

# 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

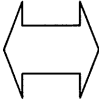
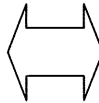
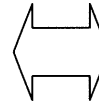
#### **Legal Transactions**

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 a Variety of 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>• Provide 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>• Manage Information Systems</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 2012-2013 Service Delivery

- The City Attorney's Office will continue to be challenged to meet the legal services demand largely driven by outside factors, as litigation matters principally originate from claims and lawsuits filed by plaintiffs, transactional legal assignments are generated by City Council direction and department requests, and as the Office must comply with legal requirements.
- 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 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 to wind down the business affairs of the former Redevelopment Agency through its Successor Agency and Oversight Board, including the disposition of assets and enforcement of obligations.
- Due to increased volume of employment and labor related matters and conflicts of interest, some of these matters will need to be handled by outside legal counsel.
- Public Records Act requests are increasing in numbers and complexity. Significant legal resources are dedicated to collecting, reviewing, and responding to these time-sensitive requests.

### 2012-2013 Budget Actions

- Funds a Chief Deputy City Attorney on an ongoing basis to provide legal representation support, and to decrease outside counsel costs on litigation matters. An ongoing reduction in the City Attorney's Office Non-Personal/Equipment appropriation will fund this position beginning in 2013-2014, as described in the 2012-2013 Mayor's June Budget Message.
- Restoration of 0.50 Deputy City Attorney and 0.50 Legal Administrative Assistant II in the Workers' Compensation Division on an ongoing basis to continue providing advisory and litigation services.
- Restoration of a Senior Deputy City Attorney, Legal Analyst II, 0.5 Deputy City Attorney and 0.5 Legal Administrative Assistant through June 30, 2013 to provide legal services on issues related to medical marijuana. These positions provide both litigation and transactional services, including monitoring legislation, providing legal advice, initiating enforcement activities, and providing litigation services required to defend the City against anticipated legal challenges.
- Restoration of a Senior Deputy City Attorney and Legal Analyst II through June 30, 2013. These positions will be available to assist with legal support related to the Successor Agency for the San Jose Redevelopment Agency and the Oversight Board, increased legal transactional services to General Fund departments, and Fiscal Reform, as needed and appropriate.
- Restoration of a Senior Deputy City Attorney and Legal Analyst II through June 30, 2013 to provide legal support for the Water Pollution Control and Sanitary Sewer Capital Improvement Programs.
- Increases the Non-Personal/Equipment allocation by \$200,000 to provide ongoing funding for outside counsel legal services related to labor litigation, advice to the City on Retirement Board issues, certain Public Records Act requests, and for other matters as necessary, as described in the 2012-2013 Mayor's June Budget Message.

