**Office of the
City Attorney**
Richard Doyle, City Attorney

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T*he Office of the City Attorney is committed to providing excellent legal services, consistent with the highest professional and ethical standards, with the goal of protecting and advancing the City's interests in serving the people of San José*

City Service Area

Strategic Support

Core Services

Legal Services

Advocate, defend, and prosecute on behalf of the City's interests. Provide oral and written advice on legal issues and prepare documents to implement official City actions.

Strategic Support: Provides administrative oversight for the department, including executive management, financial management, and human resources.

Office of the City Attorney

Service Delivery Framework

PROGRAM	DESCRIPTION
<i>Legal Services Core Service</i>	
Legal Representation	Provides legal representation to advocate, defend, and prosecute matters on behalf of the City and the Successor Agency to the Redevelopment Agency. This involves a variety of activities including defense of lawsuits; general liability claims management; prosecution of municipal code violations; workers' compensation investigations and litigation; seeking injunctions for general nuisance, gang and drug abatements; alternative dispute resolution and contract dispute assistance; and initiation of litigation which can result in significant revenue collections.
Legal Transactions	Provides oral and written legal counsel and advice to the Mayor, City Council, Council Appointees, City departments, City boards, commissions and committees, and to the Successor Agency to the Redevelopment Agency, and is responsible for review and preparation of ordinances, resolutions, contracts, permits and other legal documents to implement official City and Agency actions.
<i>Strategic Support Core Service</i>	
City Attorney Management and Administration	Provides administrative oversight for the department, including executive management, financial management, and human resources.

Office of the City Attorney

Department Budget Summary

Expected 2018-2019 Service Delivery

- ❑ The City Attorney's Office will continue to provide legal representation and advice, while facing the challenge of meeting legal services demand that is largely driven by outside factors. Transactional legal assignments are generated by City Council direction and department requests that are often driven by technology innovations, economic conditions and state and federal mandates. Litigation matters often originate from claims and lawsuits against the City; consequently, workloads and liability exposure are largely out of the Office's control. In addition, the Office prosecutes criminal cases and files a variety of affirmative lawsuits. The Office will continue to provide in-house legal services while managing unpredictable fluctuations in demand for these services.
- ❑ Transactional legal services will continue to be delivered by the Office with priority given to matters that will provide the greatest benefit to the City or have the potential for increasing revenue. Lower priority assignments will be performed as time and staffing allows.
- ❑ Increased legal services will be required to assist on: 1) advice to the Planning Division, Office of Economic Development, and other departments supporting development; (2) Housing-related ordinances and issues, including Housing transactions, and Council initiatives on homelessness, rent control and mobile homes; 3) real estate-related projects, including the negotiations with Google, the completion of the sale of Hayes Mansion, and Parkside Hall for the Museum Place project; 4) advising staff related to the feasibility of forming a Community Facilities District to finance the acquisition of the Tech Expansion Space in connection with the Museum Place Project; 5) capital construction projects and issues relating to the Regional Wastewater Facility; and 6) innovation efforts to improve City technology.
- ❑ Litigation defense services will continue to take priority over proactive suits by the City. The net loss of litigation attorney positions has, at times, affected the Office's ability to adequately staff lawsuits and other litigation matters.
- ❑ Because of potential legal conflicts of interest, outside legal counsel will continue to be retained to represent the City's interests in pension-related litigation matters. When pension-related lawsuits are resolved, it is anticipated that use of outside legal counsel will decline.
- ❑ Significant legal staff and resources are dedicated to collecting, reviewing, and responding to time-consuming and time-sensitive Public Records Act (PRA) requests, litigation records, and discovery. The Office is currently implementing technology to respond to electronic discovery and PRA requests.

