

# Office of the City Attorney

Nora Frimann, City Attorney

## MISSION

*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 emergency response

---

# Office of the City Attorney

## Service Delivery Framework

PROGRAM	DESCRIPTION
<b><i>Legal Services Core Service</i></b>	
<b>Legal Representation</b>	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.
<b>Legal Transactions</b>	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.
<b><i>Strategic Support Core Service</i></b>	
<b>City Attorney Management and Administration</b>	Provides administrative oversight for the department, including executive management, financial management, and human resources.
<b>City Attorney Emergency Response and Recovery</b>	Provides for the coordination and delivery of emergency services and recovery activities.

# Office of the City Attorney

---

## Department Budget Summary

### Expected 2023-2024 Service Delivery

- The City Attorney's Office (CAO) 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 CAO'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 reflect Council priorities and 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) Housing-related ordinances and issues, including Housing transactions, and Council initiatives on homelessness, rent control and mobile homes; the Housing workplan, which includes development of 1,000 interim housing units within the next 12 months (currently there are five Homekey applications and projects with more in the pipeline and increasing permanent housing); CAO work including land acquisition (purchase and sale agreement, lease agreement, license agreement, and joint use agreement), and ordinances and policies, grant agreements and other agreements with developers and non-profits as City is looking to triple its deals in the next year; 2) advice to the Planning, Building and Code Enforcement Department, Office of Economic Development and Cultural Affairs Department, and other departments supporting development; 3) real estate-related projects, including the Flea Market project(s) and other projects throughout the City; 4) capital construction projects and issues relating to the Regional Wastewater Facility and various City facilities, streets, and infrastructure; 5) innovation efforts to improve City technology; 6) proposed reforms in connection with the City's Reimagining Policing efforts; 7) continuing legal guidance to the Emergency Operations Center as the City recovers from the COVID-19 pandemic and other emergencies; and 8) increasing legal advice and support to the Community Energy and Finance Departments.
- 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.
- 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.

### 2023-2024 Key Budget Actions

- Adds 1.0 Associate Deputy City Attorney position to perform basic attorney work benefiting a variety of City Departments.
- Adds 1.0 Associate Deputy City Attorney position through June 30, 2024 to continue to support Gun Violence Restraining Orders and criminal litigation work.
- Adds 1.0 Legal Analyst II position to address the continuing worker's compensation legal services demands.

### Operating Funds Managed

N/A

## Office of the City Attorney

### Department Budget Summary

	2021-2022 Actuals ***	2022-2023 Adopted ****	2023-2024 Forecast	2023-2024 Proposed
<b>Dollars by Core Service</b>				
Legal Services	20,702,985	22,482,894	21,898,187	22,364,505
Strategic Support - City Council Appointees	1,769,426	1,806,517	1,818,421	1,919,014
Strategic Support - Other - Council Appointees	8,080,833	17,271,845	7,002,174	7,002,174
<b>Total</b>	<b>\$30,553,243</b>	<b>\$41,561,256</b>	<b>\$30,718,782</b>	<b>\$31,285,693</b>
<b>Dollars by Category</b>				
<i>Personal Services and Non-Personal/Equipment</i>				
Salaries/Benefits	20,536,792	22,035,356	22,012,553	22,582,710
Overtime	23,934	0	0	0
<b>Subtotal Personal Services</b>	<b>\$20,560,726</b>	<b>\$22,035,356</b>	<b>\$22,012,553</b>	<b>\$22,582,710</b>
Non-Personal/Equipment	1,844,563	2,254,055	1,704,055	1,700,809
<b>Total Personal Services &amp; Non-Personal/Equipment</b>	<b>\$22,405,290</b>	<b>\$24,289,411</b>	<b>\$23,716,608</b>	<b>\$24,283,519</b>
<i>Other Costs *</i>				
City-Wide Expenses	8,140,480	15,961,640	6,000,000	6,000,000
Housing Loans and Grants	0	0	0	0
Other	85	0	0	0
Other - Capital	0	0	0	0
Overhead Costs	7,388	1,310,205	1,002,174	1,002,174
<b>Total Other Costs</b>	<b>\$8,147,953</b>	<b>\$17,271,845</b>	<b>\$7,002,174</b>	<b>\$7,002,174</b>
<b>Total</b>	<b>\$30,553,243</b>	<b>\$41,561,256</b>	<b>\$30,718,782</b>	<b>\$31,285,693</b>

\* 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 position counts displayed in the 2021-2022 Actuals column reflect those included in the 2021-2022 Adopted Budget.

