

Office of the City Attorney

Nora Frimann, City Attorney

M
I
S
S
I
O
N

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

Legal Services

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.

Strategic Support: Provides administrative oversight for the department, including executive management, financial management, human resources, and pandemic response.

Office of the City Attorney

Service Delivery Framework

PROGRAM	DESCRIPTION
<i>Legal Services Core Service</i>	
Legal Representation	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.
Legal Transactions	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>	
City Attorney Management and Administration	Provides administrative oversight for the department, including executive management, financial management, and human resources.
City Attorney Pandemic Response	Provides for the coordination and delivery of emergency services and recovery activities in response to the COVID-19 pandemic.

Office of the City Attorney

Department Budget Summary

Expected 2021-2022 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 lawsuits. The Office will continue to provide in-house legal services while managing unpredictable fluctuations in demand for these services.
- ❑ 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 Cultural Affairs, 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) real estate-related projects, including the negotiations with Google and Parkside Hall for the Museum Place project; 4) advising staff related to the feasibility of forming a Community Facilities District to finance the acquisition of the Tech Expansion Space in connection with the Museum Place Project; 5) capital construction projects and issues relating to the Regional Wastewater Facility; 6) innovation efforts to improve City technology; and 7) legal guidance to the Emergency Operations Center as the City responds to the COVID-19 pandemic and other emergencies.
- ❑ Litigation defense services will continue to take priority over proactive suits by the City. The net loss of litigation attorney positions has, at times, 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. When pension-related lawsuits are resolved, it is anticipated that use of outside legal counsel will 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 discovery.

2021-2022 Key Budget Actions

- ❑ Continues 1.0 Deputy City Attorney position for a third year, through June 30, 2022, to provide legal support for the purpose of proactive legal enforcement of blighted and nuisance properties.
- ❑ Continues 1.0 Legal Analyst II position through June 30, 2022, to support Worker's Compensation Litigation matters.
- ❑ Adds 1.0 Legal Analyst II and 1.0 Senior Deputy City Attorney positions ongoing to provide legal support to the Water Pollution Control Capital Improvement Program, the Sanitary Sewer Capital Improvement Program, and the Sanitary Sewer Operating program.
- ❑ Eliminates 1.0 Office Specialist II position that staffs the front desk on the 16th floor in City Hall.
- ❑ As directed in the Mayor's June Budget Message for Fiscal Year 2021-2022, as approved by City Council, adds 1.0 Legal Analyst II position through June 30, 2022, to support the Santee Neighborhood Injunction.

Operating Funds Managed

N/A

Office of the City Attorney
Department Budget Summary

	2019-2020 Actuals ***	2020-2021 Adopted	2021-2022 Forecast	2021-2022 Adopted
Dollars by Core Service				
Legal Services	20,305,899	20,262,206	19,834,768	21,056,014
Strategic Support - City Council Appointees	1,797,727	1,751,734	1,820,556	1,728,244
Strategic Support - Other - Council Appointees	4,210,877	15,718,321	6,997,676	20,048,137
Total	\$26,314,502	\$37,732,261	\$28,653,000	\$42,832,395
Dollars by Category				
<i>Personal Services and Non-Personal/Equipment</i>				
Salaries/Benefits	19,876,847	20,259,442	20,001,574	21,004,253
Overtime	22,273	0	0	0
Subtotal Personal Services	\$19,899,120	\$20,259,442	\$20,001,574	\$21,004,253
Non-Personal/Equipment	2,118,321	1,754,498	1,653,750	1,780,005
Total Personal Services & Non-Personal/Equipment	\$22,017,441	\$22,013,940	\$21,655,324	\$22,784,258
<i>Other Costs*</i>				
City-Wide Expenses	4,270,096	14,763,000	6,000,000	18,861,993
General Fund Capital	0	0	0	0
Housing Loans and Grants	0	0	0	0
Overhead Costs	26,966	955,321	997,676	1,186,144
Total Other Costs	\$4,297,062	\$15,718,321	\$6,997,676	\$20,048,137
Total	\$26,314,502	\$37,732,261	\$28,653,000	\$42,832,395

* 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 amounts in the 2020-2021 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.

