

# 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, 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

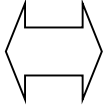

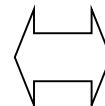
#### Legal Transactions

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

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### Expected 2014-2015 Service Delivery

- The City Attorney's Office will continue to comply with legal requirements while facing the challenge of meeting legal services demand that is largely driven by outside factors. As litigation matters principally originate from claims and lawsuits filed by plaintiffs, and transactional legal assignments are generated by City Council direction and department requests, the Office must comply with legal requirements 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. Low priority assignments will be performed as time allows.
- Litigation services will be provided as broadly and efficiently as possible, 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 decreased service levels and a greater reliance on outside counsel.
- Legal services are required and will be 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 will continue to be utilized to handle some of these matters.
- Significant legal resources are dedicated to collecting, reviewing, and responding to time-sensitive Public Records Act requests, which continue to increase in numbers and complexity.

### 2014-2015 Key Budget Actions

- Continues funding for 1.0 Senior Deputy City Attorney and 1.0 Legal Analyst II through June 30, 2019 to provide legal support for the Water Pollution Control and Sanitary Sewer Capital Improvement Programs.
- Reallocates funding from non-personal/equipment to add a permanent part-time Messenger Clerk to file and serve critical court documents for the Litigation Division.
- Provides one-time funding of \$400,000 to fill critical transition needs in two key operational areas including: complex litigation and legal staffing for Planning, Administrative Hearings, and Environmental Services. In addition, this action provides funding for 1.0 Legal Analyst II, through June 30, 2016, to provide additional legal support for the Urban Villages.
- Provides funding for 1.0 Deputy City Attorney through June 30, 2016 to provide legal support for robust enforcement of restrictions on marijuana growing operations in residential areas.
- Rebudgets \$300,000 in unexpended 2013-2014 funds for outside counsel and litigation costs.

### Operating Funds Managed

N/A

# Office of the City Attorney

## Department Budget Summary

	2012-2013 Actual 1	2013-2014 Adopted 2	2014-2015 Forecast 3	2014-2015 Adopted 4	% Change (2 to 4)
<b>Dollars by Core Service</b>					
Legal Representation	\$ 6,082,579	\$ 6,332,209	\$ 6,717,420	\$ 7,450,209	17.7%
Legal Transactions	6,451,071	7,406,038	6,477,024	7,288,858	(1.6%)
Strategic Support	1,183,208	1,205,922	1,195,541	1,233,338	2.3%
<b>Total</b>	<b>\$ 13,716,858</b>	<b>\$ 14,944,169</b>	<b>\$ 14,389,985</b>	<b>\$ 15,972,405</b>	<b>6.9%</b>
<b>Dollars by Category</b>					
Personal Services					
Salaries/Benefits	\$ 12,993,914	\$ 13,959,489	\$ 13,706,305	\$ 15,008,024	7.5%
Overtime	8,118	0	0	0	N/A
Subtotal	\$ 13,002,032	\$ 13,959,489	\$ 13,706,305	\$ 15,008,024	7.5%
Non-Personal/Equipment					
Total	714,826	984,680	683,680	\$ 964,381	(2.1%)
<b>Total</b>	<b>\$ 13,716,858</b>	<b>\$ 14,944,169</b>	<b>\$ 14,389,985</b>	<b>\$ 15,972,405</b>	<b>6.9%</b>
<b>Dollars by Fund</b>					
General Fund	\$ 11,152,273	\$ 12,375,897	\$ 12,158,682	\$ 13,294,574	7.4%
Airport Maint & Oper	585,372	609,293	582,190	598,615	(1.8%)
Comm Dev Block Grant	4,433	45,892	48,054	49,425	7.7%
Home Invest Partnership	2,915	51,795	54,282	55,811	7.8%
Housing Trust Fund	1,170	27,376	28,836	29,648	8.3%
Integrated Waste Mgmt	40,508	40,978	44,284	45,532	11.1%
Low/Mod Income Hsg Asset*	758,425	573,402	599,389	616,015	7.4%
Multi-Source Housing	0	107,477	113,617	116,876	8.7%
Sewer Svc & Use Charge	484,308	426,615	455,218	468,089	9.7%
SJ/SC Treatment Plant Oper	143,838	96,164	123,097	126,532	31.6%
Workforce Investment Act	175,151	203,196	182,336	187,530	(7.7%)
Capital Funds	368,465	386,084	0	383,758	(0.6%)
<b>Total</b>	<b>\$ 13,716,858</b>	<b>\$ 14,944,169</b>	<b>\$ 14,389,985</b>	<b>\$ 15,972,405</b>	<b>6.9%</b>
<b>Authorized Positions by Core Service</b>					
Legal Representation	31.40	30.50	33.80	32.35	6.1%
Legal Transactions	33.60	34.40	29.35	35.30	2.6%
Strategic Support	7.00	7.10	6.85	6.85	(3.5%)
<b>Total</b>	<b>72.00</b>	<b>72.00</b>	<b>70.00</b>	<b>74.50</b>	<b>3.5%</b>

