

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 Representation

Advocate, defend, and prosecute on behalf of the City's interests




Legal Transactions

Provide oral and written advice on legal issues and prepare documents to implement official City actions

Strategic Support: Office Management and Analysis, Fiscal Control/Budget Preparation, Personnel Administration/Human Resources, Computer Network Management, Facility Management, Records and File Maintenance, Law Library Maintenance, and Contract Administration

Office of the City Attorney

Service Delivery Framework

Core Service		Key Operational Services
<p>Legal Representation: <i>Advocate, defend, and prosecute on behalf of the City's interests</i></p>		<ul style="list-style-type: none"> • Provide Legal Representation for the City, including its Officials and Employees • Prosecute Criminal Proceedings involving Violations of the San José Municipal Code • Pursue Litigation to Abate Nuisances and eliminate Unfair Business Practices to ensure Public Health and Safety • Provide Legal Representation before State, Federal, and Appellate Courts, and various Agencies and Boards • Provide Pre-Litigation Advice and Counsel to avoid Litigation and to protect the City's Interests should Litigation occur • Retain, coordinate, and supervise outside Legal Counsel
<p>Legal Transactions: <i>Provide oral and written advice on legal issues and prepare documents to implement official City actions</i></p>		<ul style="list-style-type: none"> • Prepare Ordinances, Resolutions, Permits, Contracts, and other Legal Documents • Provide oral and written legal Counsel and Advice • Perform Legal Research • Assist with production of documents under Public Records Act requests • Coordinate City Council Agenda Documentation
<p>Strategic Support: <i>Office Management and Analysis, Fiscal Control/ Budget Preparation, Personnel Administration/ Human Resources, Computer Network Management, Facility Management, Records and File Maintenance, Law Library Maintenance, and Contract Administration</i></p>		<ul style="list-style-type: none"> • Office Management and Analysis • Fiscal Control/Budget Preparation • Personnel Administration/ Human Resources • Records and File Maintenance • Information Systems Management • Facility Management • Law Library Maintenance • Contract Administration

Office of the City Attorney

Department Budget Summary

Expected 2016-2017 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 litigation. The Office will continue to provide in-house legal services while managing unpredictable fluctuations in demand.
- 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) major real estate-related projects, including the Hayes Mansion, Coleman Soccer Fields, and Parkside Hall; and 4) capital construction projects and issues related to the Water Pollution Control Plant.
- Litigation defense services will continue to take priority over proactive suits by the City. The net loss of litigation attorney positions, as well as experienced litigators, over the past few years necessitates a more reactive approach to case handling and has 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. Use of outside legal counsel has continued to decrease during 2015-2016. If the pension-related lawsuits are resolved, it is anticipated that use of outside legal counsel will continue to 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 electronic discovery. The Office continues to work toward obtaining technology that will reduce the amount of staff time required to respond to electronic discovery and PRA requests.

2016-2017 Key Budget Actions

- Shifts funding on a one-time basis for 2.25 positions from the General Fund to the Water Utility Fund for City Attorney staff work that will support the Municipal Water System.
- Provides one-time funding of \$192,000 for temporary staff and 1.0 Legal Analyst II position limit-dated through June 30, 2017 to assist transactional attorneys supporting the Planning, Building and Code Enforcement and Environmental Services Departments.
- Provides one-time funding of \$90,000 for continued critical transition support for litigation attorney services.
- Provides one-time funding of \$60,000 to upgrade the City Attorney's case management software.

