

# Office of the City Attorney

Nora Frimann, City Attorney

## MISSION

*The 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

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### LEGAL SERVICES

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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.

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**Strategic Support:** Administrative Support and Emergency Response and Recovery.

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## Office of the City Attorney

### Service Delivery Framework

PROGRAM	DESCRIPTION
<i>Legal Services Core Service</i>	
<b>Legal Representation</b>	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.
<b>Legal Transactions</b>	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>	
<b>City Attorney Management and Administration</b>	Provides administrative oversight for the department, including executive management, financial management, and human resources.
<b>City Attorney Emergency Response and Recovery</b>	Provides for the coordination and delivery of emergency services and recovery activities.

# Office of the City Attorney

## Department Budget Summary

### Expected 2024-2025 Service Delivery

- The City Attorney's Office (CAO) will continue to provide legal representation and advice while facing the challenge of meeting legal services demands 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. Transactional legal services will continue to be delivered by the Office with priority given to matters that reflect Council priorities and 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 allow.
- Litigation matters often originate from claims and lawsuits against the City; consequently, workloads and liability exposure are largely out of the CAO's control. In addition, the Office prosecutes criminal cases and files Gun Violence Restraining Orders and various affirmative lawsuits. The Office will continue to provide in-house legal services while managing unpredictable fluctuations in demand for these services. Litigation defense services will continue to take priority over proactive suits by the City.
- Airport, Clean Energy, Sanitary Sewer and Storm, Solid Waste enterprise programs: prepay power purchase conduit financing; advise on new programs; power procurement and regulatory compliance; advise on project development for Airport connector project, belly freight, recreation and commercial development of Guadalupe Gardens; advise on public-private financing, biosolids facility; ongoing monitoring of new state regulatory requirements relating to sanitary sewer and storm programs.
- Economic Development: Negotiations of Sharks and SAP Center agreements; Microsoft development agreement; billboard lease agreements; negotiations of Team San Jose agreement; advise on revenue opportunities at San Jose events; advise on unpermitted vendors at cultural facility events.
- Housing: advise on implementing over 100 policies and strategies in Housing Element; assist City departments in implementing Shelter Crisis Resolution and development of interim housing sites; enforcement of buffer zones; advise on implementation of large vehicle and overnight parking prohibitions; day-to-day crisis resolution on interim housing sites.
- Labor Enforcement: advise on implementation of private responsible construction program, and any potential regulation involving fast food workers.
- Tax Revenue: monitor and advocate on ongoing tax disputes, negotiate banking services agreements, advise on tax audits including TOT, utility user, telecommunication, and Measure E.
- Election: advise on election-related issues before November 2024.
- Transportation: update micro-mobility device regulatory scheme.
- Building: draft soft story seismic retrofit ordinance and continue legal guidance on approximately 30 Builder's Remedy applications and work with HCD on pro-housing designation.
- Provide legal support for potential City Charter amendments affecting Retirement Services.
- Advise on Development Fee Framework and Council Policy to align City fees.
- Provide legal support regarding Ambulance Transport Services and EMS Review and Overhaul.

### 2024-2025 Key Budget Actions

- Makes permanent 1.0 Associate Deputy City Attorney position to continue the support of Gun Violence Restraining Orders.
- Extends 1.0 Legal Analyst position, through June 30, 2025, to address the continuing demands of the Gun Violence Restraining Orders and support other areas involving City policy and procedures.
- Shifts portions of 2.0 Legal Administrative Assistant positions from General Fund to other funds to reflect a reduced Cannabis Regulation program.
- Eliminates 1.0 vacant Senior Deputy City Attorney position assigned to support the Planning, Building and Code Enforcement Department.

