







CITY OF  
**PORTLAND, OREGON**  
OFFICE OF THE CITY ATTORNEY

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January 29, 2020

INTEROFFICE MEMORANDUM

TO: City Budget Office  
Commissioner Chloe Eudaly  
Commissioner Amanda Fritz  
Commissioner Jo Ann Hardesty  
Auditor Mary Hull Caballero

FROM: City Attorney Tracy Reeve   
Mayor Ted Wheeler 

SUBJECT: FY 2020-21 Requested Budget of the City Attorney's Office

Enclosed for your consideration is the FY2020-21 budget request for the City Attorney's Office. The City Attorney's Office has one program – Legal Services. The Legal Services program supports the City's elected officials and all City bureaus by providing legal advice and advocacy necessary to implement the City's programs and services and enable the City to achieve its policy goals.

Budget guidance to bureaus this year included a challenge to bureaus to find ways to deliver better and more cost-effective services. This requested budget is focused on creating stability and consistency in the office after a period of change and does not include requests for increased funding or positions.

As directed, the City Attorney's Office is working with the Office of Management and Finance and the City Budget Office on Priority Issue Area 7: Long Term Liabilities. Enclosed with this requested budget is a joint memo addressing long-term liabilities.



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**Long Term Financial Liabilities and Recommended Solutions**

**Responding to Mayor's Budget Guidance**

January 28, 2020

Jessica Kinard, Budget Director

Michelle Kirby, Interim Chief Financial Officer

Tracy Reeve, City Attorney

**Introduction**

Binding City Financial Policy states that “[t]he City shall plan for the types and levels of investment necessary to ensure the sustained and equitable delivery of public services to the residents, businesses, visitors and customers of the City.” The City of Portland has several notable citywide financial liabilities looming over the next several decades that may threaten sustained and equitable service level delivery.

As directed by the Mayor's Budget Guidance, the City Budget Director, the Chief Financial Officer, and the City Attorney have conducted an initial assessment of the major citywide liabilities facing the City. This assessment functions as a starting point for future conversations and more detailed analysis; many of these liabilities have elements of uncertainty around the likelihood and magnitude of cost risk. Additionally, the Chief Financial Officer is in the process of generating the City's first long-term financial plan, expected to be completed in the spring of 2020. This initial assessment memo is intended to be the starting point and will be expanded upon in the Long-Term Financial Plan.

**Summary of Liabilities**

The below categorization reflects initial estimates based on available information at this time. None of the liabilities discussed have precisely known costs and timelines for impact.

Liability	Estimated \$ Impact Restrictive (>\$30M) Significant (\$5M-\$30M) Notable (<\$5M)	Estimated Urgency Near (1-3 yrs) Medium (3-7 yrs) Long-term (7+ yrs)	Confidence Level of Risk Certain \$ and timeline Certain \$ or timeline Uncertain \$ and timeline
<b>Major Maintenance &amp; Infrastructure Backlog</b>	●	●	●
<b>PERS Liability</b>	●	●	●
<b>Personnel Cost Mandates</b>	●	●	●
<b>Portland Harbor</b>	●	●	●
<b>Citywide Legal Liabilities</b>	●	●	●
<b>Technology &amp; Equipment Replacement</b>	●	●	●
<b>Technology &amp; Equipment Replacement</b>	●	●	●
<b>Columbia Levee</b>	●	●	●

## Summary of Recommendations

### FY 2020-21:

- Deposit up to \$5 million in City resources into the General Obligations reserve, for transfer to a Side Account for **PERS rate buy-down**. The \$5 million would consist of **\$1.5 million in one-time General Fund resources**, and the remainder from other City funds. If this contribution could be leveraged by the State Employer Incentive Fund, an additional \$1.2 million would be granted by the State. This total side account balance of \$6.2 million invested in buying down our PERS rates would yield an estimated \$10.8 million in savings over 20 years. This proposal is scalable.
- Prioritize **asset management systems and operations** by supporting requests for software systems, condition assessments, and operational staff essential to ensuring project investment is maximized.
- Consider depositing up to **\$2 million** of discretionary resource in the General Obligations reserve to fund likely future costs such as Portland Harbor, Columbia Levee, mandated personnel costs and unforeseen legal costs.
- Continue supporting **data governance policy development** as a precursor to supporting a technology and equipment replacement fund and allocation process.

### Future years:

- Create and adhere to a **funding plan** for liabilities once costs are known for Portland Harbor, Columbia Levee, and personnel mandated costs.
- Plan for and incentivize bureau investment in needed technology replacement needs by establishing a **technology and equipment replacement reserve**. Allocations from the reserve will be determined by agreed-upon City policies around data governance and technology plans.

## Long-Term Liabilities & Recommended Action Detail

### 1. Major Maintenance and Infrastructure Backlog

The City's most significant and urgent financial and service-level risk is the unfunded major maintenance and infrastructure backlog. The latest report estimated that the City would need to increase its investment by \$568 million annually to close our current major maintenance funding gap. City Council, bureaus, and voters have approved significant resource investments in our asset base in recent years, and bureaus have also individually taken measures to address this issue. While the funding gap has continued to grow, the rate of growth in recent years has

decreased<sup>1</sup> and the City has made notable progress in our understanding of asset condition,<sup>2</sup> which is an essential precursor to effectively addressing asset needs.