** The positions displayed in the 2019-2020 Actuals column reflect those included in the 2019-2020 Adopted Budget.

*** 2019-2020 Actuals may not subtotal due to rounding.

Office of the City Attorney
Department Budget Summary

	2019-2020 Actuals ***	2020-2021 Adopted	2021-2022 Forecast	2021-2022 Adopted
Dollars by Fund				
General Fund (001)	21,347,509	31,096,103	22,653,599	35,692,412
Workforce Development Fund (290)	111,748	110,031	113,180	113,180
Low And Moderate Income Housing Asset Fund (346)	875,040	1,100,993	1,322,215	1,397,928
Coronavirus Relief Fund (401)	37,851	0	0	0
Integrated Waste Management Fund (423)	57,501	67,923	75,223	75,223
Housing Trust Fund (440)	6,314	38,102	42,771	42,771
Community Development Block Grant Fund (441)	13,237	20,576	21,155	21,155
Home Investment Partnership Program Trust Fund (445)	68,602	83,760	16,324	16,324
Multi-Source Housing Fund (448)	160,207	93,510	101,090	101,090
Rental Stabilization Program Fee Fund (450)	507,597	606,395	673,942	673,942
San José Clean Energy Operating Fund (501)	593,671	1,025,251	1,374,009	1,374,009
San José-Santa Clara Treatment Plant Operating Fund (513)	67,839	114,289	84,360	84,360
Water Utility Fund (515)	231,259	346,889	152,603	152,603
Airport Maintenance And Operation Fund (523)	819,381	836,714	908,307	908,307
Sewer Service And Use Charge Fund (541)	1,027,509	1,765,022	840,083	1,467,925
Capital Funds	389,236	426,703	274,139	711,166
Total	\$26,314,502	\$37,732,261	\$28,653,000	\$42,832,395
Positions by Core Service**				
Legal Services	79.90	77.70	71.70	76.70
Strategic Support - City Council Appointees	7.10	7.80	7.80	6.80
Total	87.00	85.50	79.50	83.50

* 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 amounts in the 2020-2021 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.

** The positions displayed in the 2019-2020 Actuals column reflect those included in the 2019-2020 Adopted Budget.

*** 2019-2020 Actuals may not subtotal due to rounding.

Office of the City Attorney
Department Budget Summary

	2019-2020 Actuals**	2020-2021 Adopted	2021-2022 Forecast	2021-2022 Adopted	2021-2022 Adopted Positions
Dollars by Program*					
Legal Services					
Legal Representation	9,575,452	9,576,393	9,030,261	9,652,592	34.79
Legal Transactions	10,730,446	10,685,813	10,804,507	11,403,422	41.91
Sub-Total	20,305,899	20,262,206	19,834,768	21,056,014	76.70
Strategic Support - City Council Appointees					
City Attorney Pandemic Response	37,851	0	0	0	0.00
City Attorney Management and Administration	1,759,876	1,751,734	1,820,556	1,728,244	6.80
Sub-Total	1,797,727	1,751,734	1,820,556	1,728,244	6.80
Strategic Support - Other - Council Appointees					
City Attorney Other Departmental - City-Wide	4,195,035	14,763,000	6,000,000	18,861,993	0.00
City Attorney Other Operational - Administration	12,189	0	0	0	0.00
City Attorney Overhead	3,654	955,321	997,676	1,186,144	0.00
Sub-Total	4,210,877	15,718,321	6,997,676	20,048,137	0.00
Total	\$26,314,502	\$37,732,261	\$28,653,000	\$42,832,395	83.50

* 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.

** 2019-2020 Actuals may not subtotal due to rounding.

Office of the City Attorney

Budget Reconciliation

Personal Services and Non-Personal/Equipment (2020-2021 Adopted to 2021-2022 Proposed)

