

# Office of the City Attorney

Richard Doyle, City Attorney

M  
I  
S  
S  
I  
O  
N

**T***he Office of the City Attorney is committed to providing excellent legal services, consistent with the highest professional and ethical standards, to the City, with the goal of protecting and advancing its 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

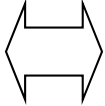

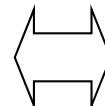
#### Legal Transactions

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

# Office of the City Attorney

## Department Budget Summary

---

### Expected 2015-2016 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 economic conditions and state and Federal mandates. Litigation matters often originate from claims and lawsuits filed by other parties and are largely out of the Office's control. In addition, the Office files affirmative litigation. There was a marked increase in those filings in the past two years and the Office will continue to provide services while managing unpredictable fluctuations in demand.
- Transactional legal services will continue to be delivered by the Office but will be triaged with priority given to matters that present the greatest risk of loss to the City or have the potential for increasing revenue. Lower priority assignments will be performed as time allows.
- Due to the improving economy, increased legal support is required in order for the Office to provide timely advice to the Planning Division and other departments supporting development.
- Litigation defense services will continue to take priority, given the current staffing level. The net loss of litigation attorney positions, as well as experienced litigators, over the past few years has resulted in a diminished ability to pursue matters such as nuisance abatements and other quality of life lawsuits.
- Legal services continue to be required and provided to wind down the business affairs of the former Redevelopment Agency through its Successor Agency and Oversight Board, including the disposition of assets and enforceable obligations.
- Due to the increased volume of employment and labor-related matters and conflicts of interest, outside legal counsel has been used to handle some of these matters. However, use of outside legal counsel may decrease this year.
- Significant legal staff and resources are dedicated to collecting, reviewing, and responding to time-sensitive Public Records Act requests, litigation records, and electronic discovery, which continue to increase in number and complexity.

### 2015-2016 Key Budget Actions

- Adds 1.0 Senior Deputy City Attorney to provide additional capacity for addressing real estate and economic development matters.
- Provides one-time funding of \$100,000 for continued critical transition support for litigation attorney services and transactional attorney services.
- Adds 1.0 Legal Administrative Assistant to provide legal administrative support to transactional and litigation attorneys.
- Provides one-time funding of \$50,000 for consultant services related to electronic discovery and Public Records Act request compliance.

### Operating Funds Managed

N/A

# Office of the City Attorney

## Department Budget Summary

	2013-2014 Actual 1	2014-2015 Adopted 2	2015-2016 Forecast 3	2015-2016 Adopted 4	% Change (2 to 4)
<b>Dollars by Core Service</b>					
Legal Representation	\$ 6,779,629	\$ 7,450,209	\$ 7,173,388	\$ 7,477,244	0.4%
Legal Transactions	6,363,506	7,288,858	7,222,453	7,962,591	9.2%
Strategic Support	1,177,936	1,233,338	1,263,636	1,292,480	4.8%
<b>Total</b>	<b>\$ 14,321,071</b>	<b>\$ 15,972,405</b>	<b>\$ 15,659,477</b>	<b>\$ 16,732,315</b>	<b>4.8%</b>
<b>Dollars by Category</b>					
Personal Services					
Salaries/Benefits	\$ 13,170,324	\$ 15,008,024	\$ 14,694,096	\$ 15,566,934	3.7%
Overtime	21,275	0	0	0	N/A
Subtotal	\$ 13,191,599	\$ 15,008,024	\$ 14,694,096	\$ 15,566,934	3.7%
Non-Personal/Equipment					
Total	1,129,472	964,381	965,381	1,165,381	20.8%
<b>Total</b>	<b>\$ 14,321,071</b>	<b>\$ 15,972,405</b>	<b>\$ 15,659,477</b>	<b>\$ 16,732,315</b>	<b>4.8%</b>
<b>Dollars by Fund</b>					
General Fund	\$ 11,859,351	\$ 13,294,574	\$ 12,969,332	\$ 13,952,092	4.9%
Airport Maint & Oper	533,568	598,615	656,035	678,251	13.3%
Comm Dev Block Grant	3,325	49,425	16,071	16,626	(66.4%)
Home Invest Partnership	36,400	55,811	57,483	59,420	6.5%
Housing Trust Fund	896	29,648	30,540	31,572	6.5%
Integrated Waste Mgmt	12,926	45,532	44,364	45,969	1.0%
Low/Mod Income Hsg Asset	755,874	616,015	634,946	654,528	6.3%
Multi-Source Housing	201	116,876	120,539	124,665	6.7%
Sewer Svc & Use Charge	357,857	468,089	441,609	456,730	(2.4%)
SJ/SC Treatment Plant Oper	225,291	126,532	135,144	139,666	10.4%
Workforce Investment Act	149,298	187,530	161,646	167,341	(10.8%)
Capital Funds	386,084	383,758	391,768	405,455	5.7%
<b>Total</b>	<b>\$ 14,321,071</b>	<b>\$ 15,972,405</b>	<b>\$ 15,659,477</b>	<b>\$ 16,732,315</b>	<b>4.8%</b>
<b>Authorized Positions by Core Service</b>					
Legal Representation	30.50	32.35	34.55	34.55	6.8%
Legal Transactions	34.40	35.30	32.90	34.90	(1.1%)
Strategic Support	7.10	6.85	7.05	7.05	2.9%
<b>Total</b>	<b>72.00</b>	<b>74.50</b>	<b>74.50</b>	<b>76.50</b>	<b>2.7%</b>