2018-2019 Key Budget Actions

- ❑ Adds 1.0 Deputy City Attorney IV position to provide litigation services related to the enforcement and compliance with the City's Apartment Rent Ordinance.
- ❑ Continues 1.0 Legal Analyst II through June 30, 2019 to support Workers' Compensation Litigation matters.
- ❑ Continues one-time funding of \$82,000 for temporary part-time attorney services, partially funded by the San José-Santa Clara Treatment Plant Capital Fund (6%) and the San José-Santa Clara Treatment Plant Operating Fund (20%), to provide training and other transactional legal services related to Planning, the Regional Wastewater Facility (RWF), and Municipal Water programs, as well as, provide as needed assistance for general legal assignments.
- ❑ Continues to shift funding on a one-time basis for 0.41 positions from the General Fund to the Water Utility Fund for City Attorney staff work that will support the Municipal Water System.

Operating Funds Managed

N/A

City Attorney's Office
Department Budget Summary

	2016-2017 Actuals*	2017-2018 Adopted	2018-2019 Forecast	2018-2019 Adopted
Dollars by Core Service				
Legal Services	n/a	17,010,151	17,170,389	17,904,547
Strategic Support - City Council Appointees	n/a	1,561,044	1,533,007	1,537,832
Strategic Support - Other - Council Appointees	n/a	19,000,000	5,597,215	5,679,676
Total	n/a	\$37,571,195	\$24,300,611	\$25,122,055
Dollars by Category				
Personal Services and Non-Personal/Equipment				
Salaries/Benefits	15,325,529	17,129,164	17,695,815	18,406,637
Overtime	30,899	0	0	0
Subtotal Personal Services	\$15,356,428	\$17,129,164	\$17,695,815	\$18,406,637
Non-Personal/Equipment	1,047,542	1,152,581	1,007,581	1,035,742
Total Personal Services & Non-Personal/Equipment	\$16,403,970	\$18,281,745	\$18,703,396	\$19,442,379
Other Costs**				
City-Wide Expenses	n/a	19,289,450	5,000,000	5,000,000
Other	n/a	0	0	2,678
Overhead Costs	n/a	0	597,215	676,998
Total Other Costs	n/a	\$19,289,450	\$5,597,215	\$5,679,676
Total	n/a	\$37,571,195	\$24,300,611	\$25,122,055

* Some data for the 2016-2017 Actual column are not available. With the change to a program-based budgeting model in 2017-2018, historical budget data by the new programs and core services is not available for prior periods.

** Fund Balance, Transfers, and Reserves for funds that may be managed by this department have been excluded from this display. This information can be found in Source and Use of Funds Statements elsewhere in this document.

City Attorney's Office
Department Budget Summary

	2016-2017 Actuals*	2017-2018 Adopted	2018-2019 Forecast	2018-2019 Adopted
Dollars by Fund				
General Fund (001)	n/a	34,084,561	20,173,725	20,511,555
Airport Maintenance And Operation Fund (523)	n/a	688,613	812,411	822,569
Community Development Block Grant Fund (441)	n/a	17,854	17,248	19,926
Home Investment Partnership Program Trust Fund (445)	n/a	75,227	96,689	98,649
Housing Trust Fund (440)	n/a	39,032	45,749	46,533
Integrated Waste Management Fund (423)	n/a	47,193	62,768	64,821
Low And Moderate Income Housing Asset Fund (346)	n/a	742,406	816,747	824,783
Multi-Source Housing Fund (448)	n/a	291,524	531,395	749,388
San José Clean Energy Operating Fund (501)	n/a	0	294,565	372,374
San José-Santa Clara Treatment Plant Operating Fund (513)	n/a	148,542	154,872	180,378
Sewer Service And Use Charge Fund (541)	n/a	511,646	697,576	706,028
Water Utility Fund (515)	n/a	358,355	0	123,265
Workforce Development Fund (290)	n/a	183,932	193,681	193,681
Capital Funds	n/a	382,310	403,185	408,105
Total	n/a	\$37,571,195	\$24,300,611	\$25,122,055
Positions by Core Service				
Legal Services	n/a	71.40	74.90	76.90
Strategic Support - City Council Appointees	n/a	7.10	7.10	7.10
Total	n/a	78.50	82.00	84.00

