



# STAFF REPORT

DATE: 03/19/2025

TO: Honorable Mayor and City Council Members

FROM: Legal and Risk Management Department

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**2025-122**

## REQUEST FOR CITY COUNCIL ACTION

### SUBJECT:

AUTHORIZE THE LRM DEPT, AS PART OF ITS SUCCESSION PLANNING EFFORTS, TO PRE-ADVERTISE AND BEGIN RECRUITMENT FOR A SENIOR DEPUTY CITY ATTORNEY POSITION TO BE ADDED IN JULY 2025, SO LONG AS ANY ADVERTISEMENT AND HIRING DECISION IS EXPRESSLY CONTINGENT UPON CITY COUNCIL APPROVAL OF A FY 26 BUDGET THAT INCLUDES THE POSITION

### EXECUTIVE SUMMARY:

City Attorney Derleth has discussed with the City Council the likelihood that he would be retiring in about 5-6 years and Assistant City Attorney John Higginbotham in about 4 years, and thus he has been working on succession planning efforts for the City Attorney's Office (CAO). City Attorney Derleth would like to make every effort to leave the Department in hands capable of continuing the unique and effective success of the CAO.

To do this will require forethought and some investment. To this end, the LRM Dept is proposing in next year's budget to add a Senior Deputy City Attorney position, focusing on litigation and having a particular expertise in Constitutional Policing issues. Moreover, we would like the person to start as close to July 1, 2025 as possible. Because of the lead times necessary to recruit, interview, and perform background checks for such a position, waiting until the FY 26 budget is approved in mid-June would make it very difficult to fill the position before September and impossible before August.

To this end, therefore, we are asking for the City Council's approval to begin the recruitment process now, with the understanding that the position and any hiring would be expressly contingent upon the City Council's approval of a FY 26 budget that includes the position.

**RECOMMENDED ACTION:**

That the City Council authorize the LRM Department, as part of its succession planning efforts, to pre-advertise and begin recruitment for a Senior Deputy City Attorney position to be added in July 2025 (FY2026), so long as any advertisement and hiring decision is expressly contingent upon City Council approval of a FY 2026 budget that includes the position.

**BACKGROUND & HISTORY:**

CAO Staffing Levels Since 2012

CAO - HISTORICAL FTE		
POSITION	FTE (2012-22)	FTE (2022-25)
Attorney	3	4
Paralegal	1	1
Admin Support Staff	0	0
<b>Total</b>	<b>4</b>	<b>5</b>

Since 2012 and until very recently, the City Attorney's Office (CAO) served the City with 4 full-time equivalent (FTE) staff members. While we added a fourth FTE attorney in 2022 - due to a significant litigation caseload increase - Sr. Deputy City Attorney, Constitutional Policing Advisor (SDCA), Neil Okazaki, plans to retire in the next year or so.

Preparation for Succession Planning – Forethought & Investment

We believe the City Council shares our goal to continue the proven effectiveness of our in-house team – both on the general counsel side and litigation side – at staffing and budgetary levels which are very low in comparison to cities of similar size and complexity. Finding a way in which to continue this team will take forethought (and investment).

Requested Investment: As we outline more thoroughly below, our succession planning proposal requires an increase by 1 of our attorney FTE's (from 4 to 5) for a brief period of 1-2 years.

## Preparation for Succession Planning – Comparison to Other Cities

The below comparison provides a brief and simple look at the overall efficiency of our CAO:

CITIES WITH IN-HOUSE LEGAL DEPARTMENTS BUDGET & FTE COMPARISONS				
CITY	POPULATION	FY 25 BUDGET	FTE (ALL PERSONNEL)	\$ PER CAPITA
Anaheim	336,414	\$11,983,665	36	\$35.62
Escondido	146,194	\$2,842,480	11	\$19.44
Orange	137,594	\$2,592,106	7	\$18.84
Riverside	321,385	\$9,916,815 <sup>1</sup>	45	\$30.86
Average	235,397	\$6,833,767	24.75	\$26.19
<b>Corona</b>	<b>162,084</b>	<b>\$1,637,968</b>	<b>5</b>	<b>\$10.11</b>

### ANALYSIS:

#### Succession Planning – How to Maintain Our Uniquely Cost-Effective CAO

CA Derleth believes that our uniquely cost-effective CAO is possible only because the tremendous support and confidence we enjoy from the City Council has allowed us to: (1) hire and maintain the right personnel; (2) use force-multiplying technology to do the work of more than 5 individuals; and (3) focus essentially all of our productive time each day producing work product for the City.