# Office of the City Attorney

## Budget Reconciliation

(2014-2015 Adopted to 2015-2016 Adopted)

	Positions	All Funds (\$)	General Fund (\$)
<b>Prior Year Budget (2014-2015):</b>	<b>74.50</b>	<b>15,972,405</b>	<b>13,294,574</b>
<b>Base Adjustments</b>			
<b>One-Time Prior Year Expenditures Deleted</b>			
● Rebudget: Outside Counsel and Litigation Costs		(300,000)	(300,000)
● Office of the City Attorney Staffing (1.0 Legal Analyst, limit-dated June 30, 2016)		(400,000)	(400,000)
● Medical Marijuana Enforcement (1.0 Deputy City Attorney)	(1.00)	(125,000)	(125,000)
<b>One-time Prior Year Expenditures Subtotal:</b>	<b>(1.00)</b>	<b>(825,000)</b>	<b>(825,000)</b>
<b>Technical Adjustments to Costs of Ongoing Activities</b>			
● Salary/benefit changes		52,364	40,050
● Medical Marijuana Regulatory Program Staffing (1.0 Deputy City Attorney)	1.00	160,508	160,508
● Outside Counsel and Litigation Resources (formerly charged to City-Wide Expenses General Liability Claims)		300,000	300,000
● Changes in vehicle maintenance and operations costs		1,000	1,000
● Changes in vehicle allowance		(1,800)	(1,800)
<b>Technical Adjustments Subtotal:</b>	<b>1.00</b>	<b>512,072</b>	<b>499,758</b>
<b>2015-2016 Forecast Base Budget:</b>	<b>74.50</b>	<b>15,659,477</b>	<b>12,969,332</b>
<b>Budget Proposals Approved</b>			
1. Office of the City Attorney Salary Program		487,018	396,940
2. Office of the City Attorney Transactional Staffing	1.00	202,647	202,647
3. Office of the City Attorney Training		100,000	100,000
4. Office of the City Attorney Legal Support Staffing	1.00	73,173	73,173
5. Electronic Discovery and Public Records Act Request Support		50,000	50,000
6. Rebudget: Urban Villages Legal Analyst		110,000	110,000
7. Rebudget: Outside Counsel/Litigation Costs		50,000	50,000
<b>Total Budget Proposals Approved</b>	<b>2.00</b>	<b>1,072,838</b>	<b>982,760</b>
<b>2015-2016 Adopted Budget Total</b>	<b>76.50</b>	<b>16,732,315</b>	<b>13,952,092</b>

# Office of the City Attorney

## Budget Changes By Department

---

Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
<b>1. Office of the City Attorney Salary Program</b>		<b>487,018</b>	<b>396,940</b>

---

**Strategic Support CSA**

*Legal Representation*

*Legal Transactions*

*Strategic Support*

This action increases the Office of the City Attorney personal services allocation (\$396,940 in the General Fund and \$487,018 in all funds) to reflect salary increases that were negotiated and agreed to by the City and 10 bargaining units, including Association of Building, Mechanical, and Electrical Inspectors (ABMEI), Association of Engineers and Architects (AEA), Association of Legal Professionals of San José (ALP), Association of Maintenance Supervisory Personnel (AMSP), City Association of Management Personnel (CAMP), Confidential Employees' Organization (CEO), International Association of Fire Fighters (IAFF), International Brotherhood of Electrical Workers (IBEW), International Union of Operating Engineers, Local #3 (OE3), and Municipal Employees' Federation (MEF), effective June 21, 2015. In addition, a salary increase is included for employees in Unit 99 and for Council Appointees. These salary increases were approved by the City Council on June 23, 2015. Further details on the salary increases by each employee group, can be found at: <https://www.sanjoseca.gov/index.aspx?NID=505>. (Ongoing costs: \$402,739)