\*\*\* 2021-2022 Actuals may not subtotal due to rounding.

\*\*\*\* The amounts in the 2022-2023 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.

## Office of the City Attorney

### Department Budget Summary

	2021-2022 Actuals ***	2022-2023 Adopted ****	2023-2024 Forecast	2023-2024 Proposed
<b>Dollars by Fund</b>				
General Fund (001)	25,881,256	33,681,447	23,229,778	23,796,689
Airport Maintenance And Operation Fund (523)	643,072	757,192	935,966	935,966
Building Development Fee Program Fund (237)	0	73,965	78,579	78,579
Community Development Block Grant Fund (441)	19,900	21,597	21,451	21,451
Home Investment Partnership Program Trust Fund (445)	6,823	20,994	11,515	11,515
Housing Trust Fund (440)	37,068	53,223	40,410	40,410
Integrated Waste Management Fund (423)	64,805	76,154	72,520	72,520
Low And Moderate Income Housing Asset Fund (346)	1,001,868	1,450,090	1,357,739	1,357,739
Multi-Source Housing Fund (448)	0	124,395	117,208	117,208
Planning Development Fee Program Fund (238)	0	386,518	418,934	418,934
Rental Stabilization Program Fee Fund (450)	575,009	589,703	527,941	527,941
San José Clean Energy Operating Fund (501)	833,952	1,410,223	1,250,951	1,250,951
San José-Santa Clara Treatment Plant Operating Fund (513)	69,428	89,526	73,961	73,961
Sewer Service And Use Charge Fund (541)	830,471	1,835,390	1,646,573	1,646,573
Water Utility Fund (515)	113,492	163,541	168,559	168,559
Workforce Development Fund (290)	87,883	117,970	129,199	129,199
Capital Funds	388,218	709,328	637,500	637,500
<b>Total</b>	<b>\$30,553,243</b>	<b>\$41,561,256</b>	<b>\$30,718,782</b>	<b>\$31,285,693</b>
<b>Positions by Core Service **</b>				
Legal Services	23.97	79.70	77.70	80.70
Strategic Support - City Council Appointees	6.80	6.80	6.80	7.80
<b>Total</b>	<b>30.77</b>	<b>86.50</b>	<b>84.50</b>	<b>88.50</b>

\* 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 position counts displayed in the 2021-2022 Actuals column reflect those included in the 2021-2022 Adopted Budget.

\*\*\* 2021-2022 Actuals may not subtotal due to rounding.

\*\*\*\* The amounts in the 2022-2023 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.

# Office of the City Attorney

## Department Budget Summary

	2021-2022 Actuals **	2022-2023 Adopted	2023-2024 Forecast	2023-2024 Proposed	2023-2024 Proposed Positions
<b>Dollars by Program*</b>					
<b>Legal Services</b>					
Legal Representation	10,076,560	10,730,700	10,454,288	10,772,665	37.39
Legal Transactions	10,626,425	11,752,194	11,443,899	11,591,840	43.31
<b>Sub-Total</b>	<b>20,702,985</b>	<b>22,482,894</b>	<b>21,898,187</b>	<b>22,364,505</b>	<b>80.70</b>
<b>Strategic Support - City Council Appointees</b>					
City Attorney Management and Administration	1,769,426	1,806,517	1,818,421	1,919,014	7.80
<b>Sub-Total</b>	<b>1,769,426</b>	<b>1,806,517</b>	<b>1,818,421</b>	<b>1,919,014</b>	<b>7.80</b>
<b>Strategic Support - Other - Council Appointees</b>					
City Attorney Other Departmental - City-Wide	7,926,381	15,961,640	6,000,000	6,000,000	0.00
City Attorney Other Operational - Administration	147,064	0	0	0	0.00
City Attorney Overhead	7,388	1,310,205	1,002,174	1,002,174	0.00
<b>Sub-Total</b>	<b>8,080,833</b>	<b>17,271,845</b>	<b>7,002,174</b>	<b>7,002,174</b>	<b>0.00</b>
<b>Total</b>	<b>\$30,553,243</b>	<b>\$41,561,256</b>	<b>\$30,718,782</b>	<b>\$31,285,693</b>	<b>88.50</b>