While we cannot guarantee that we will be able to replicate this CAO over time, we believe the only way to do so is by following these strategies:

- ✓ Avoid Using Junior Attorneys: Avoid the need to hire multiple junior attorneys and other personnel who have limited experience and require significant supervision, help, basic training, and administrative assistance.
- ✓ Use Seasoned General Counsel Attorneys with Broad Municipal Experience: Hire and continue to support and train tenured general counsel personnel who have a broad scope of experience, expertise in key areas, and who are willing and capable of doing the work themselves without much assistance from junior attorneys and without continuous oversight. To this

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<sup>1</sup> Riverside's CAO budget is a little difficult to decipher, at least when trying to compare to our CAO budget. They have a "Litigation Services and Claims Management Division" which appears to do some of what our CAO does, but also some of what our Risk Management division does. Thus, we have taken a range of their budget, from none to all of the \$6,701,124 Litigation Services and Claims Management Division budget, and included an average.

end, the current general counsel team has experience in virtually every municipal legal subject the City faces, as well as expertise in critical areas like land use, planning, fees and taxes, contracting, conflicts of interest, property acquisition and disposition, and (of course) municipal staples like The Brown Act and Public Records Act. Accordingly, our reliance on outside legal counsel is relatively very low.

- ✓ Use Seasoned Litigators with Broad Municipal Experience: Hire and continue to support and train tenured litigators who have a broad scope of experience, expertise in key areas, and who are willing and capable of doing the work themselves without much assistance from junior attorneys and without continuous oversight. To this end, the current litigation team has broad municipal law experience and is capable of taking to trial essentially any municipal law issue. We cannot afford, for instance, to have separate constitutional policing, constitutional law, dangerous condition of public property, contract, and tort litigators. You must have 1 or 2 who are not only capable of taking those matters to trial, but are willing and able to do so by themselves with little assistance other than part-time law clerks. If you have and maintain this expertise and work ethic, you can avoid the use of outside law firms except in the most complex and heavily-staffed litigation matters (i.e. currently, the Kimberly Long alleged wrongful conviction litigation, the McKinley Grade Separation Project property acquisition and contractor performance issues, and the WRF 3 Project inadvertently discovered Native American remains litigation).
- ✓ Use Seasoned Paralegals with Broad Municipal Experience: Hire and continue to support and train paralegals who have a broad scope of experience, expertise in key areas, and who are willing and capable of assisting anyone on the team (general counsel or litigation), as well as tackling tasks that advance the department and our responsibilities. To this end, our current paralegal (Maria Conzelman) is not only an Advanced Certified Paralegal with significant litigation and real property experience, but is also an expert on the Public Records Act and document retention and destruction issues. She is also the consummate team player, always looking for new things to learn and ways in which to contribute.
- ✓ Promote Teamwork & Efficient Work Environments; Foster Confidence: A CAO of this size, which is tasked with handling the increasingly complex laws impacting a full service City the size of Corona, must operate in unison and within an efficient work environment that promotes a strong work ethic and allows us to concentrate our energies on our work product responsibilities. Such a work environment also allows us to support each other and communicate clearly and thoroughly. The City should continue to provide the tremendous support and confidence that we have always received, because it fosters confidence, our ability to do our best work, and to support each other.