However, it is clear that more must be done. While this issue has been consistently presented as essential to preserving intergenerational service level equity, it has become increasingly apparent that the risk presented by this issue is more near-term. For example, the Parks bureau anticipates that, without a significant influx of new resources, it will need to retire 1 out of 5 Parks assets in the next fifteen years. Parks is not alone in this: the requests for urgent capital projects via the General Fund Capital Set Aside process is typically four times the amount of available Set Aside resources.

Funding Plan Recommendation: City financial policy mandates that at least 50% of one-time available discretionary resources be dedicated to major maintenance and infrastructure projects; Council should consider increasing the annual allocation to these efforts beyond the 50% requirement. Additionally, it has become clear that many bureaus require asset management operational support to ensure project funds are effectively spent. Providing resources for condition assessment, adequate data and asset management systems is essential to addressing this backlog. In addition to the capital set aside project funds, we recommend establishing an asset management improvement fund to invest in the infrastructure management systems and operations to ensure project funding is deployed in a way that maximizes impact. Beyond annual allocations, we recommend dedicating a significant portion of returning URA resources towards preserving these assets and service levels.

## **2. PERS Liability**

As with other public entities, the City will experience steadily rising Public Employee Retirement System (PERS) costs over the next several years. The actual amount of the City's required PERS contributions depends upon a variety of factors, but the actuary's estimated cost to the City grows significantly over the next nine years, and then begins to decline slowly to the current amount by year 2036. This increase is estimated to be an additional \$543 million in total resource needs over the 16-year period, with approximately 42% being General Fund resources.

Funding Plan Recommendation: As part of the City's strong financial management policies, the City budget includes expected costs associated with personnel salary and benefits – including retirement contribution costs – as part of the balanced five-year budget each year. This practice

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<sup>1</sup> During the five-year period between 2008 and 2013, the annual average growth rate of the major maintenance funding gap was 28%. In the five years following (2013 to 2018), the average growth rate slowed by 18 percentage points to 10%.

<sup>2</sup> In 2007, the condition of nearly one-third of the City's assets was unknown. In 2018, the condition of approximately 8% of the City's assets is unknown.

ensures that reasonably expected near-term changes in personnel costs are accommodated before other allocation decisions are made. This practice adequately plans for these costs but also restricts budget flexibility for other City service needs. The City may take additional action to both lessen the actuarial liability and smooth the anticipated cost over a longer time horizon.

PERS side accounts are designed to reduce the employer's contribution rates through a "rate credit" by utilizing the account deposit and earnings over 20 years. Side accounts earn actual PERS returns. Currently the assumed rate is 7.2%; however, the fund may earn more or less. In addition, through Oregon State Bill 1049, the state has created an Employer Incentive Fund to provide a 25% match for cash funded side accounts through an application process as monies are available. Although the original Incentive Fund was quickly used by other state government employers, it is important to get on the "wait list" as it is expected that additional funds will become available over the next year. If the City invests \$1.5 million in one-time General Fund resources, we can leverage investments of \$3.5 million from other City funds and potentially gain \$1.2 million in State resources for a total set-aside account balance of \$6.2 million. This investment would yield an estimated \$10.8 million in City savings over the next 20 years. This proposal is entirely scalable depending on the availability of General Fund resource.

### **3. Personnel Cost Mandates**

The City's five-year balanced discretionary budget assumes personnel cost increases for inflationary factors, benefit cost growth, and approved wage growth. However, decisions that require subsequent authorization by Council – such as future labor contract agreements or new or supplementary employee benefits – are not included and funded in the forecast. Additionally, changes in policy or regulation affecting personnel costs can disrupt service levels if inadequately planned for. One specific liability currently facing the City comes with the state's passage of a new Paid Family Leave Act that will result in an increased cost to the City beginning in FY 2021-22. CBO is currently assessing the estimated cost to the City of different options to implement this policy. These options include the City developing its own plan or simply using the state's plan.

Funding Plan Recommendation: Proactively reserving some level of resource for mandated changes in personnel costs can smooth the cost impact of significant changes over a longer timeframe. We recommend that the City set aside resources early for known, distinct mandates – such as implementation of the Paid Family Leave Act – to smooth costs over a longer time horizon. For liabilities that have an unknown timeframe or magnitude, the City can deposit discretionary resources into a General Obligations reserve for the purpose of addressing many of the major cost liabilities described in this memo rather than one issue specifically.

#### **4. Portland Harbor Clean-Up**

Environmental cleanup of the Portland Harbor Superfund Site is an ongoing financial liability for the City. It is not currently quantifiable but is likely to be significant. The City is one of more than 100 parties participating in a confidential, non-judicial process to reach an allocation of more than \$1B of cleanup costs among the parties.