\* This fund was previously named Affordable Housing Investment Fund.

# Office of the City Attorney

## Budget Reconciliation

(2013-2014 Adopted to 2014-2015 Adopted)

	Positions	All Funds (\$)	General Fund (\$)
<b>Prior Year Budget (2013-2014):</b>	<b>72.00</b>	<b>14,944,169</b>	<b>12,375,897</b>
<b>Base Adjustments</b>			
<b>One-Time Prior Year Expenditures Deleted</b>			
● Environmental Services and Public Works Capital Projects Legal Staffing	(2.00)	(386,084)	0
● Rebudget: Outside Counsel and Litigation Training		(400,000)	(400,000)
<b>One-time Prior Year Expenditures Subtotal:</b>	<b>(2.00)</b>	<b>(786,084)</b>	<b>(400,000)</b>
<b>Technical Adjustments to Costs of Ongoing Activities</b>			
● Salary/benefit changes		231,900	182,785
<b>Technical Adjustments Subtotal:</b>	<b>0.00</b>	<b>231,900</b>	<b>182,785</b>
<b>2014-2015 Forecast Base Budget:</b>	<b>70.00</b>	<b>14,389,985</b>	<b>12,158,682</b>
<b>Budget Proposals Approved</b>			
1. Office of the City Attorney Staffing	1.00	400,000	400,000
2. Office of the City Attorney Salary Program		384,418	310,892
3. Environmental Services and Public Works Capital Projects Legal Staffing	2.00	373,002	0
4. Medical Marijuana Enforcement	1.00	125,000	125,000
5. Litigation Support Staffing	0.50	0	0
6. Rebudget: Outside Counsel and Litigation Costs		300,000	300,000
<b>Total Budget Proposals Approved</b>	<b>4.50</b>	<b>1,582,420</b>	<b>1,135,892</b>
<b>2014-2015 Adopted Budget Total</b>	<b>74.50</b>	<b>15,972,405</b>	<b>13,294,574</b>

# Office of the City Attorney

## Budget Changes By Department

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<b>Adopted Budget Changes</b>	<b>Positions</b>	<b>All Funds (\$)</b>	<b>General Fund (\$)</b>
<b>1. Office of the City Attorney Staffing</b>	<b>1.00</b>	<b>400,000</b>	<b>400,000</b>

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**Strategic Support CSA**

*Legal Transactions*

As directed in the Mayor's June Budget Message for Fiscal Year 2014-2015, as approved by the City Council, this action provides one-time funding (\$180,000) for two rehire retirees to fill critical transition needs in two key operational areas including: complex litigation and legal staffing for Planning, Administrative Hearings, and Environmental Services. In addition, per the Mayor's Message direction, this action also provides funding (\$220,000) for 1.0 Legal Analyst II (limit-dated through June 30, 2016) to provide additional legal support for the implementation of Urban Villages. (Ongoing costs: \$0)

**Performance Results:**

**Quality, Cost, Customer Satisfaction** This action increases capacity for addressing litigation issues and implementation of Urban Villages. This action will increase quality of legal services by providing continuity through oversight for the large number of new staff members and necessary support in the handling of high-exposure litigation matters. 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.