\* 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.

\*\* 2021-2022 Actuals may not subtotal due to rounding.

# Office of the City Attorney

## Budget Reconciliation

### Personal Services and Non-Personal/Equipment

(2022-2023 Adopted to 2023-2024 Proposed)

	Positions	All Funds (\$)	General Fund (\$)
<b>Prior Year Budget (2022-2023):</b>	<b>86.50</b>	<b>24,289,411</b>	<b>17,719,807</b>
<b>Base Adjustments</b>			
<b>One-Time Prior Year Expenditures Deleted</b>			
• Rebudgets		(200,000)	0
• Body Worn Camera Review		(350,000)	(350,000)
• Public Safety Initiatives		(200,000)	(200,000)
• Worker's Compensation Legal Support (1.0 Legal Analyst II)	(1.00)	(154,825)	(154,825)
• Neighborhood Injunction Legal Support (1.0 Legal Analyst II)	(1.00)	(154,825)	(154,825)
<b>One-time Prior Year Expenditures Subtotal:</b>	<b>84.50</b>	<b>(1,059,650)</b>	<b>(859,650)</b>
<b>Technical Adjustments to Costs of Ongoing Activities</b>			
• Salary/benefit changes		<b>486,847</b>	<b>369,621</b>
<b>Technical Adjustments Subtotal:</b>	<b>0.00</b>	<b>486,847</b>	<b>369,621</b>
<b>2023-2024 Forecast Base Budget:</b>	<b>84.50</b>	<b>23,716,608</b>	<b>17,229,778</b>
<b>Budget Proposals Recommended</b>			
1. Gun Violence Restraining Order Staffing	1.00	161,571	161,571
2. Workers' Compensation Legal Support Staffing	1.00	156,806	156,806
3. Transactional Associate Attorney Staffing	1.00	147,941	147,941
4. City Attorney's Office Administrative Support Staffing	1.00	103,839	103,839
5. California Network and Telecommunications (CalNet) Program Savings		(3,246)	(3,246)
<b>Total Budget Proposals Recommended</b>	<b>4.00</b>	<b>566,911</b>	<b>566,911</b>
<b>2023-2024 Proposed Budget Total</b>			
	<b>88.50</b>	<b>24,283,519</b>	<b>17,796,689</b>

# Office of the City Attorney

## Budget Changes by Department

### Personal Services and Non-Personal/Equipment

2023-2024 Proposed Budget Changes	Positions	All Funds (\$)	General Fund (\$)
1. Gun Violence Restraining Order Staffing	1.00	161,571	161,571

**Strategic Support CSA**  
**Legal Services Core Service**  
*Legal Representation Program*

This action continues 1.0 Associate Deputy City Attorney position, through June 30, 2024, to support Gun Violence Restraining Orders (GVRO). Initial funding to support GVRO was included as part of the City Council-approved Mayor's June Budget Message for Fiscal Year 2021-2022. The San José Police Department (SJPD) leads the County in requests for GVROs, and the City Attorney's Office (CAO) evaluates and pursues GVROs initiated by SJPD and handles further filings and court appearances. Due to changes in the GVRO law effective January 1, 2020, which require police to consider GVROs in cases involving domestic violence, as well as apparent effects of shelter-in-place orders on families in San José, CAO experienced a significant increase in GVROs. In calendar year 2020, there were a total of 32 GVROs filed; in calendar year 2021, there were a total of 34 filed; and in calendar year 2022, there were 73 filed. September through December were the busiest months for GVRO filings, during which time 30 GVRO cases were opened. Because of the increase in GVROs, the temporary staffing will help address the increased workload. Further, the public is largely unaware of GVROs and the process of how to obtain one. To address this need, SJPD recently updated its website to include GVRO information, including what factors the court considers when issuing a GVRO and links to the commonly used GVRO forms created by the California Judicial Council; more awareness will result in more GVROs. (Ongoing costs: \$0)