### Operating Funds Managed

N/A

# Office of the City Attorney

## Department Budget Summary

	2022-2023 Actuals ***	2023-2024 Adopted ****	2024-2025 Forecast	2024-2025 Proposed
<b>Dollars by Core Service</b>				
Legal Services	21,576,869	22,424,504	24,289,913	24,289,972
Strategic Support - City Council Appointees	1,833,928	1,919,016	2,049,310	2,049,310
Strategic Support - Other - Council Appointees	3,624,298	20,261,174	7,159,325	7,166,263
<b>Total</b>	<b>\$27,035,095</b>	<b>\$44,604,694</b>	<b>\$33,498,548</b>	<b>\$33,505,545</b>
<b>Dollars by Category</b>				
<i>Personal Services and Non-Personal/Equipment</i>				
Salaries/Benefits	20,801,445	22,582,711	24,603,153	24,568,212
Overtime	21,138	0	0	0
<b>Subtotal Personal Services</b>	<b>\$20,822,582</b>	<b>\$22,582,711</b>	<b>\$24,603,153</b>	<b>\$24,568,212</b>
Non-Personal/Equipment	2,244,321	1,760,809	1,709,809	1,744,809
<b>Total Personal Services &amp; Non-Personal/Equipment</b>	<b>\$23,066,904</b>	<b>\$24,343,520</b>	<b>\$26,312,962</b>	<b>\$26,313,021</b>
<i>Other Costs *</i>				
City-Wide Expenses	3,568,420	19,259,000	6,000,000	6,000,000
Housing Loans and Grants	0	0	0	0
Other	199,623	0	26,261	26,261
Other - Capital	0	0	0	0
Overhead Costs	200,148	1,002,174	1,159,325	1,166,263
<b>Total Other Costs</b>	<b>\$3,968,191</b>	<b>\$20,261,174</b>	<b>\$7,185,586</b>	<b>\$7,192,524</b>
<b>Total</b>	<b>\$27,035,095</b>	<b>\$44,604,694</b>	<b>\$33,498,548</b>	<b>\$33,505,545</b>

\* 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.

\*\* The position counts displayed in the 2022-2023 Actuals column reflect those included in the 2022-2023 Adopted Budget.

\*\*\* 2022-2023 Actuals may not subtotal due to rounding.

\*\*\*\* The amounts in the 2023-2024 Adopted Budget column may vary from the published Adopted Budget due to the realignment of Other Costs (primarily City-Wide Expenses and General Fund Capital) between Departments.

# Office of the City Attorney

## Department Budget Summary

	2022-2023 Actuals ***	2023-2024 Adopted ****	2024-2025 Forecast	2024-2025 Proposed
<b>Dollars by Fund</b>				
General Fund (001)	21,644,396	37,115,689	25,069,994	25,031,941
Airport Maintenance And Operation Fund (523)	654,016	935,966	833,515	833,515
Building Development Fee Program Fund (237)	75,090	78,579	85,317	85,317
Community Development Block Grant Fund (441)	28,121	21,451	38,825	38,825
Home Investment Partnership Program Trust Fund (445)	8,239	11,515	0	0
Housing Trust Fund (440)	52,300	40,410	58,011	58,011
Integrated Waste Management Fund (423)	181,290	72,520	233,742	233,742
Low And Moderate Income Housing Asset Fund (346)	1,116,075	1,357,739	1,764,264	1,790,107
Multi-Source Housing Fund (448)	88,835	117,208	125,097	125,097
Planning Development Fee Program Fund (238)	390,277	418,934	447,804	447,804
Real Property Transfer Tax Fund (404)	0	0	550,179	550,179
Rental Stabilization Program Fee Fund (450)	344,702	527,941	550,467	550,467
San José Clean Energy Operating Fund (501)	662,701	1,250,951	1,234,338	1,234,338
San José-Santa Clara Treatment Plant Operating Fund (513)	153,192	73,961	294,600	294,600
Sewer Service And Use Charge Fund (541)	691,037	1,646,573	1,275,964	1,295,171
Storm Sewer Operating Fund (446)	162,000	0	180,123	180,123
Water Utility Fund (515)	91,010	168,559	187,039	187,039
Workforce Development Fund (290)	110,451	129,199	135,659	135,659
Capital Funds	581,363	637,499	433,610	433,610
<b>Total</b>	<b>\$27,035,095</b>	<b>\$44,604,694</b>	<b>\$33,498,548</b>	<b>\$33,505,545</b>
<b>Positions by Core Service **</b>				
Legal Services	79.70	80.70	79.80	80.80
Strategic Support - City Council Appointees	6.80	7.80	7.70	7.70
<b>Total</b>	<b>86.50</b>	<b>88.50</b>	<b>87.50</b>	<b>88.50</b>

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# Office of the City Attorney