City Attorney's Office
Department Budget Summary

	2016-2017	2017-2018	2018-2019	2018-2019	2018-2019
	Actuals*	Adopted	Forecast	Adopted	Adopted Positions
Dollars by Program**					
Legal Services					
Legal Representation	n/a	8,252,950	7,535,832	7,999,808	37.54
Legal Transactions	n/a	8,757,201	9,634,557	9,904,739	39.36
Sub-Total	n/a	17,010,151	17,170,389	17,904,547	76.90
Strategic Support - City Council Appointees					
City Attorney Management and Administration	n/a	1,561,044	1,533,007	1,537,832	7.10
Sub-Total	n/a	1,561,044	1,533,007	1,537,832	7.10
Strategic Support - Other - Council Appointees					
City Attorney Other Departmental - City-Wide	n/a	19,000,000	5,000,000	5,000,000	0.00
City Attorney Overhead	n/a	0	597,215	679,676	0.00
Sub-Total	n/a	19,000,000	5,597,215	5,679,676	0.00
Total	n/a	\$37,571,195	\$24,300,611	\$25,122,055	84.00

* Data for the 2016-2017 Actual column are not available. With the change to a program-based budgeting model in 2017-2018, historical budget data by the new programs and core services is not available for prior periods.

** Fund Balance, Transfers, and Reserves for funds that may be managed by this department have been excluded from this display. This information can be found in Source and Use of Funds Statements elsewhere in this document.

Office of the City Attorney

Budget Reconciliation

Personal Services and Non-Personal/Equipment

(2017-2018 Adopted to 2018-2019 Adopted)

	Positions	All Funds (\$)	General Fund (\$)
Prior Year Budget (2017-2018):	78.50	18,281,745	14,795,111
<hr/> Base Adjustments			
One-Time Prior Year Expenditures Deleted			
• Rebudget: Electronic Information Document Review and Production Software		(100,000)	(100,000)
• Rebudget: Computer Hardware		(75,000)	(75,000)
• Unfair Business Practices Legal Staffing	0.00	(200,000)	(200,000)
• Workers' Compensation Legal Analyst Staffing	0.00	(104,000)	(104,000)
• Planning and Environmental Services Legal Staffing	0.00	(90,000)	(66,600)
One-time Prior Year Expenditures Subtotal:	0.00	(569,000)	(545,600)
Technical Adjustments to Costs of Ongoing Activities			
• Salary/benefit changes		462,209	532,068
• Municipal Water System Litigation Staffing Funding Shift (2.2 positions from Water Utility Fund to General Fund)	0.00	0	362,146
• San José Clean Energy (City Council approval August 29, 2017): Adds 1.0 Senior Deputy City Attorney, 1.0 Legal Analyst II, and 0.5 Legal Administrative Assistant I PT	2.50	444,000	0
• Apartment Rent Ordinance Staffing and Fee Implementation (City Council approval November 14, 2017): Adds 1.0 Legal Analyst II	1.00	54,442	0
• Electronic Information, Document Review and Production Software		30,000	30,000
Technical Adjustments Subtotal:	3.50	990,651	924,214
2018-2019 Forecast Base Budget:	82.00	18,703,396	15,173,725
<hr/> Budget Proposals Approved			
1. Salary Program		368,918	248,584
2. Rental Rights and Referrals Attorney	1.00	158,639	0
3. Workers' Compensation Legal Analyst Staffing	1.00	101,265	101,265
4. Legal Staffing for Planning, Environmental Services and Other Transactional Assignments	0.00	82,000	60,680
5. Municipal Water System Litigation Staffing	0.00	0	(100,860)
6. Print Management		(6,839)	(6,839)
7. Rebudget: Electronic Information Document Review and Production Software		35,000	35,000
Total Budget Proposals Approved	2.00	738,983	337,830
2018-2019 Adopted Budget Total	84.00	19,442,379	15,511,555