<b>2. Office of the City Attorney Salary Program</b>		<b>384,418</b>	<b>310,892</b>
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**Strategic Support CSA**

*Legal Representation*

*Legal Transactions*

*Strategic Support*

This action increases the Office of the City Attorney personal services allocation to reflect a 3% salary increase that was negotiated and agreed to by the City and four bargaining units, including Municipal Employees' Federation (MEF), Confidential Employees' Organization (CEO), Association of Legal Professionals of San José (ALP), and the International Union of Operating Engineers, Local No. 3 (OE#3), effective June 22, 2014. In addition, a 3% salary increase is included for those employees in Unit 99 and for Council Appointees. These salary increases were approved by the City Council on June 3, 2014. Agreements were also reached with other bargaining units; however, due to the timing of those agreements and the publication of memorandums necessary for the final budget adoption, those adjustments will be included in the 2013-2014 Annual Report as appropriate. (Ongoing costs: \$382,358)

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

<b>3. Environmental Services and Public Works Capital Projects Legal Staffing</b>	<b>2.00</b>	<b>373,002</b>	<b>0</b>
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**Strategic Support CSA**

*Legal Transactions*

This action continues funding for two positions (1.0 Senior Deputy City Attorney and 1.0 Legal Analyst II) to provide legal support to the Water Pollution Control and the Sanitary Sewer Capital Improvement Programs through June 30, 2019. Staff assigned to these capital projects will focus on

# Office of the City Attorney

## Budget Changes By Department

Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
<b>3. Environmental Services and Public Works Capital Projects Legal Staffing</b>			
consultant and contractor procurement. These positions will continue to be jointly funded, 80% from the San José-Santa Clara Treatment Plant Capital Fund and 20% from the Sewer Service and Use Charge Capital Improvement Fund. (Ongoing costs: \$374,113)			
<b>Performance Results:</b>			
<b>Cost</b> This action allows for the continuation of legal support for the capital projects in a cost-effective manner.			
<b>4. Medical Marijuana Enforcement</b>	<b>1.00</b>	<b>125,000</b>	<b>125,000</b>
<b>Strategic Support CSA</b> <i>Legal Representation</i>			
As directed in the Mayor's June Budget Message for Fiscal Year 2014-2015, as approved by the City Council, this action provides funding for 1.0 Deputy City Attorney (limit-dated through June 30, 2015) to provide legal support for robust enforcement of restrictions on marijuana growing operations in residential areas. These resources are necessary until the transition to the fee-supported enforcement structure is complete. (Ongoing costs: \$0)			
<b>Performance Results:</b>			
<b>Quality, Customer Satisfaction</b> This action increases investigative and enforcement support for restrictions on marijuana-growing operations.			
<b>5. Litigation Support Staffing</b>	<b>0.50</b>	<b>0</b>	<b>0</b>
<b>Strategic Support CSA</b> <i>Legal Representation</i>			
This action reallocates non-personal/equipment funding to fund 0.5 Messenger Clerk PT position to serve and file critical court documents for the Litigation Division. For several years, the Office of the City Attorney has been using contractual services staffing to provide messenger clerk services. A Messenger Clerk PT position can provide the same quality service in a more flexible and cost-effective manner. (Ongoing costs: \$0)			
<b>Performance Results:</b>			
<b>Cost, Quality</b> This action will provide flexible, cost-effective messenger service for the Litigation Division.			
<b>6. Rebudget: Outside Counsel and Litigation Costs</b>		<b>300,000</b>	<b>300,000</b>
<b>Strategic Support CSA</b> <i>Legal Representation</i>			
This action rebudgets unexpended 2013-2014 personal services funds for consultants, which may include specialized outside counsel legal services (\$254,000) related to litigation including hiring			