**Performance Results:** N/A (Final Budget Modification)

<b>2. Office of the City Attorney Transactional Staffing</b>	<b>1.00</b>	<b>202,647</b>	<b>202,647</b>
--	-------------	----------------	----------------

**Strategic Support CSA**

*Legal Transactions*

This action adds 1.0 Senior Deputy City Attorney to provide additional capacity for addressing real estate and economic development matters. Current high workloads for transactional legal work have been exacerbated by a significant increase in real estate and economic development initiatives as a result of the improving economy; this has resulted in a backlog of transactions. This position will increase the capacity to address not only the backlog of transactions, but also the higher volume of transactions. (Ongoing costs: \$219,734)

**Performance Results:**

**Quality, Customer Satisfaction, Cycle Time** This action allows the Office of the City Attorney to meet the current legal services demand, and increases the Office's capacity to provide oral and written advice on legal issues and prepare documents to implement official City actions relating to real estate and economic development matters. The addition of this position will help ensure quality and timely legal services for City staff and other stakeholders to complete these transactions within the desired time frame.

<b>3. Office of the City Attorney Training</b>		<b>100,000</b>	<b>100,000</b>
--	--	----------------	----------------

**Strategic Support CSA**

*Legal Representation*

*Legal Transactions*

This action adds \$100,000 in one-time funding for critical transition support to provide: litigation attorney services for training and oversight of legal staff; support for handling of police civil rights

# Office of the City Attorney

## Budget Changes By Department

---

Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
------------------------	-----------	----------------	-------------------

---

### 3. Office of the City Attorney Training

cases, including trial; transactional attorney services for Planning and Environmental Services issues; and significant general transactional assignments. The City Attorney's Office has experienced significant turnover, and this funding will ensure continuity in knowledge and skills. This funding will provide needed support for litigators and transactional attorneys in the Office, ensuring they have the necessary skills to be successful. (Ongoing costs: \$0)

#### Performance Results:

**Quality, Cost** This action will increase quality of legal services by providing continuity through training and oversight for the large number of new staff members, as well as necessary support in the handling of high-exposure litigation matters and transactional services. Costs will be reduced through this action because necessary legal work will be performed at a significant savings by in-house staff versus outside counsel.

4. Office of the City Attorney Legal Support Staffing	1.00	73,173	73,173
---	------	--------	--------

#### Strategic Support CSA Legal Transactions

This action adds 1.0 Legal Administrative Assistant to provide legal administrative support to transactional and litigation attorneys. This support generally involves intense, time sensitive support for litigation pleadings, memos and court filings; document preparation of contracts, resolutions and ordinances; scheduling and managing attorney calendars; and internal file management. The addition of support staffing also ensures that attorneys spend their time on legal matters and enables the City Attorney's Office to more efficiently meet the demand for legal services. (Ongoing costs: \$80,993)

#### Performance Results:

**Customer Satisfaction, Quality, Cost** This action will provide greater efficiencies in the Office of the City Attorney, as increased administrative support allows the attorneys to devote additional time to legal work.

5. Electronic Discovery and Public Records Act Request Support		50,000	50,000
--	--	--------	--------

#### Strategic Support CSA Legal Transactions

This action adds \$50,000 in one-time funding for consultant services related to the development of a strategy for governance and legally defensible documentation for both electronic discovery and Public Records Act (PRA) Requests. Elsewhere in the 2015-2016 Adopted Operating Budget, a position in the Information Technology Department has been added for the corresponding technical infrastructure development. This funding will ensure that additional information technology resources are fully leveraged, and that PRA requests are met in an accurate, timely, and legally defensible manner. (Ongoing costs: \$0)

#### Performance Results:

**Quality** This action ensures that Electronic Discovery and PRA requests are complied with in a legally defensible manner.