	Positions	All Funds (\$)	General Fund (\$)
Prior Year Budget (2020-2021):	85.50	22,013,940	16,333,103
Base Adjustments			
One-Time Prior Year Expenditures Deleted			
• Rebudget: Outside Legal Counsel		(200,000)	0
• Environmental Services Department Legal Support (1.0 Legal Analyst II and 1.0 Senior Deputy City Attorney II)	(2.00)	(385,983)	(73,583)
• Proactive Legal Enforcement of Blighted and Nuisance Properties (1.0 Deputy City Attorney IV)	(1.00)	(237,068)	(237,068)
• Workers' Compensation Litigation Support Staffing (1.0 Legal Analyst II)	(1.00)	(147,166)	(147,166)
One-time Prior Year Expenditures Subtotal:	(4.00)	(970,217)	(457,817)
Technical Adjustments to Costs of Ongoing Activities			
• Salary/benefit changes		1,045,383	565,837
• Contractual Services: Litigation Consultants and Experts		94,151	94,151
• Training		4,500	0
• Budget Realignment: FirstNet Support		601	601
• City Attorney's Office Staff Funding Realignment	0.00	0	650,758
• Position Shift: Police Services from Office of City Attorney to Police Department (1.0 Police Officer and 1.0 Police Sergeant)	(2.00)	(533,034)	(533,034)
Technical Adjustments Subtotal:	(2.00)	611,601	778,313
2021-2022 Forecast Base Budget:	79.50	21,655,324	16,653,599
Budget Proposals Approved			
1. Environmental Services Department Legal Support	2.00	393,778	0
2. Proactive Legal Enforcement of Blighted and Nuisance Properties	1.00	241,705	241,705
3. Santee Neighborhood Injunction Support	1.00	159,100	159,100
4. Workers' Compensation Litigation Support Staffing	1.00	150,290	150,290
5. Public Safety Initiatives		90,000	90,000
6. Measure E - Legal Administration	0.00	60,118	0
7. City Attorney's Office Staffing Realignments	0.00	0	(298,218)
8. Administrative Support Staffing	(1.00)	(92,312)	(92,312)
9. Non-Personal/Equipment Savings		(62,000)	(62,000)
10. Reprographics Contractual Services Savings		(11,745)	(11,745)
11. Rebudget: Outside Legal Counsel		200,000	0
Total Budget Proposals Approved	4.00	1,128,934	176,820
2021-2022 Adopted Budget Total	83.50	22,784,258	16,830,419

Office of the City Attorney

Budget Changes By Office Personal Services and Non-Personal/Equipment

2021-2022 Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
1. Environmental Services Department Legal Support	2.00	393,778	0
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation and Legal Transactions Programs</i>			
<p>This action adds 1.0 Senior Deputy City Attorney and 1.0 Legal Analyst positions to provide legal support to the Water Pollution Control Capital Improvement Program, the Sanitary Sewer Capital Improvement Program, and the Sanitary Sewer Operating program. Staff assigned to these programs will focus on a variety of duties including, but not limited to: consultant and contractor procurement; and providing legal support as it pertains to financing, construction and maintenance of the City's sewage collection system and for the San Jose/Santa Clara Water Pollution Control Plant. These positions will be jointly funded: 72.5% from the San José-Santa Clara Treatment Plant Capital Fund, 15% from the Sewer Service and Use Charge Capital Improvement Fund, and 12.5% from the Sewer Service and Use Charge Fund. (Ongoing costs: \$393,778)</p>			
2. Proactive Legal Enforcement of Blighted and Nuisance Properties	1.00	241,705	241,705
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation Program</i>			
<p>This action continues 1.0 Deputy City Attorney IV position, through June 30, 2022, to provide legal support for the purpose of proactive legal enforcement of blighted and nuisance properties. This position was authorized for two years in the City Council-approved Mayor's March Budget Message for Fiscal Year 2019-2020. In the last two years, this position has followed up on Code Enforcement and Police investigations and citations by communicating with property owners and initiating legal proceedings when appropriate to enforce Code actions, address ongoing nuisance activities, and collect on fines levied. The continuation of the position will enable the City Attorney to maintain a dedicated Deputy City Attorney for the purpose of litigating these matters for an additional year. (Ongoing costs: \$0)</p>			
3. Santee Neighborhood Injunction Support	1.00	159,100	159,100
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Transactions Program</i>			
<p>As directed in the Mayor's June Budget Message for Fiscal Year 2021-2022, as approved by the City Council, this action continues 1.0 Legal Analyst II position, through June 30, 2022, to continue legal support for the Santee Neighborhood Injunction. This position provides compliance oversight, ongoing tracking of sales of properties subject to the injunction, service of the injunction on new owners, outreach to residents, development of factual information and evidence to support compliance efforts, and draft various legal documents necessary to ensure that property owners are abiding by the terms of the injunction. The continuation of the position will enable the City Attorney to maintain a dedicated legal analyst to support the attorneys responsible for enforcement. (Ongoing costs: \$0)</p>			