2. Workers' Compensation Legal Support Staffing	1.00	156,806	156,806
---	------	---------	---------

**Strategic Support CSA**  
**Legal Services Core Service**  
*Legal Representation Program*

This action continues a temporary position on an ongoing basis by adding 1.0 Legal Analyst II position to address the continuing worker's compensation legal services demands. Previously funded on a one-time basis for many years, this position will continue to provide essential legal support to the attorneys by developing case evidence, including medical reviews, and monitoring case activity. This position will also investigate and evaluate subrogation cases for potential cost recovery on behalf of the City. This Legal Analyst position will also coordinate with the Human Resources Health and Safety Division and the City's Third-Party Administrator on a regular basis, improving communication and coordination between all parties. These cost-effective services are required in each of the service delivery options for the Workers' Compensation Program. (Ongoing costs: \$158,131)



## Office of the City Attorney

### Budget Changes by Department

#### Personal Services and Non-Personal/Equipment

2023-2024 Proposed Budget Changes	Positions	All Funds (\$)	General Fund (\$)
<b>3. Transactional Associate Attorney Staffing</b>	<b>1.00</b>	<b>147,941</b>	<b>147,941</b>

***Strategic Support CSA***  
***Legal Services Core Service***  
*Legal Transactions Program*

This action adds 1.0 Associate Deputy City Attorney position. Under the direction and supervision of senior management in the Office of the City Attorney, the Associate Deputy City Attorney position will perform basic attorney work benefiting a variety of City Departments while receiving valuable training and experience for a career in public service. This position will be assigned increasingly complex legal work under supervision in support of various City Departments until demonstrating the proficiency to handle Deputy City Attorney-level work with less supervision. The position will provide a rare, entry-level position for recent law school graduates or newly practicing attorneys who are interested in utilizing their legal training to serve the City of San José and its residents. The position will also serve as a pipeline to diversify the workforce and for the City to identify, train, and retain new attorneys with a demonstrated dedication and passion for public service and familiarity with City Departments, ordinances, policies, programs, administration, and contracting practices. (Ongoing costs: \$161,390)

<b>4. City Attorney's Office Administrative Support Staffing</b>	<b>1.00</b>	<b>103,839</b>	<b>103,839</b>
--	-------------	----------------	----------------

***Strategic Support CSA***  
***Strategic Support – City Council Appointees Core Service***  
*City Attorney Management and Administration Program*

This action adds 1.0 Office Specialist position to perform general office and clerical work, including reception duties, office supply ordering and inventory maintenance, mail pick-up and distribution, data entry, timekeeping, record maintenance, and filing. This position was eliminated as part of the 2021-2022 Adopted Operating Budget as a General Fund budget balancing strategy and the front desk was opened on a limited basis due to the pandemic. As the City started bringing employees back onsite and opened City Hall to the public, the need for this position is required to continue to provide customer service to both internal and external customers in a timely manner and at the service levels expected of the Office. As a result, the Office has been covering the front desk with temporary staffing. (Ongoing costs: \$104,672)

## Office of the City Attorney

---

### Budget Changes by Department

#### Personal Services and Non-Personal/Equipment

<b>2023-2024 Proposed Budget Changes</b>	<b>Positions</b>	<b>All Funds (\$)</b>	<b>General Fund (\$)</b>
<b>5. California Network and Telecommunications (CalNet) Program Savings</b>		<b>(3,246)</b>	<b>(3,246)</b>