## Department Budget Summary

	2022-2023 Actuals **	2023-2024 Adopted	2024-2025 Forecast	2024-2025 Proposed	2024-2025 Proposed Positions
<b>Dollars by Program*</b>					
<b>Legal Services</b>					
Legal Representation	11,242,767	10,772,664	11,501,939	11,650,493	37.99
Legal Transactions	10,334,102	11,651,840	12,787,974	12,639,479	42.81
<b>Sub-Total</b>	<b>21,576,869</b>	<b>22,424,504</b>	<b>24,289,913</b>	<b>24,289,972</b>	<b>80.80</b>
<b>Strategic Support - City Council Appointees</b>					
City Attorney Management and Administration	1,833,928	1,919,016	2,049,310	2,049,310	7.70
<b>Sub-Total</b>	<b>1,833,928</b>	<b>1,919,016</b>	<b>2,049,310</b>	<b>2,049,310</b>	<b>7.70</b>
<b>Strategic Support - Other - Council Appointees</b>					
City Attorney Other Departmental - City-Wide	3,376,543	19,259,000	6,000,000	6,000,000	0.00
City Attorney Other Operational - Administration	110,878	0	0	0	0.00
City Attorney Overhead	136,878	1,002,174	1,159,325	1,166,263	0.00
<b>Sub-Total</b>	<b>3,624,298</b>	<b>20,261,174</b>	<b>7,159,325</b>	<b>7,166,263</b>	<b>0.00</b>
<b>Total</b>	<b>\$27,035,095</b>	<b>\$44,604,694</b>	<b>\$33,498,548</b>	<b>\$33,505,545</b>	<b>88.50</b>

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\*\* 2022-2023 Actuals may not subtotal due to rounding.

# Office of the City Attorney

## Budget Reconciliation

### Personal Services and Non-Personal/Equipment

(2023-2024 Adopted to 2024-2025 Proposed)

	Positions	All Funds (\$)	General Fund (\$)
<b>Prior Year Budget (2023-2024):</b>	<b>88.50</b>	<b>24,343,520</b>	<b>17,856,689</b>
<b>Base Adjustments</b>			
<b>One-Time Prior Year Expenditures Deleted</b>			
• Gun Violence Restraining Order Staffing (1.0 Associate Deputy City Attorney)	(1.00)	(161,571)	(161,571)
• Outside Counsel		(60,000)	(60,000)
<b>One-time Prior Year Expenditures Subtotal:</b>	<b>87.50</b>	<b>(221,571)</b>	<b>(221,571)</b>
<b>Technical Adjustments to Costs of Ongoing Activities</b>			
• Salary/benefit changes		1,770,121	1,140,095
• Contract Services: Legal Counsel		9,000	9,000
• Fund Shift: Legal Transactions and Representation		(138,287)	285,781
• Fund Shift: Measure E - 5% Program Administration		550,179	0
<b>Technical Adjustments Subtotal:</b>	<b>0.00</b>	<b>2,191,013</b>	<b>1,434,876</b>
<b>2024-2025 Forecast Base Budget:</b>	<b>87.50</b>	<b>26,312,962</b>	<b>19,069,994</b>
<b>Budget Proposals Recommended</b>			
1. Gun Violence Restraining Order Staffing	2.00	356,386	356,386
2. Cannabis Regulation Program Staffing	0.00	0	(55,928)
3. Legal Transaction Staffing	(1.00)	(356,327)	(338,511)
<b>Total Budget Proposals Recommended</b>	<b>1.00</b>	<b>59</b>	<b>(38,053)</b>
<b>2024-2025 Proposed Budget Total</b>			
	<b>88.50</b>	<b>26,313,021</b>	<b>19,031,941</b>

# Office of the City Attorney

## Budget Changes by Department

### Personal Services and Non-Personal/Equipment

2024-2025 Proposed Budget Changes	Positions	All Funds (\$)	General Fund (\$)
<b>1. Gun Violence Restraining Order Staffing</b>	<b>2.00</b>	<b>356,386</b>	<b>356,386</b>

***Strategic Support – Council Appointees CSA  
Legal Services Core Service  
Legal Representation and Legal Transactions Programs***

This action makes permanent 1.0 Associate Deputy City Attorney position, extends 1.0 Legal Analyst position through June 30, 2025, and adds one-time non-personal/equipment funding of \$35,000 to support Gun Violence Restraining Order cases. The San José Police Department (SJPD) leads the County in requests for Gun Violence Restraining Orders (GRVOs), and the Associate Deputy City Attorney position is responsible for evaluating, filing, pursuing, and making court appearances when required for all GRVOs initiated by SJPD. Extension of the Legal Analyst position will assist with managing caseloads that have increased significantly due to the volume of GVROs and also serve as a resource by supporting other areas involving City policies and procedures. The one-time non-personal/equipment funding will support consulting services for a case management software optimization project. This project will assess current workflows, design efficient processes, implement improvements, and develop training materials, with the goals of ensuring consistency in reporting, data gathering, and ultimately, more effective GVRO case management. (Ongoing costs: \$163,108)

<b>2. Cannabis Regulation Program Staffing</b>	<b>0.00</b>	<b>0</b>	<b>(55,928)</b>
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***Strategic Support – Council Appointees CSA  
Legal Services Core Service  
Legal Representation and Legal Transactions Programs***