# Office of the City Attorney

## Budget Changes By Department

<b>Adopted Budget Changes</b>	<b>Positions</b>	<b>All Funds (\$)</b>	<b>General Fund (\$)</b>
<b>6. Rebudget: Urban Villages Legal Analyst</b>		<b>110,000</b>	<b>110,000</b>
<i><b>Strategic Support CSA</b></i> <i>Legal Transactions</i>			
<p>This action rebudgets unexpended 2014-2015 personal services funds (\$110,000) for a Legal Analyst, limit-dated through June 30, 2016, to provide a second year of legal support for the implementation of Urban Villages. The funding for both years of the limit dated position was originally provided as part of the 2014-2015 budget, and this action ensures the continuance of that legal support. (Ongoing costs: \$0)</p>			
<b>Performance Results:</b> N/A (Final Budget Modification)			
<b>7. Rebudget: Outside Counsel/Litigation Costs</b>		<b>50,000</b>	<b>50,000</b>
<i><b>Strategic Support CSA</b></i> <i>Legal Representation</i>			
<p>This action rebudgets unexpended 2014-2015 personal services funds for consultants, which may include specialized outside counsel legal services related to litigation including hiring expert witnesses, consultant reviews, court reporting, and other matters as necessary. (Ongoing costs: \$0)</p>			
<b>Performance Results:</b> N/A (Final Budget Modification)			
<b>2015-2016 Adopted Budget Changes Total</b>	<b>2.00</b>	<b>1,072,838</b>	<b>982,760</b>







# Office of the City Attorney

## Performance Summary

### Legal Representation

#### Performance Measures

	2013-2014 Actual	2014-2015 Target	2014-2015 Estimated	2015-2016 Target
 % of time final case results are within staff analyses and/or recommendations	95%	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	\$135	\$135	\$132	\$132
- Outside Legal Counsel average hourly rate	\$480	\$480	\$358	\$360
 % of time client is timely informed of significant developments in a case	80%	80%	80%	80%
 % of survey respondents rating this core service satisfactory or better based on quality, cycle time, and professionalism	92%	90%	92%	90%

*Changes to Performance Measures from 2014-2015 Adopted Budget: No*

#### Activity and Workload Highlights

	2013-2014 Actual	2014-2015 Forecast	2014-2015 Estimated	2015-2016 Forecast
# of claims filed against the City	603	600	684	700
# of lawsuits filed against the City	222	210	225	225
# of lawsuits and administrative actions filed or initiated by the City	207	210	200	200







*Changes to Activity & Workload Highlights from 2014-2015 Adopted Budget: No*

# Office of the City Attorney

## Performance Summary

### Legal Transactions

#### Performance Measures

	2013-2014 Actual	2014-2015 Target	2014-2015 Estimated	2015-2016 Target
 % of time final documents accurately reflect the approval of City action	93%	100%	93%	100%
 % of time that advice identifies and analyzes legal issues and risks	93%	85%	93%	85%
 % of time that advice provides alternatives where appropriate	83%	70%	83%	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	\$135	\$135	\$132	\$132
- Outside Legal Counsel average hourly rate	\$480	\$480	\$358	\$360
 % of time client receives advice/document within mutually accepted time frames	96%	85%	96%	85%
 % of survey respondents rating this core service satisfactory or better based on quality, cycle time, and professionalism	93%	90%	93%	90%

*Changes to Performance Measures from 2014-2015 Adopted Budget: No*

#### Activity and Workload Highlights

	2013-2014 Actual	2014-2015 Forecast	2014-2015 Estimated	2015-2016 Forecast
# of Council/Board/Manager memoranda:				
- Prepared	1,246	1,130	N/A*	900
- Reviewed	481	550	N/A*	1,025
# of formal Opinions issued	6	10	5	10
# of Resolutions	388	360	380	400
# of Ordinances	187	190	150	175
# of Agreements	1,941	2,210	1,800	2,000

*Changes to Activity & Workload Highlights from 2014-2015 Adopted Budget: No*

\* The City Attorney's Office experienced data integrity issues with the "# of Council/Board/Manager memoranda prepared" and the "# of Council/Board/Manager memoranda reviewed" in 2014-2015. It is anticipated that the system for tracking this Activity and Workload Highlight will be improved in 2015-2016. The 2015-2016 Forecast more accurately reflects the volume of work anticipated to be performed.

# Office of the City Attorney

## Departmental Position Detail

Position	2014-2015 Adopted	2015-2016 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	8.00	-
Executive Assistant	1.00	1.00	-
Legal Administrative Assistant	9.00	10.00	1.00
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	25.00	26.00	1.00
Senior Legal Analyst	3.00	3.00	-
<b>Total Positions</b>	<b>74.50</b>	<b>76.50</b>	<b>2.00</b>

**PAGE IS INTENTIONALLY LEFT BLANK**