***Strategic Support CSA***

***Strategic Support – City Council Appointees Core Service***

*City Attorney Management and Administration Program*

This action decreases the Department's non-personal/equipment funding by \$3,246 on an ongoing basis to reflect cost savings for internet-based telephony and hardware related services. These funds are allocated to individual departmental budgets. The California Network and Telecommunications (CalNet) Program, managed by the California Department of Technology, awarded updated service contracts. The City uses a State contract for advantageous pricing and the service used by the City had a price reduction. Contractual savings from the new contract in the amount of \$210,882 will be generated for the General Fund, \$275,672 in all funds, across departments as a result of lower service costs. (Ongoing savings: \$3,246)

---

<b>2023-2024 Proposed Budget Changes Total</b>	<b>4.00</b>	<b>566,911</b>	<b>566,911</b>
--	-------------	----------------	----------------










---

# Office of the City Attorney

## Performance Summary

### Legal Services

#### Performance Measures

	2021-2022 Actual	2022-2023 Target	2022-2023 Estimated	2023-2024 Target
 % of time final case results are within staff analyses and/or recommendations	N/A <sup>1</sup>	90%	N/A <sup>1</sup>	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	\$158	\$160	\$157	\$160
- Outside Legal Counsel average hourly rate	\$355	\$416	\$416	\$416
 % of time client is timely informed of significant developments in a case	N/A <sup>1</sup>	80%	N/A <sup>1</sup>	80%
 % of survey respondents rating legal services satisfactory or better based on quality, cycle time, and professionalism	N/A <sup>1</sup>	86%	N/A <sup>1</sup>	86%
 % of time final documents accurately reflect the approval of City action	N/A <sup>1</sup>	96%	N/A <sup>1</sup>	96%
 % of time that advice identifies and analyzes legal issues and risks	N/A <sup>1</sup>	90%	N/A <sup>1</sup>	90%
 % of time that advice provides alternatives where appropriate	N/A <sup>1</sup>	75%	N/A <sup>1</sup>	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	\$158	\$160	\$157	\$160
- Outside Legal Counsel average hourly rate	\$355	\$416	\$416	\$416
 % of time client receives advice/document within mutually accepted time frames	77%	80%	77%	80%

<sup>1</sup> The survey was not conducted in 2022-2023.

# Office of the City Attorney

## Performance Summary

### Legal Services

#### Activity and Workload Highlights

	2021-2022 Actual	2022-2023 Forecast	2022-2023 Estimated	2023-2024 Forecast
# of claims filed against the City	542	567	484	508
# of lawsuits filed against the City	125	125	118	130
# of lawsuits and administrative actions filed or initiated by the City <sup>1</sup>	292	350	600	630
# of Council/Board/Manager memoranda:				
- Prepared	1,521	2,000	2,033	2,000
- Reviewed	642	750	597	657
# of formal Opinions issued	0	3	0	1
# of Resolutions	438	450	413	454
# of Ordinances	167	175	132	139
# of Agreements	1,931	2,000	2,050	2,050

<sup>1</sup> The 2022-2023 Estimated number is trending much higher than previous years mostly due to the number of sideshow citations the City has enforced.

## Office of the City Attorney

### Department Position Detail

Position	2022-2023 Adopted	2023-2024 Proposed	Change
Assistant City Attorney	2.00	2.00	-
Associate Deputy City Attorney	1.00	3.00	2.00
Chief Deputy City Attorney	4.00	4.00	-
City Attorney	1.00	1.00	-
Deputy City Attorney I/II/III/IV	12.00	12.00	-
Executive Assistant	1.00	1.00	-
Legal Administrative Assistant	9.50	9.50	-
Legal Analyst I/II/III	17.00	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 I/II	1.00	2.00	1.00
Senior Deputy City Attorney I/II/III/IV	31.00	31.00	-
Senior Legal Analyst	3.00	3.00	-
Senior Supervisor, Administration	1.00	1.00	-
<b>Total Positions</b>	<b>86.50</b>	<b>88.50</b>	<b>2.00</b>