### Operating Funds Managed

N/A

# Office of the City Attorney

## Department Budget Summary

	2010-2011 Actual 1	2011-2012 Adopted 2	2012-2013 Forecast 3	2012-2013 Adopted 4	% Change (2 to 4)
<b>Dollars by Core Service</b>					
Legal Representation	\$ 6,054,646	\$ 5,389,687	\$ 5,502,474	\$ 6,214,347	15.3%
Legal Transactions	5,884,505	6,618,102	6,112,622	7,312,867	10.5%
Strategic Support	1,391,864	1,174,260	1,119,652	1,119,652	(4.7%)
<b>Total</b>	<b>\$ 13,331,015</b>	<b>\$ 13,182,049</b>	<b>\$ 12,734,748</b>	<b>\$ 14,646,866</b>	<b>11.1%</b>
<b>Dollars by Category</b>					
Personal Services					
Salaries/Benefits	\$ 12,902,906	\$ 12,474,869	\$ 11,967,068	\$ 13,679,186	9.7%
Overtime	6,460	0	0	0	0.0%
Subtotal	\$ 12,909,366	\$ 12,474,869	\$ 11,967,068	\$ 13,679,186	9.7%
Non-Personal/Equipment					
Total	421,649	707,180	767,680	967,680	36.8%
<b>Total</b>	<b>\$ 13,331,015</b>	<b>\$ 13,182,049</b>	<b>\$ 12,734,748</b>	<b>\$ 14,646,866</b>	<b>11.1%</b>
<b>Dollars by Fund</b>					
General Fund	\$ 11,411,870	\$ 10,789,776	\$ 10,542,675	\$ 12,114,436	12.3%
Affordable Hsg Investment Fd	0	0	721,843	536,305	N/A
Airport Maint & Oper	501,026	545,018	582,728	582,728	6.9%
Comm Dev Block Grant	0	35,330	0	45,305	28.2%
Federated Retirement	53,426	54,747	55,848	0	(100.0%)
Home Invest Partnership	12,036	45,856	59,887	59,887	30.6%
Housing Trust Fund	0	20,932	0	30,233	44.4%
Integrated Waste Mgmt	30,626	33,336	36,985	36,985	10.9%
Low/Mod Housing	652,257	512,956	0	0	(100.0%)
Multi-Source Housing	0	67,728	0	110,000	62.4%
Sewer Svc & Use Charge	339,722	461,428	451,117	478,857	3.8%
SJ/SC Treatment Plant Oper	99,085	112,701	108,305	108,305	(3.9%)
Workforce Investment Act	230,967	155,241	175,360	175,360	13.0%
Capital Funds	0	347,000	0	368,465	6.2%
<b>Total</b>	<b>\$ 13,331,015</b>	<b>\$ 13,182,049</b>	<b>\$ 12,734,748</b>	<b>\$ 14,646,866</b>	<b>11.1%</b>
<b>Authorized Positions by Core Service</b>					
Legal Representation	35.30	30.00	27.40	31.40	4.7%
Legal Transactions	36.10	33.55	28.60	33.60	0.1%
Strategic Support	8.60	7.45	7.00	7.00	(6.0%)
<b>Total</b>	<b>80.00</b>	<b>71.00</b>	<b>63.00</b>	<b>72.00</b>	<b>1.4%</b>

# Office of the City Attorney

## Budget Reconciliation

(2011-2012 Adopted to 2012-2013 Adopted)

	Positions	All Funds (\$)	General Fund (\$)
<b>Prior Year Budget (2011-2012):</b>	<b>71.00</b>	<b>13,182,049</b>	<b>10,789,776</b>
<b>Base Adjustments</b>			
<b>One-Time Prior Year Expenditures Deleted</b>			
• Medical Marijuana Regulatory Program (1.0 Legal Analyst II, 1.0 Senior Deputy City Attorney, 0.50 Legal Administrative Assistant, 0.50 Deputy City Attorney)	(3.00)	(552,805)	(552,805)
• Environmental Services and Public Works Capital Projects (1.0 Senior Deputy City Attorney, 1.0 Legal Analyst II)	(2.00)	(347,001)	0
• Redevelopment Agency Legal Support (1.0 Senior Deputy City Attorney, 1.0 Legal Analyst II)	(2.00)	(321,436)	(321,436)
• Workers' Compensation (0.50 Deputy City Attorney, 0.50 Legal Administrative Assistant)	(1.00)	(170,000)	(170,000)
• City Attorney's Office Unemployment Contribution		(99,159)	(79,990)
<b>One-time Prior Year Expenditures Subtotal:</b>	<b>(8.00)</b>	<b>(1,490,401)</b>	<b>(1,124,231)</b>
<b>Technical Adjustments to Costs of Ongoing Activities</b>			
• Salary/benefit changes		606,903	440,933
• Voluntary Furlough/Reduced Work Week Restoration		260,000	260,000
• Municipal Solar Grant Program Staffing Restoration		70,434	70,434
• Redevelopment Agency Litigation Contract		60,500	60,500
• False Claims Act Litigation Staffing Restoration		45,263	45,263
<b>Technical Adjustments Subtotal:</b>	<b>0.00</b>	<b>1,043,100</b>	<b>877,130</b>
<b>2012-2013 Forecast Base Budget:</b>	<b>63.00</b>	<b>12,734,748</b>	<b>10,542,675</b>
<b>Budget Proposals Approved</b>			
1. Medical Marijuana Program	3.00	556,301	556,301
2. Environmental Services and Public Works Capital Projects Legal Staffing	2.00	368,465	0
3. Legal Support Staffing	2.00	328,467	328,467
4. Litigation Staffing	1.00	283,000	283,000
5. Outside Legal Counsel		200,000	200,000
6. Workers' Compensation Legal Staffing	1.00	148,145	148,145
7. Sewer Program Legal Support Technical Correction	0.00	27,740	0
8. Retirement Services	0.00	0	55,848
9. Housing Funding Shift Technical Correction	0.00	0	0
<b>Total Budget Proposals Approved</b>	<b>9.00</b>	<b>1,912,118</b>	<b>1,571,761</b>
<b>2012-2013 Adopted Budget Total</b>	<b>72.00</b>	<b>14,646,866</b>	<b>12,114,436</b>