Operating Funds Managed

N/A

Office of the City Attorney

Department Budget Summary

	2014-2015 Actual 1	2015-2016 Adopted 2	2016-2017 Forecast 3	2016-2017 Proposed 4	% Change (2 to 4)
Dollars by Core Service					
Legal Representation	\$ 7,075,000	\$ 7,477,244	\$ 7,460,337	\$ 7,612,321	1.8%
Legal Transactions	6,934,873	7,962,591	8,166,047	8,350,201	4.9%
Strategic Support	1,427,330	1,292,480	1,350,364	1,355,764	4.9%
Total	\$ 15,437,203	\$ 16,732,315	\$ 16,976,748	\$ 17,318,286	3.5%
Dollars by Category					
Personal Services					
Salaries/Benefits	\$ 14,317,519	\$ 15,566,934	\$ 16,012,367	\$ 16,293,905	4.7%
Overtime	56,203	0	0	0	0.0%
Subtotal	\$ 14,373,722	\$ 15,566,934	\$ 16,012,367	\$ 16,293,905	4.7%
Non-Personal/Equipment					
Total	1,063,481	1,165,381	964,381	1,024,381	(12.1%)
Total	\$ 15,437,203	\$ 16,732,315	\$ 16,976,748	\$ 17,318,286	3.5%
Dollars by Fund					
General Fund	\$ 12,975,181	\$ 13,952,092	\$ 14,115,740	\$ 14,029,522	0.6%
Airport Maint & Oper	579,681	678,251	719,072	719,072	6.0%
Comm Dev Block Grant	49,425	16,626	16,840	16,840	1.3%
Home Invest Partnership	24,061	59,420	66,555	66,555	12.0%
Housing Trust Fund	0	31,572	35,029	35,029	10.9%
Integrated Waste Mgmt	43,736	45,969	47,163	47,163	2.6%
Low/Mod Income Hsg Asset	717,269	654,528	677,777	677,777	3.6%
Multi-Source Housing	0	124,665	135,708	135,708	8.9%
Water Utility Fund	0	0	0	411,456	0.0%
Sewer Svc & Use Charge	396,557	456,730	475,515	491,815	7.7%
SJ/SC Treatment Plant Oper	118,237	139,666	148,687	148,687	6.5%
Workforce Development	149,298	167,341	177,529	177,529	6.1%
Capital Funds	383,758	405,455	361,133	361,133	(10.9%)
Total	\$ 15,437,203	\$ 16,732,315	\$ 16,976,748	\$ 17,318,286	3.5%
Authorized Positions by Core Service					
Legal Representation	35.30	34.55	35.04	35.29	2.1%
Legal Transactions	32.35	34.90	34.36	35.11	0.6%
Strategic Support	6.85	7.05	7.10	7.10	0.7%
Total	74.50	76.50	76.50	77.50	1.3%

Office of the City Attorney

Budget Reconciliation

(2015-2016 Adopted to 2016-2017 Proposed)

	Positions	All Funds (\$)	General Fund (\$)
Prior Year Budget (2015-2016):	76.50	16,732,315	13,952,092
Base Adjustments			
One-Time Prior Year Expenditures Deleted			
● Rebudget: Urban Villages Legal Analyst		(110,000)	(110,000)
● Rebudget: Outside Counsel/Litigation Costs		(50,000)	(50,000)
● Office of the City Attorney Training		(100,000)	(100,000)
● Urban Villages Program Staffing (1.0 limit-dated Legal Analyst II through June 30, 2016)	(1.00)	(80,888)	(80,888)
● Electronic Discovery and Public Records Act Request Support		(50,000)	(50,000)
One-time Prior Year Expenditures Subtotal:	(1.00)	(390,888)	(390,888)
Technical Adjustments to Costs of Ongoing Activities			
● Salary/benefit changes		483,711	402,926
● Addition of 1.0 Senior Deputy City Attorney III (City Council approval - February 9, 2016)	1.00	219,007	219,007
● Vacancy Factor		(67,897)	(67,897)
● Professional Development Program		1,500	1,500
● Vehicle maintenance and operations		(1,000)	(1,000)
Technical Adjustments Subtotal:	1.00	635,321	554,536
2016-2017 Forecast Base Budget:	76.50	16,976,748	14,115,740
Budget Proposals Recommended			
1. Legal Transactions Staffing	1.00	191,538	165,038
2. Litigation Division Staffing	0.00	90,000	90,000
3. Legal Software Upgrade		60,000	60,000
4. Municipal Water System Litigation Staffing	0.00	0	(401,256)
Total Budget Proposals Recommended	1.00	341,538	(86,218)
2016-2017 Proposed Budget Total	77.50	17,318,286	14,029,522