- ✓ Digital Infrastructure (Document Management System): Continue to invest in excellent computer and digital infrastructure, the *most important of which* is a robust, user-friendly document management system which allows the CAO to operate without administrative assistants, file clerks or other similar administrative personnel. When our CAO office was created, for instance, we brought with us a computer hard drive containing nearly 20 years of City of Corona legal documents, research and history. This is *the only way* in which we have been able to handle virtually all of the City's general counsel legal work with just 2 or so general counsel attorneys. *It is a force-multiplying tool that allows us to do the work of many, since we have access to work product produced by hundreds of attorneys, paralegals and law clerks since at least the 1990's.* While we improve what we find, we are never forced to "reinvent the wheel" when producing work product.

Your current CAO consists of personnel with the following years of experience:

CAO – CURRENT STAFFING EXPERTISE		
POSITION	SUBJECT MATTER	YRS OF EXPERIENCE
City Attorney	General Counsel	32 +
Assistant City Attorney	Litigation	25 +
Chief Deputy City Attorney	General Counsel	27 +
Sr. Deputy City Attorney	Litigation & General Counsel	25 +
Sr. Paralegal	Litigation, General Counsel	29+

#### Succession Planning – General Counsel

On the general counsel side, the City is in very capable hands with CDCA Jamie Raymond. As noted above, she has more than 27 years of experience performing City Attorney services for many cities, and is more than capable of being the City Attorney.

CDCA Raymond plans and hopes to be with the City after CA Derleth retires, so there is no current need to do any succession planning on the general counsel side. Once we get within a year or two of his retirement, we will begin to look at our general counsel succession planning needs and goals. But even if something were to happen to CA Derleth tomorrow, the City would not miss a beat when it comes to having a high quality, effective and efficient City Attorney.

Simply stated, Jamie Raymond could be your City Attorney today if needed.

#### Succession Planning – Litigation

On the other hand, succession planning on the litigation side requires an immediate investment in time and resources. With both the ACA and SDCA planning to retire in the next 1 to 4 years, now is the critical time to hire someone who – with training from both of our retiring litigators – can hopefully replace our ACA in 2029.

Below is a summary of how CA Derleth intends to implement his CAO Litigation Succession Plan over the next few years:

CAO SUCCESSION PLAN IMPLEMENTATION - LITIGATION		
DATE(S)	TASK	PLAN ACTIVITIES
Now thru 04-01-25	Finalize Job Description	<p>Although subject to further research and refinement, we currently expect the qualifications to be as follows:</p> <p><b>Sr. Deputy City Attorney (Constitutional Policing Advisor)</b></p> <ul style="list-style-type: none"> <li>✓ 10 years of municipal <u>and</u> (not or) other relevant litigation experience;</li> <li>✓ Preferably significant in-court trial experience as lead counsel;</li> <li>✓ Preferably significant experience representing police and other public safety departments, including: (1) advising and working closely with the Chief of Police and other senior command staff on federal and state constitutional and other legal issues impacting their job duties and responsibilities; (2) with little instruction or assistance, providing seasoned legal counsel and advice; providing litigation services; conducting legal research; (3) providing training to law enforcement and fire personnel; and (4) advising police department staff daily on both complex and routine legal and other related matters;</li> </ul>

		<ul style="list-style-type: none"> <li>✓ A thorough grasp of laws impacting cities, including the Government Torts Claim Act, privileges and immunities, and dangerous conditions of public property; and</li> <li>✓ Although litigation related work will be a primary focus of the position, they shall also be expected to assist with the general counsel activities of the department, including conducting legal research; preparing opinions, memoranda, ordinances, resolutions, contracts, administrative rules and regulations and other municipal legal documents; and providing assistance and advice to the City Council, the City Manager, all City departments and various boards, committees and commissions.</li> </ul>
<b>04-01-25 thru 06-30-25</b>	<b>HR Process</b>	Advertise, recruit and identify a candidate; perform background check.
<b>07-01-25</b>	<b>HR Process</b>	Hire Sr. Deputy City Attorney (Constitutional Policing Advisor)
<b>July '25 thru SDCA Okazaki Retirement</b>	<b>Training</b>	<p>Train the 07-25 hire on any issues or areas of the law for which they do not yet have sufficient experience. We would expect to provide at least some training regarding:</p> <ul style="list-style-type: none"> <li>✓ <u>HR Advisory Services:</u> SDCA Okazaki is well versed and would be tasked with this training).</li> <li>✓ <u>Constitutional Policing Services:</u> Although the 07-25 hire will be expected to have these skills, SDCA Okazaki is one of the pioneers in this area of service.</li> </ul>