# Office of the City Attorney

## Budget Changes By Department

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<b>Adopted Budget Changes</b>	<b>Positions</b>	<b>All Funds (\$)</b>	<b>General Fund (\$)</b>
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### 6. Rebudget: Outside Counsel and Litigation Costs

expert witnesses, consultant reviews, court reporting, and other matters as necessary. It also provides training and oversight for litigation staff (\$46,000) as there has been significant turnover and funding will ensure continuity in litigation knowledge and skills, providing new litigators with the necessary resources to be successful. (Ongoing costs: \$0)

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

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<b>2014-2015 Adopted Budget Changes Total</b>	<b>4.50</b>	<b>1,582,420</b>	<b>1,135,892</b>
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# Office of the City Attorney

## Performance Summary

### Legal Representation

#### Performance Measures

	2012-2013 Actual	2013-2014 Target	2013-2014 Estimated	2014-2015 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	\$134	\$134	\$135	\$135
- Outside Legal Counsel average hourly rate	\$480	\$490	\$480	\$480
 % of time client is timely informed of significant developments in a case	70%	80%	80%	80%
 % of survey respondents rating this core service satisfactory or better based on quality, cycle time, and professionalism	85%	90%	92%	90%

*Changes to Performance Measures from 2013-2014 Adopted Budget: No*

#### Activity and Workload Highlights

	2012-2013 Actual	2013-2014 Forecast	2013-2014 Estimated	2014-2015 Forecast
# of claims filed against the City	603	700	590	600
# of lawsuits filed against the City	215	260	200	210
# of lawsuits and administrative actions filed or initiated by the City	225	290	190	210







*Changes to Activity & Workload Highlights from 2013-2014 Adopted Budget: No*

# Office of the City Attorney

## Performance Summary

### Legal Transactions

#### Performance Measures

	2012-2013 Actual	2013-2014 Target	2013-2014 Estimated	2014-2015 Target
 % of time final documents accurately reflect the approval of City action	94%	100%	93%	100%
 % of time that advice identifies and analyzes legal issues and risks	82%	85%	90%	85%
 % of time that advice provides alternatives where appropriate	68%	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	\$134	\$134	\$135	\$135
- Outside Legal Counsel average hourly rate	\$480	\$490	\$480	\$480
 % of time client receives advice/document within mutually accepted time frames	80%	85%	96%	85%
 % of survey respondents rating this core service satisfactory or better based on quality, cycle time, and professionalism	92%	90%	93%	90%

*Changes to Performance Measures from 2013-2014 Adopted Budget: No*

#### Activity and Workload Highlights

	2012-2013 Actual	2013-2014 Forecast	2013-2014 Estimated	2014-2015 Forecast
# of Council/Board/Manager memoranda:				
- Prepared	1,017	1,370	1,240	1,130
- Reviewed	662	610	440	550
# of formal Opinions issued	8	18	10	10
# of Resolutions	371	360	340	360
# of Ordinances	185	190	190	190
# of Agreements	2,399	2,340	2,020	2,210

*Changes to Activity & Workload Highlights from 2013-2014 Adopted Budget: No*

# Office of the City Attorney

## Departmental Position Detail

Position	2013-2014 Adopted	2014-2015 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	7.00	8.00	1.00
Executive Assistant	1.00	1.00	-
Legal Administrative Assistant	9.00	9.00	-
Legal Analyst II	12.00	13.00	1.00
Legal Services Administrator	1.00	1.00	-
Messenger Clerk PT	0.00	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	25.00	-
Senior Legal Analyst	3.00	3.00	-
<b>Total Positions</b>	<b>72.00</b>	<b>74.50</b>	<b>2.50</b>

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