Office of the City Attorney

Budget Changes By Office Personal Services and Non-Personal/Equipment

2021-2022 Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
4. Workers' Compensation Litigation Support Staffing	1.00	150,290	150,290
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation and Legal Transactions Programs</i>			
<p>This action continues 1.0 Legal Analyst II position, through June 30, 2022, to continue legal support to the Workers' Compensation Program. This position supports comprehensive case review and legal research, including the extensive review of medical records, developing case evidence, drafting legal correspondence, and monitoring case activity. This action allows for greater effectiveness in the City Attorney's Office, as increased legal analyst support provides the Workers' Compensation team critical resources for case management. (Ongoing costs: \$0)</p>			
5. Public Safety Initiatives		90,000	90,000
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Transactions Program</i>			
<p>As directed in the Mayor's June Budget Message for Fiscal Year 2021-2022, as approved by the City Council, this action adds one-time personal services funding of \$90,000 for temporary staffing to support Gun Violence Restraining Orders and criminal litigation work. (Ongoing costs: \$0)</p>			
6. Measure E - Legal Administration	0.00	60,118	0
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Transactions Program</i>			
<p>This action adds one-time personal services funding for temporary staffing to support affordable housing activities funded by the Measure E – Administration City-Wide Expenses appropriation and the Low and Moderate Income Housing Asset Fund. This action will fund a temporary position to provide legal support to the Housing Department to review and draft contracts; draft resolutions and ordinances; assist with reviewing and drafting documents related to close of escrow and loan transactions; and assist with finalization, compilation, and organization of documents. (Ongoing costs: \$0)</p>			
7. City Attorney's Office Staffing Realignments	0.00	0	(298,218)
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation Program</i>			
<p>This action shifts funding on a one-time basis for a total of 1.23 positions (0.15 Assistant City Attorney, 0.15 Chief Deputy City Attorney, 0.25 Senior Deputy City Attorney, 0.65 Legal Analyst, and 0.03 Senior Legal Analyst) in the Office of the City Attorney from the General Fund to the Sewer Service and Use Charge Fund. This funding will provide for staff work in the Office that will provide legal support and services required for litigation regarding a tributary matter. (Ongoing costs: \$0)</p>			

Office of the City Attorney

Budget Changes By Office Personal Services and Non-Personal/Equipment

2021-2022 Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
8. Administrative Support Staffing	(1.00)	(92,312)	(92,312)
<i>Strategic Support CSA</i> <i>Strategic Support Core Service</i> <i>City Attorney Management and Administration Program</i>			
<p>This action eliminates 1.0 Office Specialist II position in the Office of the City Attorney. This position staffs the front desk on the 16th floor in City Hall and greets and assists customers. Due to the elimination of the position, customer service to both internal and external customers will be affected as timeliness to requests will be delayed. The remaining workload will be reallocated to existing staff. (Ongoing savings: \$94,401)</p>			
9. Non-Personal/Equipment Savings		(62,000)	(62,000)
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation and Legal Transactions Programs</i>			
<p>This action decreases the Office of the City Attorney's non-personal/equipment budget by \$62,000 ongoing for printing, supplies and materials, dues and subscriptions. This action reduces the funding available for printed materials and subscriptions and is not expected to have significant service level impacts as staff will utilize electronic versions of previously printed materials. (Ongoing savings: \$62,000)</p>			
10. Reprographics Contractual Services Savings		(11,745)	(11,745)
<i>Strategic Support CSA</i> <i>Legal Services Core Service</i> <i>Legal Representation and Legal Transactions Programs</i>			
<p>This action reduces the Office's non-personal/equipment funding by \$11,745 to reflect savings in the reprographics (printing) contract. The Finance and Information Technology Departments jointly worked to re-procure the City's reprographics contract for copier, scanner, fax devices support, and administration software and tools. Savings in the amount of \$363,000 will be generated in the General Fund, \$462,000 in all funds, across all departments from lower rental costs for the multi-function devices and significantly lower cost per copy and consumption rates. Savings can be realized with new green-print options and central administration of devices. (Ongoing savings: \$11,745)</p>			