# Office of the City Attorney

## Budget Changes By Department

---

Proposed Budget Changes	Positions	All Funds (\$)	General Fund (\$)
<b>1. Medical Marijuana Program</b>	<b>3.00</b>	<b>556,301</b>	<b>556,301</b>

---

**Strategic Support CSA**  
*Legal Representation*  
*Legal Transactions*

This action restores funding through June 30, 2013 in the Office of the City Attorney for 3.0 positions that provide legal services on issues related to medical marijuana. These positions (1.0 Legal Analyst II, 1.0 Senior Deputy City Attorney, 0.5 Legal Administrative Assistant II, and 0.5 Deputy City Attorney) provide both litigation and transactional services including monitoring legislation, providing legal advice, initiating enforcement actions, and providing litigation services required to defend the City against anticipated legal challenges. (Ongoing costs: \$0)

**Performance Results:**

**Quality, Cost** This action allows for the continuation of legal services to support the Medical Marijuana Program.

<b>2. Environmental Services and Public Works Capital Projects Legal Staffing</b>	<b>2.00</b>	<b>368,465</b>	<b>0</b>
---	-------------	----------------	----------

**Strategic Support CSA**  
*Legal Transactions*

This action restores funding for 1.0 Senior Deputy City Attorney and 1.0 Legal Analyst II through June 30, 2013 to support the Water Pollution and the Sanitary Sewer Capital Improvement Programs. Funding for these positions will be jointly shared, with 80% from the San Jose-Santa Clara Treatment Plant Capital Fund (Fund 512), and 20% from the Sewer Service and Use Charge Capital Improvement Fund (Fund 545). (Ongoing costs: \$0)

**Performance Results:**

**Cost** This action aligns funding for legal services with the associated capital programs. Legal staff will be dedicated in accordance with the designated funding level to support these programs.

# Office of the City Attorney

## Budget Changes By Department

---

<b>Proposed Budget Changes</b>	<b>Positions</b>	<b>All Funds (\$)</b>	<b>General Fund (\$)</b>
<b>3. Legal Support Staffing</b>	<b>2.00</b>	<b>328,467</b>	<b>328,467</b>

**Strategic Support CSA**

*Legal Transactions*

This action restores funding through June 30, 2013 for 2.0 positions (1.0 Senior Deputy City Attorney and 1.0 Legal Analyst II) in the Office of the City Attorney. These positions will assist with legal support related to the Successor Agency for the San Jose Redevelopment Agency (SARA) and the Oversight Board, increased legal transactional services to various General Fund departments, and Fiscal Reform, as needed and appropriate. (Ongoing costs: \$0)

**Performance Results:**

**Quality** This action provides additional funding for legal support for the SARA and the Oversight Board, legal transactional services, and Fiscal Reform, as needed and appropriate.

<b>4. Litigation Staffing</b>	<b>1.00</b>	<b>283,000</b>	<b>283,000</b>
-------------------------------	-------------	----------------	----------------

**Strategic Support CSA**

*Legal Representation*

This action adds 1.0 Chief Deputy City Attorney. This position will allow the City Attorney's Office to handle more complex litigation in-house, thereby decreasing its reliance on outside litigation counsel, and the corresponding costly fees. On an ongoing basis, the position will be funded by a \$283,000 reduction in Office of the City Attorney Non-Personal/Equipment appropriation. However, since it will likely take time for the savings to materialize, the Non-Personal/Equipment funding will not be reduced until 2013-2014. (Ongoing costs: \$0)

**Performance Results:**

**Cost** This action is expected to lower the cost of outside litigation legal services by keeping those services in-house, as opposed to relying on costly outside legal counsel.