Office of the City Attorney

Budget Changes By Department Personal Services and Non-Personal/Equipment

2018-2019 Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
1. Salary Program		368,918	248,584
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Strategic Support Core Service</i> <i>Legal Representation Program</i> <i>Legal Transactions Program</i> <i>City Attorney Management and Administration Program</i>			
<p>As described in Manager's Budget Addendum #29, this action increases the Personal Services budget to fund a 5.0% non-pensionable compensation increase that was negotiated and agreed to by the City and the Association of Legal Professionals (ALP), effective July 1, 2018. This action is offset by a partial decrease to the Salaries and Benefits Reserve allocation in the General Fund that was set aside as part of the 2019-2023 Five-Year General Fund Forecast for this purpose as described in the General Fund Capital, Transfers, and Reserves section of this document, and a reduction to the Ending Fund Balances or an alternative funding source in the Special Funds as reflected in the Source and Use of Funds Statements section of this document. (Ongoing costs: \$368,918)</p>			
2. Rental Rights and Referrals Attorney	1.00	158,639	0
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation Program</i>			
<p>Offset by Rental Rights and Referral fee revenues, this action adds 1.0 Deputy City Attorney position to provide litigation services related to the enforcement and compliance with the City's Apartment Rent Ordinance as part of the City's Rental Rights and Referrals Program. This attorney position is included in Phase III of the Staffing Plan for the Rental Rights and Referrals Program, approved by the City Council on November 14, 2017, as management of the City's Rental Rights and Referrals Program requires significant support from the City Attorney's Office. (Ongoing costs: \$173,060)</p>			
3. Workers' Compensation Legal Analyst Staffing	1.00	101,265	101,265
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation Program</i>			
<p>This action continues 1.0 Legal Analyst II position, through June 30, 2019, to continue legal support to the Workers' Compensation Program. This position supports comprehensive case review and legal research, including the extensive review of medical records, developing case evidence, drafting legal correspondence, and monitoring case activity. This action allows greater efficiencies in the Office of the City Attorney, as increased legal analyst support provides the Workers' Compensation attorneys' team critical resources for case management. (Ongoing costs: \$0)</p>			

Office of the City Attorney

Budget Changes By Department Personal Services and Non-Personal/Equipment

2018-2019 Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
4. Legal Staffing for Planning, Environmental Services and Other Transactional Assignments	0.00	82,000	60,680
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation Program</i>			
<p>This action continues one-time funding of \$82,000 for temporary part-time attorney services, partially funded by the San José-Santa Clara Treatment Plant Capital Fund (6%) and the San José-Santa Clara Treatment Plant Operating Fund (20%), to provide training and other transactional legal services related to Planning, Regional Wastewater Facility (RWF), and Municipal Water programs, as well as provide assistance for general legal assignments. Services include revision to the City's Sign Code and Zoning Code and various other provisions in the Municipal Code. This staffing assistance also provides legal services related to regulatory issues involving the Plant's National Pollution Discharge Elimination System permit, and the management of the RWF lands. (Ongoing costs: \$0)</p>			
5. Municipal Water System Litigation Staffing	0.00	0	(100,860)
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation Program</i>			
<p>This action continues to shift funding on a one-time basis for 0.41 positions (0.1 Legal Analyst II and 0.31 Senior Deputy Attorney) in the City Attorney's Office from the General Fund to the Water Utility Fund. The shift provides funding for 2018-2019 costs related to legal support and services required for a class action lawsuit regarding water rates for the Municipal Water System. (Ongoing costs: \$0)</p>			
6. Print Management		(6,839)	(6,839)
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Strategic Support Core Service</i> <i>Legal Representation Program</i> <i>Legal Transactions Program</i> <i>City Attorney Management and Administration Program</i>			
<p>This action reduces the non-personal/equipment budget in 2018-2019 by \$6,839 to reflect anticipated savings from the implementation of a City-wide print management solution that will control print costs and minimize waste across the 220 multi-function devices the City operates. The new software will provide defaults to non-color and duplex printing that reduce color usage and paper consumption. The project will be implemented in January 2019 and projected savings of approximately \$6,839 in the first year and \$13,768 thereafter are anticipated to be realized. (Ongoing savings: \$13,768)</p>			