Simultaneously with the settlement process, the City has entered into Administrative Orders with the U.S. Environmental Protection Agency to perform projects that move the site towards cleanup. Pursuant to these Orders, the City has funded work to investigate and design certain portions of the remedy. The City's expenditures under these EPA Orders are costs that will be eventually allocated among the parties participating in the negotiated settlement, or the expenditures will be credited towards the City's ultimate liability if negotiations fail. As discussed below, these costs by the City for work under the EPA Orders are currently being budgeted for by the City.

However, the City's ultimate share of the total liability for Portland Harbor clean-up is not known and cannot be reasonably predicted at this time. In addition, it is difficult to predict whether the City will fund its share of the ultimate liability through a cash payment, through an agreement to perform certain work, or a combination of both. If the City settles its share of the liability by making a cash payment, then the payment would likely occur over a shorter time frame. On the other hand, if the City agrees to settle the case by performing certain work, the City's expenses for the work could be spread out over a much longer time period.

##### Funding Plan Recommendation:

There are two types of funding reserves needed for Portland Harbor:

1. Project work being conducted under EPA Orders over the next three to five years which can be estimated over 5-year budget planning cycles; and
2. Addressing ultimate liability and planning for implementing a site-wide settlement agreement(s) which cannot be reasonably quantified yet.

Funds for the first type of costs are being addressed beginning in this year's budget and will be held within a Portland Harbor subfund of Fund 231 (The Citywide Obligation Fund).

However, since the second type of costs cannot be reasonably quantified yet, we recommend that the funds needed for the ultimate settlement simply be accrued in a General Obligations



reserve fund. Importantly, of course, to the extent funds accrue from ratepayer bureaus, those ratepayer funds would have to be tracked so that they were not used for other purposes.

#### **5. Citywide Legal Liabilities:**

Occasionally, the City experiences unforeseen legal costs with multi-fund or citywide responsibility. These costs may arise as a result of a legal suit against the City or as a result of Council's desire to proactively pursue a legal, regulatory, or policy change. There is no current practice or method to proactively plan for these types of costs.

Funding Plan Recommendation: Proactively reserving some level of resource for Citywide legal liabilities may empower the City to respond effectively and with minimal service disruption when issues arise. However, as the amount of funding required and the timeline of the need is unknown, it is difficult to recommend a specific funding level for this purpose. One solution would be for the City to deposit discretionary resources into the General Obligations reserve for the purpose of addressing many of the major cost liabilities described in this memo rather than one issue specifically.

#### **6. Technology and Equipment Replacement:**

Strategically planning for and funding equipment and technology needs not only mitigates the financial risk posed by these large and urgent requests, but it protects and preserves core service levels and goals across the City. The improvements to financial policy that Council approved in April 2019 bolstered reporting and reserve requirements, providing a foundation for planning and strategizing around equipment and technology replacement needs. Planning for equipment replacement costs is now a core principle of existing City financial policy, but adherence is spotty and bureaus need better tools to plan for and fund these costs. Often, large one-time requests for needed replacement costs surface when the situation is critical. Recent examples include \$3M to replace the Fire Bureau's SCBAs and \$24M to replace Revenue Division's tax collection software. On the horizon are costly enterprise asset management software systems for OMF and Parks, and many others that are unknown.

Funding Plan Recommendation: Council should consider establishing a technology and equipment set aside account which could function similarly to the Capital Set Aside account. Resources from this account could be used to incentivize bureau investment and match bureau's existing resources for needed replacements. Setting up a matching fund could both smooth these costs over time and create an incentive for bureaus to develop more robust technology and equipment replacement plans.

As a precursor to consistently and effectively evaluating technology needs, we need agreement on key elements around data governance. This includes agreement on questions such as who has the authority to make data management decisions, and who is accountable for the data.

## **7. Columbia River Levee**

For much of the last decade, several bureaus in the City have participated in the Levee Ready Columbia workgroup. This group was brought together for two purposes: first and foremost, following Hurricane Katrina, the Army Corp of Engineers has reevaluated and wants to recertify existing levees; secondly, there has been an effort to consolidate the drainage districts that oversee the levee. The City has participated in and supported funding studies and staffing related to these goals, and is expected to continue to partially fund these efforts.

Funding Plan Recommendation: In the FY 2019-20 Fall BMP, the City set aside one-time discretionary funds to cover all *existing* agreements. However, there will likely be more costs in the future. The Army Corp of Engineers has just completed their study of the levee and the next steps are being considered currently. Similar to the Portland Harbor, there will likely be multiple partners and even multiple funds within the City – the largest land owners in the western part of the levee are the Golf Fund and Portland International Raceway. The appropriate level of funding, and which entities in the City are responsible, will become clear over the next several months. Once these costs are identified, the City should begin setting aside resources in the General Obligations reserve for this purpose.