		<p>We will want him to have as much time as possible with the 07-25 hire to enhance his skills in this regard.</p> <p>✓ <u>Corona's Tenacious Yet Fair Litigation Philosophy:</u> ACA Higginbotham has deliberately and effectively crafted and communicated this philosophy to plaintiff's attorneys. It is well known that Corona is not a City to sue if you're just looking for an "easy score" or deep pockets. Although we expect everyone in the LRM Dept to model protection of City resources and safeguarding of the Corona community's interests, ACA Higginbotham will be primarily tasked with this training.</p> <p>✓ <u>Corona's Aggressive &amp; Creative Litigation Philosophy:</u> ACA Higginbotham is highly skilled at analyzing cases and finding <u>the most</u> creative way in which to view the totality of a case and to aggressively bring litigation matters to a close (most often in the City's favor). We rely heavily on the privilege we have as an in-house staff to litigate without concern for outside legal counsel billable rates, and thus we pursue motions and litigate primarily based upon what is right for the Corona community. On civil litigation matters, we are rarely forced to recommend an "economic settlement" for a case we believe we can win. ACA Higginbotham will be tasked with this training.</p>
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<p><b>SDCA Okazaki Retirement thru ACA Higginbotham Retirement</b></p>	<p><b>Training Promotion &amp; Cloning</b></p>	<p>Our plans and goals for this period include the following:</p> <p>✓ <u>Training:</u> Everyone, but in particular ACA Higginbotham, will continue the training mentioned above.</p> <p>✓ <u>Promotion:</u> If we all do our jobs correctly, we would expect to see the 07-25 hire rise to the level of ACA sometime between SDCA Okazaki's retirement and ACA Higginbotham's retirement.</p> <p>✓ <u>Cloning:</u> Even with the exponential increases in AI technology over the last few years, we have been told that thus far it is impossible to clone SDCA Okazaki and ACA Higginbotham. However, it is in the best interests of the City and the Corona community to give the 07-25 hire as much time as possible with SDCA Okazaki and ACA Higginbotham to give it a shot.</p>

Succession Planning – Overall Goals for Attorneys (FY 25 Thru FY 32)

For your “big picture” understanding, the following chart outlines our succession planning goals for attorneys over the next 7 years:

<b>CAO SUCCESSION PLANNING - ATTORNEYS</b> <b>OVERVIEW WITH POTENTIAL TITLE ADJUSTMENTS</b> (FY 25 THRU FY 32)									
POSITION	FY 25	FY 26	FY 27	FY 28	FY 29	FY 30	FY 31		FY 32
CITY ATTY	DD	DD	DD	DD	DD	DD	DD	12-30 HIRE?	?
CHIEF ACA	JH	JH	JH	JH	JH				
ASST CA (GC)	JR	JR	JR	JR	JR	JR	JR	12-30 HIRE?	?
ASST CA (LIT)	NO	NO	?	?	07-25 HIRE	07-25 HIRE	07-25 HIRE		07-25 HIRE
SR DEPUTY CA		07-25 HIRE	07-25 HIRE	07-25 HIRE	07-28 HIRE	07-28 HIRE	07-28 HIRE		07-28 HIRE
FTE	4.0	5.0	4.0 - 5.0	4.0	4.5	4.0	4.0		4.0

### FINANCIAL IMPACT:

The direction requested will not have a financial impact on the General Fund.

### ENVIRONMENTAL ANALYSIS:

This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the common sense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action simply provides direction on a personnel issue and will not have an impact on the environment.

**PREPARED BY:** DEAN DERLETH, CITY ATTORNEY

**REVIEWED BY:** DEAN DERLETH, CITY ATTORNEY