Office of the City Attorney

Budget Changes By Department Personal Services and Non-Personal/Equipment










2018-2019 Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
7. Rebudget: Electronic Information Document Review and Production Software		35,000	35,000
<i>Strategic Support CSA</i>			
<i>Legal Services Core Service</i>			
<i>Legal Representation Program</i>			
<p>This action rebudgets unexpended 2017-2018 non-personal/equipment funding for software to assist in the collection, review, and response to time-sensitive Public Records Act requests, litigation records, and electronic discovery. (Ongoing costs: \$0)</p>			
2018-2019 Adopted Budget Changes Total	2.00	738,983	337,830

Office of the City Attorney

Performance Summary

Legal Services

Performance Measures

	2016-2017 Actual	2017-2018 Target	2017-2018 Estimated	2018-2019 Target
 % of time final case results are within staff analyses and/or recommendations	75%	90%	90%	90%
 Cost of representation compared to law offices of similar size, practice, and expertise, including other governmental law offices				
- City Attorney's Office average hourly rate	\$139	\$145	\$144	\$145
- Outside Legal Counsel average hourly rate	\$350	\$362	\$355	\$360
 % of time client is timely informed of significant developments in a case	83%	80%	83%	80%
 % of survey respondents rating legal services satisfactory or better based on quality, cycle time, and professionalism	90%	90%	90%	90%
 % of time final documents accurately reflect the approval of City action	96%	100%	96%	100%
 % of time that advice identifies and analyzes legal issues and risks	97%	85%	97%	85%
 % of time that advice provides alternatives where appropriate	80%	70%	80%	70%
 Cost of advice and documentation compared to law offices of similar size, practice, and expertise including other governmental offices				
- City Attorney's Office average hourly rate	\$139	\$145	\$144	\$145
- Outside Legal Counsel average hourly rate	\$350	\$362	\$355	\$360
 % of time client receives advice/document within mutually accepted time frames	93%	85%	93%	85%

Office of the City Attorney

Performance Summary

Legal Services

Activity and Workload Highlights

	2016-2017 Actual	2017-2018 Forecast	2017-2018 Estimated	2018-2019 Forecast
# of claims filed against the City	775	725	1,100	725
# of lawsuits filed against the City	164	215	150	175
# of lawsuits and administrative actions filed or initiated by the City	161	200	100	150
# of Council/Board/Manager memoranda:				
- Prepared	998	1,200	1,200	1,200
- Reviewed	867	800	800	800
# of formal Opinions issued	3	8	5	5
# of Resolutions	526	442	450	450
# of Ordinances	225	180	200	180
# of Agreements	2,206	2,236	2,200	2,200

Office of the City Attorney

Departmental Position Detail

Position	2017-2018 Adopted	2018-2019 Adopted	Change
Accounting Technician	1.00	1.00	-
Assistant City Attorney	2.00	2.00	-
Associate Deputy City Attorney	1.00	1.00	-
Chief Deputy City Attorney	4.00	4.00	-
City Attorney	1.00	1.00	-
Deputy City Attorney I/II/III/IV	8.00	9.00	1.00
Executive Assistant	1.00	1.00	-
Legal Administrative Assistant	10.00	10.50	0.50
Legal Analyst II	13.00	16.00	3.00
Legal Services Administrator	1.00	1.00	-
Messenger Clerk PT	0.50	0.50	-
Network Engineer	1.00	1.00	-
Office Specialist II	2.00	2.00	-
Police Officer	1.00	1.00	-
Police Sergeant	1.00	1.00	-
Senior Deputy City Attorney I/II/III/IV	28.00	29.00	1.00
Senior Legal Analyst	3.00	3.00	-
Total Positions	78.50	84.00	5.50

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