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January 23, 2020

FY 2020-21 BUDGET ADVISORY COMMITTEE SUMMARY REPORT

The City Attorney's Office Budget Advisory Committee (BAC) convened on January 23, 2020, at 9:00 a.m. Those present were Tracy Reeve, Robert Taylor, Scott Moede, Linda Law, Crystine Jividen, Kim Sneath, citizen advisor Josie Aaron and CBO Analyst Asha BellDuboset.

The group discussed the City's budget process, the office's background and mission, and the services the office provides to the City. The role and goals of the BAC were reviewed, and the group indicated they understood the services the office provides, the budget process and the role of the BAC. Citizen advisor Josie Aaron is serving a second year on the committee and had completed the requisite advisory board training.

The BAC discussed funding sources and expenditures. The office's budgetary resources include interagency agreements and General Fund overhead and discretionary funds. Personnel Services account for nearly 90% of the office's expenditures including salaries and benefits for the office's largest and most important asset, its employees. External Materials & Services (EMS) such as office supplies, publications, legal research services, education, repair & maintenance, and software, and Internal Materials & Services (IMS) including printing & distribution, facilities, fleet, technology services, liability, and workers' compensation insurance make up the remaining 10%.

The office will experience increased IMS costs in FY2020-21 due to two major factors. First, the office will have a substantial increase in rent expenses due to a new rate methodology for downtown core facilities. The office will receive a partial offset from the General Fund and is required to recover the additional expenses via its interagency rates. Second, as with most City bureaus, the City Attorney's office is experiencing increasing personnel costs due to compensation pay grade changes and non-rep merit increases.

The committee discussed the office's Technology Replacement Fund. The office relies heavily on its practice management software which is becoming obsolete. The office is currently in the process of finding a replacement for its existing software. This project is long term and the replacement fund allows the office to set aside funds that otherwise would not be available in one budget year.

The Mayor's budget guidance was focused on creating a stabilization budget with an emphasis on providing collaborative, cost effective and efficient services. Budget reductions were not required this year. Robert Taylor noted the office's great appreciation for not being required to identify and prepare potential budget reduction packages that ultimately would not be necessary.

The office is also working collaboratively with other bureaus on the Mayor's Priority Issue 7: long term liabilities.

The committee discussed the office's racial equity plan. Tracy Reeve explained the importance of equity and diversity to the office and talked about the officewide equity project that will span two fiscal years. The office is working with equity consultants and taking a deep dive into equity and inclusion in the office. Another example of internal equity work is protecting the Honors Attorney Program to advance equity goals. The office traditionally hires newer attorneys using a broad spectrum of recruitment and outreach mechanisms to attract diverse candidates from historically underserved communities for a two-year term in public service. Scott Moede also mentioned the recent settlement of claims regarding curb ramp installations noting that, rather than litigate, the parties worked together to efficiently resolve the issue resulting in more equitable outcomes. Robert Taylor mentioned a similar efficient process and the good results on recent water main break claims. He also noted the excellent work done by the City Budget Office in quickly setting up the financial mechanisms needed to make the claims process work.

The committee discussed performance measures including outside counsel costs which average \$400 per hour versus the in-house City Attorney rate of \$169 per hour. The type of matters handled by outside counsel are conflict matters that the office is prohibited from handling, and certain specialty expertise matters such as bond counsel and intellectual property matters.

Training hours have been consistently high but may fluctuate year to year due to efficiency measures. For example, honors attorney trainings will be provided every other year and some new programs have initial trainings that are more intensive the first few years. Litigation results are currently 98% favorable to the City which exceeds the office's strategic goal.

Contract review turnaround time has been slower than previous years due to the increasing complexity of contracts, high staff turnover in other departments resulting in the need for additional legal work and guidance, and an increase in the volume of work. It is expected that turnaround time will decrease in the near future.

Robert Taylor noted that the office has increasing needs in the areas of safety, security and resiliency. City Hall is an historic public building with some safety and security issues that need to be addressed. The office is performing a safety and security needs assessment to address issues of staff not always feeling safe and secure at work. Some potential items to address are reconfiguring the front desk area to limit access to authorized personnel only and update other access doors to include badge-swipe entry. The office may need to submit a budget request at some point to address these needs. The office is working with the Facilities Division to coordinate efforts and is also involved in Citywide long-range facilities planning efforts.

Finally, it was noted that the office will see an increase in legal work due to the Charter Review process but expects to handle the increased work with existing resources.