Office of the City Attorney

Budget Changes By Department

Proposed Budget Changes	Positions	All Funds (\$)	General Fund (\$)
1. Legal Transactions Staffing Strategic Support CSA <i>Legal Representation</i> <i>Legal Transactions</i> <p>This action adds one-time funding for 1.0 Legal Analyst II, limit-dated to June 30, 2017 (\$101,538), to provide vital assistance to the City’s attorneys supporting the Planning Division of the Planning, Building and Code Enforcement Department (PBCE). The analyst will review ordinances and resolutions; coordinate Planning-related Public Records Act requests; provide support to attorneys on litigation matters related to the California Environmental Quality Act; and coordinate the review and posting of Planning-related legal documents for the Planning Commission and City Council agendas, as required by the City’s Open Government regulations. Additionally, this action adds one-time funding for temporary attorney services (\$90,000) to provide training to less experienced attorneys; provide legal services to Planning based on the increased workload in the Planning area; and provide overflow assistance for general transactional assignments. The temporary attorney support will also provide legal support to address Environmental Services issues in regards to the application process for a State Revolving Fund Loan from the California Water Resources Control Board to fund improvements at the Water Pollution Control Plant and provide legal assistance for negotiations on amendments to the Master Agreement for Wastewater Treatment Between City of San Jose, City of Santa Clara, and Tributary Agencies. The temporary attorney support will also assist with Municipal Water System rate modeling and drought-related issues. This action is funded by the General Fund (\$165,038), the Sewer Service and Use Charge Fund (\$16,300), and the Water Utility Fund (\$10,200), based on their anticipated share of support received from both the Legal Analyst and the temporary attorney services. (Ongoing costs: \$0)</p>	1.00	191,538	165,038
2. Litigation Division Staffing Strategic Support CSA <i>Legal Representation</i> <i>Legal Transactions</i> <p>This action adds one-time funding of \$90,000 for temporary staff to provide transition support in the Litigation Division. The Office of the City Attorney has experienced significant turnover in the recent past; this funding will ensure continuity in the transfer of litigation knowledge and help less experienced attorneys develop the full range of skills necessary to be a successful litigator. This position will continue to provide expertise in civil rights law, appellate work, and class action law, along with much needed support handling police civil rights cases, including trial work. (Ongoing costs: \$0)</p>	0.00	90,000	90,000
3. Legal Software Upgrade Strategic Support CSA <i>Legal Representation</i> <i>Legal Transactions</i> <i>Strategic Support</i> <p>This action adds one-time funding of \$60,000 to upgrade the office’s case management software (ProLaw Matter Management Software). This will allow the software to remain up-to-date and enable more efficient case management. (Ongoing costs: \$0)</p>		60,000	60,000

Office of the City Attorney

Budget Changes By Department





Proposed Budget Changes	Positions	All Funds (\$)	General Fund (\$)
4. Municipal Water System Litigation Staffing	0.00	0	(401,256)
<i>Strategic Support CSA</i>			
<i>Legal Representation</i>			
<p>This action shifts funding on a one-time basis for 1.05 Legal Analyst II, 0.6 Deputy City Attorney IV, and 0.6 Senior Deputy City Attorney from the General Fund to the Water Utility Fund. This funding will provide for staff work in the Office of the City Attorney that will support the Municipal Water System. (Ongoing costs: \$0)</p>			
2016-2017 Proposed Budget Changes Total	1.00	341,538	(86,218)

Office of the City Attorney

Performance Summary

Legal Representation

Performance Measures

	2014-2015 Actual	2015-2016 Target	2015-2016 Estimated	2016-2017 Target
 % of time final case results are within staff analyses and/or recommendations	90%	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	\$132	\$132	\$133	\$135
- Outside Legal Counsel average hourly rate	\$358	\$360	\$352	\$360
 % of time client is timely informed of significant developments in a case	80%	80%	73%	80%
 % of survey respondents rating this core service satisfactory or better based on quality, cycle time, and professionalism	92%	90%	87%	90%

Activity and Workload Highlights







	2014-2015 Actual	2015-2016 Forecast	2015-2016 Estimated	2016-2017 Forecast
# of claims filed against the City	685	700	847	656
# of lawsuits filed against the City	227	225	180	252
# of lawsuits and administrative actions filed or initiated by the City	203	200	226	228

Office of the City Attorney

Performance Summary

Legal Transactions

Performance Measures

	2014-2015 Actual	2015-2016 Target	2015-2016 Estimated	2016-2017 Target
 % of time final documents accurately reflect the approval of City action	93%	100%	90%	100%
 % of time that advice identifies and analyzes legal issues and risks	93%	85%	91%	85%
 % of time that advice provides alternatives where appropriate	83%	70%	78%	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	\$132	\$132	\$133	\$135
- Outside Legal Counsel average hourly rate	\$358	\$360	\$352	\$360
 % of time client receives advice/document within mutually accepted time frames	96%	85%	78%	85%
 % of survey respondents rating this core service satisfactory or better based on quality, cycle time, and professionalism	93%	90%	97%	90%

Activity and Workload Highlights

	2014-2015 Actual	2015-2016 Forecast	2015-2016 Estimated	2016-2017 Forecast
# of Council/Board/Manager memoranda:				
- Prepared	1,360	900	1,100	1,100
- Reviewed	521	1,025	1,010	1,025
# of formal Opinions issued	2	10	10	10
# of Resolutions	477	400	420	400
# of Ordinances	162	175	200	170
# of Agreements	2,014	2,000	2,150	2,540

Office of the City Attorney

Departmental Position Detail

Position	2015-2016 Adopted	2016-2017 Proposed	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	8.00	-
Executive Assistant	1.00	1.00	-
Legal Administrative Assistant	10.00	10.00	-
Legal Analyst II	13.00	13.00	-
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	26.00	27.00	1.00
Senior Legal Analyst	3.00	3.00	-
Total Positions	76.50	77.50	1.00