<b>5. Outside Legal Counsel</b>		<b>200,000</b>	<b>200,000</b>
---------------------------------	--	----------------	----------------

**Strategic Support CSA**

*Legal Transactions*

As directed in the City Council-approved Mayor's March 2012-2013 Budget Message, this action increases the Non-Personal/Equipment allocation in the Office of the City Attorney by \$200,000 to provide ongoing funding for outside counsel legal services related to labor litigation, advice to the City on Retirement Board issues, certain Public Records Act requests, and for other matters as necessary. (Ongoing costs: \$200,000)

**Performance Results:**

No impacts to current service levels are anticipated as a result of this action.

# Office of the City Attorney

## Budget Changes By Department

---

Proposed Budget Changes	Positions	All Funds (\$)	General Fund (\$)
6. Workers' Compensation Legal Staffing	1.00	148,145	148,145

---

**Strategic Support CSA**  
*Legal Representation*

This action restores 1.0 position (0.50 Legal Administrative Assistant II and 0.50 Deputy City Attorney) in the Workers' Compensation Division on an ongoing basis. This restoration enables the Office to continue to provide advisory and litigation services to the City's self-insured Workers' Compensation program. (Ongoing costs: \$148,145)

**Performance Results:**

No impacts to current service levels are anticipated as a result of this action.

7. Sewer Program Legal Support Technical Correction	0.00	27,740	0
---	------	--------	---

**Strategic Support CSA**  
*Legal Transactions*

This action increases the City Attorney's Office Personal Services appropriation in the Sewer Service and Use Charge Fund. During the development of the 2012-2013 Proposed Operating Budget, this funding was inadvertently not budgeted. This recommendation aligns the 2012-2013 budget in the Sewer Service and Use Charge Fund with anticipated expenditure needs. (Ongoing costs: \$27,740)

**Performance Results:**

No impacts to current service levels are anticipated as a result of this action.

8. Retirement Services	0.00	0	55,848
------------------------	------	---	--------

**Strategic Support CSA**  
*Legal Transactions*

This action shifts funding for 0.20 Senior Deputy City Attorney from the Federated Retirement Fund to the General Fund. Outside counsel has been retained to provide legal services to the Retirement Boards; however, the City Attorney's Office will continue to provide legal services to the City on retirement related matters, including oversight of outside counsel, drafting Municipal Code ordinances, and advisory counsel on interpretations of the Municipal Code and Charter with regard to the Retirement Plans. In addition, the Office will continue to provide litigation services for lawsuits involving the Department of Retirement Services. (Ongoing costs: \$0)

**Performance Results:**

No impacts to current service levels are anticipated as a result of this action.



# Office of the City Attorney

## Budget Changes By Department

---

Proposed Budget Changes	Positions	All Funds (\$)	General Fund (\$)
9. Housing Funding Shift Technical Correction	0.00	0	0

---

**Strategic Support CSA**  
*Legal Transactions*

This action realigns funding for a Chief Deputy City Attorney, a Senior Deputy City Attorney, and 2 Legal Analysts in the Attorney's Office that provide legal services to the Housing Department on housing activities. During the development of the 2012-2013 Budget, the costs for these positions had inadvertently been allocated entirely to the Affordable Housing Investment Fund. Therefore, this reallocation to various other Housing funds aligns anticipated work with the appropriate funding source. In total, 0.85 positions are reallocated from the Affordable Housing Fund to the following: the Multi-Source Housing Fund (.05 Chief Deputy City Attorney and .4 Senior Deputy Attorney), the Housing Trust Fund (.1 Senior Deputy City Attorney and .05 Legal Analyst), and the Community Development Block Grant Fund (.05 Chief Deputy City Attorney, .05 Senior Deputy City Attorney, and .15 Legal Analyst). (Ongoing costs: \$0)

**Performance Results:**

No impacts to current service levels are anticipated as a result of this action.