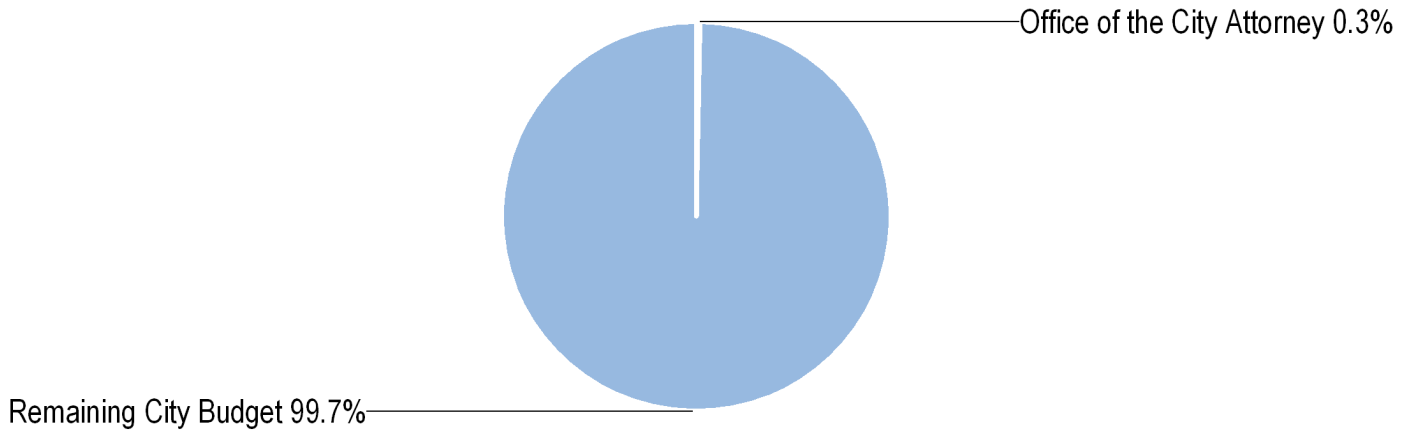
# Office of the City Attorney

City Support Services Service Area

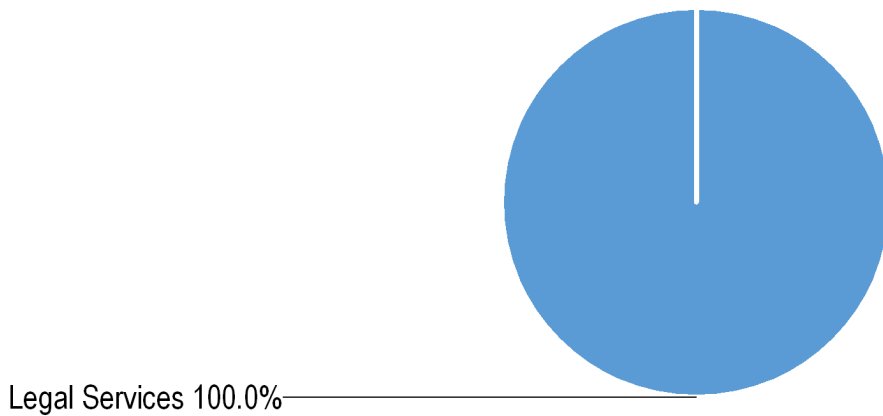
Mayor Ted Wheeler, Commissioner-in-Charge

Tracy Reeve, City Attorney

**Percent of City Budget Graph**



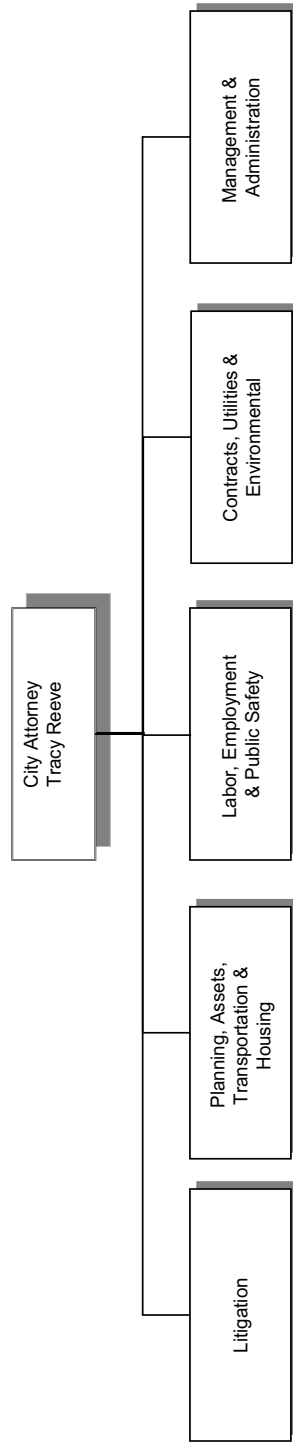
**Bureau Programs**



## Bureau Overview

Requirements	Revised FY 2019-20	Requested FY 2020-21	Change from Prior Year	Percent Change
Operating	\$14,918,990	\$15,686,525	\$767,535	5%
Capital	\$0	\$0	\$0	0%
<b>Total</b>	<b>\$14,918,990</b>	<b>\$15,686,525</b>	<b>\$767,535</b>	<b>5%</b>
Authorized Positions	70.88	72.60	1.72	0%

Office of the City Attorney



## Bureau Summary

### Bureau Mission

To provide excellent, objective, timely, and cost-effective legal advice and advocacy in support of the City's policy goals and to ensure that the official actions of the City, its elected officials, and employees comply with the law.