This action shifts funding for portions of 2.0 Legal Administrative Assistant positions from the General Fund to the Sewer Service and Use Charge Fund and to the Low and Moderate Income Housing Asset Fund to realign resources to reflect the adjustments to the Cannabis Regulation Annual Operating Fee, as directed by City Council. Staff that previously supported cannabis regulation will be reassigned to provide legal support services to other programs. The City Attorney’s Office will continue to provide legal support for cannabis regulation but at a lower level to keep the program at full cost recovery as a result of the reduced annual operating fee. (Ongoing costs: \$0)



## Office of the City Attorney

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### Budget Changes by Department

#### Personal Services and Non-Personal/Equipment

2024-2025 Proposed Budget Changes	Positions	All Funds (\$)	General Fund (\$)
3. Legal Transaction Staffing	(1.00)	(356,327)	(338,511)

*Strategic Support – Council Appointees CSA  
Legal Services Core Service  
Legal Transactions Program*

As a cost reduction to help bring the General Fund into structural alignment, this action eliminates 1.0 vacant Senior Deputy City Attorney position. This position serves as trusted counsel to the Mayor and City Council, City Manager, and boards and commissions through its support of the Planning, Building and Code Enforcement Department.  
(Ongoing savings: \$353,166)

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<b>2024-2025 Proposed Budget Changes Total</b>	<b>1.00</b>	<b>59</b>	<b>(38,053)</b>
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# Office of the City Attorney

## Performance Summary

### Legal Services

#### Performance Measures

	2022-2023 Actual	2023-2024 Target	2023-2024 Estimated	2024-2025 Target
 % of time final case results are within staff analyses and/or recommendations	N/A <sup>1</sup>	90%	91%	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	\$160	\$160	\$153	\$165
- Outside Legal Counsel average hourly rate	\$416	\$416	\$436	\$460
 % of time client is timely informed of significant developments in a case	N/A <sup>1</sup>	80%	94%	85%
 % of survey respondents rating legal services satisfactory or better based on quality, cycle time, and professionalism	N/A <sup>1</sup>	86%	90%	90%
 % of time final documents accurately reflect the approval of City action	N/A <sup>1</sup>	96%	93%	90%
 % of time that advice identifies and analyzes legal issues and risks	N/A <sup>1</sup>	90%	89%	90%
 % of time that advice provides alternatives where appropriate	N/A <sup>1</sup>	75%	84%	80%
 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	\$160	\$160	\$153	\$165
- Outside Legal Counsel average hourly rate	\$416	\$416	\$436	\$460
 % of time client receives advice/document within mutually accepted time frames	N/A <sup>1</sup>	80%	93%	90%

<sup>1</sup> The survey was not conducted in 2022-2023.

# Office of the City Attorney

## Performance Summary

### Legal Services

#### Activity and Workload Highlights

	2022-2023 Actual	2023-2024 Forecast	2023-2024 Estimated	2024-2025 Forecast
# of claims filed against the City	550	508	447	564
# of lawsuits filed against the City	125	130	124	131
# of lawsuits and administrative actions filed or initiated by the City	720 <sup>1</sup>	630	518	620
# of Council/Board/Manager memoranda:				
- Prepared	1,215	2,000	1,000	1,606
- Reviewed	546	657	562	574
# of formal Opinions issued	0	1	4	1
# of Resolutions	412	454	362	433
# of Ordinances	134	139	126	138
# of Agreements	2,130	2,050	2,181	2,130

<sup>1</sup> Relatively higher 2022-2023 lawsuits and administrative actions were driven by sideshow citations and Gun Violence Restraining Orders (GVRO) enforced by the City.

## Office of the City Attorney

### Department Position Detail

Position	2023-2024 Adopted	2024-2025 Proposed	Change
Assistant City Attorney	2.00	2.00	-
Associate Deputy City Attorney	3.00	3.00	-
Chief Deputy City Attorney	4.00	4.00	-
City Attorney	1.00	1.00	-
Deputy City Attorney I/II/III/IV	12.00	12.00	-
Executive Assistant	1.00	1.00	-
Legal Administrative Assistant	9.50	9.50	-
Legal Analyst I/II/III	16.00	17.00	1.00
Legal Services Administrator	1.00	1.00	-
Legal Services Manager	1.00	1.00	-
Network Engineer	1.00	1.00	-
Office Specialist I/II	2.00	2.00	-
Senior Deputy City Attorney I/II/III/IV	31.00	30.00	(1.00)
Senior Legal Analyst	3.00	3.00	-
Senior Supervisor, Administration	1.00	1.00	-
<b>Total Positions</b>	<b>88.50</b>	<b>88.50</b>	<b>0.00</b>