Office of the City Attorney

Budget Changes By Office
Personal Services and Non-Personal/Equipment










2021-2022 Adopted Budget Changes	Positions	All Funds (\$)	General Fund (\$)
11. Rebudget: Outside Legal Counsel		200,000	0
<i>Strategic Support CSA</i>			
<i>Legal Services Core Service</i>			
<i>Legal Transactions Program</i>			
<p>This action rebudgets unexpended 2020-2021 non-personal/equipment funding of \$200,000 in the Sewer Service and Use Charge Fund for specialized outside counsel, technical experts, and other consultant and expert witness services to provide legal support to the Environmental Services Department for a tributary matter. (Ongoing costs: \$0)</p>			
2021-2022 Adopted Budget Changes Total	4.00	1,128,934	176,820

Office of the City Attorney

Performance Summary

Legal Services

Performance Measures

	2019-2020 Actual	2020-2021 Target	2020-2021 Estimated	2021-2022 Target
 % of time final case results are within staff analyses and/or recommendations	N/A ¹	90%	N/A ²	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	\$142	\$143	\$158	\$158
- Outside Legal Counsel average hourly rate	\$350	\$360	\$355	\$360
 % of time client is timely informed of significant developments in a case	N/A ¹	80%	N/A ²	80%
 % of survey respondents rating legal services satisfactory or better based on quality, cycle time, and professionalism	N/A ¹	90%	N/A ²	86%
 % of time final documents accurately reflect the approval of City action	N/A ¹	100%	N/A ²	96%
 % of time that advice identifies and analyzes legal issues and risks	N/A ¹	85%	N/A ²	90%
 % of time that advice provides alternatives where appropriate	N/A ¹	70%	N/A ²	75%
 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	\$142	\$143	\$158	\$158
- Outside Legal Counsel average hourly rate	\$350	\$360	\$355	\$360
 % of time client receives advice/document within mutually accepted time frames	N/A ¹	85%	N/A ²	85%

¹ The survey was not conducted in 2019-2020 due to the Santa Clara County Shelter-in-Place Order issued in March 2020, which was subsequently extended and modified.

² Data for these measures are collected on a biennial basis via survey. The next survey is scheduled for 2021-2022.

Office of the City Attorney

Performance Summary

Legal Services

Activity and Workload Highlights

	2019-2020 Actual	2020-2021 Forecast	2020-2021 Estimated	2021-2022 Forecast
# of claims filed against the City	637	771	554	675
# of lawsuits filed against the City	111	160	90	150
# of lawsuits and administrative actions filed or initiated by the City ¹	586	216	548	400
# of Council/Board/Manager memoranda:				
- Prepared	1,507	1,259	1,988	1,500
- Reviewed	752	787	672	750
# of formal Opinions issued	2	3	2	2
# of Resolutions	466	501	408	475
# of Ordinances	140	183	142	155
# of Agreements	2,447	2,214	2,108	2,240

¹ 2020-2021 Estimate totals exceeded 2020-2021 Forecast level due to an increased number of criminal citations. The 2021-2022 Forecast reflects a higher average activity level, factoring in the increase observed in 2019-2020 and 2020-2021.

Office of the City Attorney

Departmental Position Detail

Position	2020-2021 Adopted	2021-2022 Adopted	Change
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	11.00	11.00	-
Executive Assistant	1.00	1.00	-
Legal Administrative Assistant	9.50	9.50	-
Legal Analyst I/II/III	15.00	16.00	1.00
Legal Services Administrator	1.00	1.00	-
Legal Services Manager	1.00	1.00	-
Network Engineer	1.00	1.00	-
Office Specialist II	2.00	1.00	(1.00)
Police Officer	1.00	0.00	(1.00)
Police Sergeant	1.00	0.00	(1.00)
Senior Deputy City Attorney I/II/III/IV	30.00	30.00	-
Senior Legal Analyst	3.00	3.00	-
Senior Supervisor, Administration	1.00	1.00	-
Total Positions	85.50	83.50	(2.00)