### Bureau Overview

The Office of the City Attorney is responsible for all of the legal work for the City of Portland (with the exception of Prosper Portland and certain aspects of the Auditor's Office). Virtually all City programs and operations require some legal staff involvement. The office has a single budget program: Legal Services.

The office represents the City and its elected officials, employees, bureaus, offices, boards and commissions in court and in administrative and quasi-judicial proceedings. Office attorneys draft and review local legislation, contracts, real estate leases, intergovernmental agreements and other documents and legal instruments. The office advises on policy development and program implementation. Attorneys advocate and negotiate on behalf of the City. Office attorneys provide training to elected officials, City boards and commissions, and City employees on a broad spectrum of legal topics. In addition, the City Attorney administers the City's occasional use of outside legal counsel.

The City Attorney's Office consists of six sections, staffed with 42 lawyers and 31 support professionals. The office is led by the City Attorney who is appointed by, and serves at the pleasure of, the City Council. Interagency agreements with other bureaus and offices for specialized legal work in specific areas represent half of the total operating resources of the City Attorney's Office. The remainder of the budget is supported by General Fund discretionary revenue and General Fund overhead revenue. The personnel services category represents 87% of the office's expenditures.

### Strategic Direction

The work of the City Attorney's Office is guided by the following four strategic goals:

#### Customer Service

Goal 1: To provide the highest level of customer service to clients through preventive legal advice that is timely, accurate and easy to access.

The City Attorney's Office actively seeks to impart helpful, accurate, and timely legal advice. Clients are encouraged to involve the City Attorney's Office at early levels of decision making, even if a significant legal issue has not yet been identified. Office attorneys work with clients to provide solutions-oriented legal services to help achieve City policy objectives. The City Attorney's Office commits to an initial response time goal of one business day on any client inquiry. Clients are regularly surveyed, both formally and informally, to solicit feedback on the quality of legal services provided and how the City Attorney's Office can improve.

### **Effective Advocacy**

Goal 2: To effectively and vigorously advocate for the City's interests in state and federal courts and otherwise.

The City Attorney's Office handles cases in state and federal courts and in other proceedings, such as the Employment Relations Board and the Land Use Board of Appeals. Attorneys evaluate cases to determine how best to protect the City's interests, including through early alternative dispute resolution where the City faces some legal risk, the strategic use of offers of judgment to minimize the risk of adverse outcomes in cases taken to trial, and the vigorous defense or prosecution of cases through pretrial motions, trial, and on appeal. Because almost all litigation is handled in-house, the office is able to try cases in a cost-effective manner. The office is achieving this goal effectively, with 98% of its cases resolving favorably to the City in fiscal year 2019-20.

### **Achieving Equity**

Goal 3: To support and advance the City's objective of achieving equity in all of its programs, services and activities.

As the City's legal counsel, office attorneys work with internal clients to ensure that all Portlanders have access to all of the services, benefits, and programs of the City free from discrimination, and that the civil rights of all Portlanders are legally recognized and protected by the City, its contractors, and grantees. The City Attorney's Office does this by advising in programmatic areas such as the ADA and Title VI, fair contracting, hiring practices, and implementation of the City's civil rights ordinance, as well as by providing anti-discrimination training on civil rights and related issues to City employees. The office works to foster a professional atmosphere where diversity is appreciated and valued, and equity is the norm. This is accomplished by seeking to uncover and eliminate individual conscious and unconscious biases through training, education, discussion, honest self-appraisal, and through other cultural and diversity activities.

### **Ensuring Accountability**

Goal 4: To ensure accountability for the office's professional performance and effective stewardship of public resources.

The City Attorney evaluates office policies and procedures and makes improvements as needed so systems are clear, accurate, and transparent. The City Attorney evaluates timekeeping methods and ensures that work schedules fit clients' needs for access to accurate, prompt, and reliable preventive legal advice. The City Attorney actively seeks to minimize costs for outside legal counsel as well as overhead and administration expenses.

City legal services are fully centralized in the City Attorney's Office, with the exception of Prosper Portland and some legal services on behalf of the Auditor. The City Attorney oversees the City's occasional use of outside counsel. The office's attorney rates are significantly lower than outside counsel, and the City Attorney has greater familiarity with and expertise on the vast majority of the legal issues arising from City operations than outside counsel. The cost of service per City Attorney hour for FY 2020-21 is \$169. The average outside counsel rate is \$400 and can range up to \$500 or more per hour. A goal of the City Attorney's Office is to minimize the number of occasions when outside counsel is hired by having sufficient in-house staff available.

The City Attorney's Office plans to achieve these goals as follows:



**Allocation of Resources**

The office allocates resources across its sections in an effort to meet the office's four strategic goals. The office periodically reviews the staffing allocation to ensure the client bureaus' customer service and advocacy needs are met. Further, the office seeks to support its equity goal by dedicating a certain amount of attorney and staff time toward equity and diversity training and events. Finally, in terms of accountability and stewardship, the office seeks to allocate assignments among attorneys and staff to ensure that each position is performing its highest and best function in support of the Legal Services program.