---

<b>2012-2013 Adopted Budget Changes Total</b>	<b>9.00</b>	<b>1,912,118</b>	<b>1,571,761</b>
---	-------------	------------------	------------------





---

# Office of the City Attorney

## Performance Summary

### Legal Representation

#### Performance Measures

	2010-2011 Actual	2011-2012 Target	2011-2012 Estimated	2012-2013 Target
 % of time final case results are within staff analyses and/or recommendations	93%	90%	94%	90%
 Cost of representation compare favorably to law offices of similar size, practice, and expertise, including other governmental law offices				
- City Attorney's Office average hourly rate	\$118	\$118	\$133	\$133
- Outside Legal Counsel average hourly rate	\$485	\$485	\$480	\$480
 % of time client is timely informed of significant developments in a case	73%	80%	80%	80%
 % of survey respondents rating this core service satisfactory or better based on quality, cycle time, and professionalism	93%	90%	85%	90%

*Changes to Performance Measures from 2011-2012 Adopted Budget: No*

### Activity and Workload Highlights

	2010-2011 Actual	2011-2012 Forecast	2011-2012 Estimated	2012-2013 Forecast
# of claims filed against the City	754	822	628	793
# of lawsuits filed against the City	335	303	248	329
# of lawsuits and administrative actions filed or initiated by the City	292	303	192	266







*Changes to Activity & Workload Highlights from 2011-2012 Adopted Budget: No*

# Office of the City Attorney

## Performance Summary

### Legal Transactions

#### Performance Measures

	2010-2011 Actual	2011-2012 Target	2011-2012 Estimated	2012-2013 Target
 % of time final documents accurately reflect the approval of City action	89%	100%	94%	100%
 % of time that advice identifies and analyzes legal issues and risks	81%	85%	82%	85%
 % of time that advice provides alternatives where appropriate	67%	70%	68%	70%
 Cost of advice and documentation compare favorably to law offices of similar size, practice and expertise including other governmental offices				
- City Attorney's Office average hourly rate	\$118	\$118	\$133	\$133
- Outside Legal Counsel average hourly rate	\$485	\$485	\$480	\$480
 % of time client receives advice/document within mutually accepted time frames	74%	85%	80%	85%
 % of survey respondents rating this core service satisfactory or better based on quality, cycle time, and professionalism	84%	85%	92%	85%

*Changes to Performance Measures from 2011-2012 Adopted Budget: Yes<sup>1</sup>*

<sup>1</sup> Changes to Performance Measures from 2011-2012 Adopted Budget:

U “% of time final documents accurately reflect the approval of City and Redevelopment action” was revised to “% of time final documents accurately reflect the approval of City action” due to the dissolution of the San Jose Redevelopment Agency.

### Activity and Workload Highlights

	2010-2011 Actual	2011-2012 Forecast	2011-2012 Estimated	2012-2013 Forecast
# of Council/Board/Manager memoranda:				
- Prepared	1,844	2,382	1,428	1,999
- Reviewed	850	1,007	562	880
# of formal Opinions issued	20	20	20	20
# of Resolutions	451	458	364	423
# of Ordinances	143	220	172	145
# of Agreements	3,394	3,500	2,356	3,755

*Changes to Activity & Workload Highlights from 2011-2012 Adopted Budget: No*

# Office of the City Attorney

## Departmental Position Detail

Position	2011-2012 Adopted	2012-2013 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	3.00	4.00	1.00
City Attorney	1.00	1.00	-
Deputy City Attorney I/II/III/IV	7.00	7.00	-
Executive Assistant	1.00	1.00	-
Legal Administrative Assistant	9.00	9.00	-
Legal Analyst II	12.00	12.00	-
Legal Services Administrator	1.00	1.00	-
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/U	25.00	25.00	-
Senior Legal Analyst	3.00	3.00	-
<b>Total Positions</b>	<b>71.00</b>	<b>72.00</b>	<b>1.00</b>