**Collecting and Reporting Data and Analyzing Results**

The office collects, reports, and analyzes the results of data it can reasonably gather in an effort to meet its four strategic goals. For example, the office tracks attorney time worked on major projects, and then explicitly requires attorneys and staff to denote which office goal those projects support and advance. This allows management to track how well the work of the office is allocated to supporting the respective goals. In addition, by asking attorneys and staff to explicitly link their work to each goal, the office encourages its staff and attorneys to consciously question how well their work is aligned with and supporting the goals of the office. This type of data tracking makes consideration of office goals a daily focus of attorneys' work. Similarly, the office tracks the number of equity and diversity trainings and events attended to monitor how well that portion of the office's equity goal is being achieved. The office also tracks data on the number of contracts reviewed, and the percentage of litigation matters that achieve a favorable outcome to the City. This type of data allows the office to track both the volume of the work and the quality of the output. Office management regularly analyzes data to help make data-driven policy, budget, and management decisions.

**Efforts Toward Operational Improvement**

The office continues to make progress toward operational improvement. For example, the office regularly reviews and revises policies governing attorney and staff expectations to ensure that the office is operating consistently in a manner that promotes office goals of customer service, advocacy, equity, and accountability. For FY2020-21, the City Attorney's Office is not making any requests to increase positions, and instead is focused on creating stability and consistency in the office after a period of change and improvement.

Summary of Bureau Budget

	Actuals FY 2017-18	Actuals FY 2018-19	Revised FY 2019-20	Requested No DP FY 2020-21	Requested FY 2020-21
<b>Resources</b>					
<b>External Revenues</b>					
Charges for Services	71,690	43,556	30,000	25,000	25,000
Miscellaneous	601	33	0	0	0
<b>External Revenues Total</b>	<b>72,291</b>	<b>43,589</b>	<b>30,000</b>	<b>25,000</b>	<b>25,000</b>
<b>Internal Revenues</b>					
General Fund Discretionary	2,359,744	2,119,300	3,798,326	3,556,450	3,556,450
General Fund Overhead	3,579,712	3,747,426	3,996,724	4,244,060	4,244,060
Interagency Revenue	6,224,862	6,560,569	7,093,940	7,861,015	7,861,015
<b>Internal Revenues Total</b>	<b>12,164,318</b>	<b>12,427,295</b>	<b>14,888,990</b>	<b>15,661,525</b>	<b>15,661,525</b>
Beginning Fund Balance					
<b>Resources Total</b>	<b>12,236,609</b>	<b>12,470,884</b>	<b>14,918,990</b>	<b>15,686,525</b>	<b>15,686,525</b>
<b>Requirements</b>					
<b>Bureau Expenditures</b>					
Personnel Services	10,378,878	10,924,452	12,813,962	13,634,104	13,634,104
External Materials and Services	362,101	413,395	979,933	566,190	566,190
Internal Materials and Services	1,495,630	1,133,036	1,125,095	1,486,231	1,486,231
<b>Bureau Expenditures Total</b>	<b>12,236,609</b>	<b>12,470,884</b>	<b>14,918,990</b>	<b>15,686,525</b>	<b>15,686,525</b>
Ending Fund Balance					
<b>Requirements Total</b>	<b>12,236,609</b>	<b>12,470,884</b>	<b>14,918,990</b>	<b>15,686,525</b>	<b>15,686,525</b>
<b>Programs</b>					
Legal Services	12,236,609	12,470,884	14,918,990	15,686,525	15,686,525
<b>Total Programs</b>	<b>12,236,609</b>	<b>12,470,884</b>	<b>14,918,990</b>	<b>15,686,525</b>	<b>15,686,525</b>

## FTE Summary

Class	Title	Salary Range		Revised FY 2019-20		Requested No DP FY 2020-21		Requested FY 2020-21	
		Min	Max	No.	Amount	No.	Amount	No.	Amount
30003003	Administrative Specialist II	48,277	93,018	3.00	244,525	3.00	244,525	3.00	244,525
30003011	Business Systems Analyst II	63,336	109,491	1.00	37,440	1.00	74,880	1.00	74,880
30003017	City Attorney	147,035	244,400	1.00	225,056	1.00	225,056	1.00	225,056
30003018	City Attorney, Assistant Deputy	69,805	131,248	2.00	169,314	2.00	183,997	2.00	183,997
30003019	City Attorney, Chief Deputy	130,478	216,902	6.00	1,013,464	6.00	1,088,964	6.00	1,088,964
30003020	City Attorney, Deputy	91,728	158,226	17.48	2,328,937	19.00	2,506,508	19.00	2,506,508
30003021	City Attorney, Senior Deputy	111,696	197,246	12.80	2,062,454	12.80	2,143,658	12.80	2,143,658
30003077	Legal Assistant	53,290	102,648	9.80	628,095	10.00	720,021	10.00	720,021
30003078	Legal Assistant Supervisor	63,336	109,491	1.00	50,197	1.00	75,296	1.00	75,296
30003081	Manager I	80,205	145,808	1.00	133,640	1.00	133,640	1.00	133,640
30000012	Office Support Specialist II	34,798	57,510	1.00	55,890	1.00	55,890	1.00	55,890
30003087	Paralegal	63,336	109,491	12.00	1,056,390	12.00	1,082,598	12.00	1,082,598
30003088	Paralegal Supervisor	69,805	131,248	1.00	106,974	1.00	106,974	1.00	106,974
30003104	Supervisor II	69,805	131,248	1.00	119,018	1.00	119,018	1.00	119,018
<b>Total Full-Time Positions</b>				<b>70.08</b>	<b>8,231,394</b>	<b>71.80</b>	<b>8,761,025</b>	<b>71.80</b>	<b>8,761,025</b>
30003021	City Attorney, Senior Deputy	111,696	197,246	0.80	136,914	0.80	136,914	0.80	136,914
<b>Total Part-Time Positions</b>				<b>0.80</b>	<b>136,914</b>	<b>0.80</b>	<b>136,914</b>	<b>0.80</b>	<b>136,914</b>
<b>Grand Total</b>				<b>70.88</b>	<b>8,368,308</b>	<b>72.60</b>	<b>8,897,939</b>	<b>72.60</b>	<b>8,897,939</b>

# Legal Services

## Program Description & Goals

The City Attorney's Office performs all legal work for the City, with a few exceptions. The office represents the City and its elected officials, employees, bureaus, offices, boards, and commissions in court, administrative matters, and other proceedings. The program provides legal advice and training to help the City identify risks and create good laws and policies.

Good legal advice helps avoid risk, including litigation, but there is no way to measure the lawsuits the City avoided. However, the success of the Program is shown by the low cost of service, \$169 versus \$400 per hour for outside counsel, and a 98% success rate in litigation.

Measure Title	PM 2017-18 Actuals	PM 2018-19 Actuals	PM 2019-20 Target	PM 2020-21 Target	Strategic Target
Number of litigation cases	1,481	1,324	1,300	1,250	1,300
Number of contracts reviewed and approved	11,432	10,290	11,000	10,200	10,000
Number of training hours provided by City Attorney staff to other City staff	394	421	400	300	400
Annual costs of outside counsel	\$490,695	\$341,568	\$500,000	\$500,000	\$500,000
Cost of service per attorney hour	\$141	\$150	\$164	\$169	\$170
Percentage of cases favorably resolved	97%	96%	90%	95%	90%

## Explanation of Services

Legal Services is an essential program that provides excellent, objective, timely and cost-effective legal advice and advocacy in support of the City's policy goals and ensures that the official actions of the City, its elected officials and employees comply with the law. This essential work includes defending the City in court, initiating legal actions when appropriate, negotiating and reviewing contracts, reviewing policies and programs, providing legal advice and counsel, and performing any other legal services needed.

Legal obligations are created by the City Code and Charter, state statutes, regulations, administrative requirements, and federal law. In addition, the Oregon State Bar establishes ethical professional requirements that govern lawyers and the work performed for the City and City officials. City attorneys work with clients to provide solutions-oriented legal services to help achieve City policy objectives. Clients are encouraged to involve the City Attorney's Office at early levels of decision making, even if a significant legal issue has not yet been identified.

Attorneys and staff in the office provide a wide variety of legal services. Office staff draft and review local legislation, contracts, real estate leases, intergovernmental agreements and other legal documents, and negotiate on behalf of the City. The Program also provides preventive legal services, including training for City staff on a broad spectrum of legal topics which can help reduce risk and prevent serious problems before they arise. Finally, attorneys evaluate cases to determine how best to protect the City's interests and represent the City in court. Because almost all litigation is handled in-house, the office can try cases in a cost-effective manner. The office is effectively achieving this goal, with 98% of its cases resolved favorably to the City.

The Legal Services Program has a positive impact on the City. By providing good legal advice, the City Attorney's Office helps ensure that the City complies with the law and avoids litigation. This helps reduce costs to the City and also ensures that the City is acting lawfully towards all Portlanders.

## Equity Impacts

Advancing equity is an explicit goal of the City Attorney's Office. Office attorneys provide legal advice to all City bureaus to help advance the City's policy objective of achieving equity in all of its programs, services and activities. Internally, the office encourages employees to devote up to two hours per month of work time to equity trainings. In addition, employees are permitted to attend equity trainings and conferences on a case-by-case basis where those advance the work of the City. This helps attorneys and staff use an informed equity lens when conducting the City's legal work. The office is currently undertaking a year-long multi-faceted inclusive workplace project to continue to build a more equitable office culture. Further, the office runs an Honors Attorney Program aimed at training new lawyers interested in public service who come from historically underserved communities. In developing budget constraints in the past, the office protected these investments in advancing equity by maintaining them in the base budget. However, an analyst position was eliminated in the FY2016-17 budget reductions. As a result, the office's capacity to track data has been diminished which makes it more difficult to effectively evaluate progress toward equity goals.

## Changes to Program

The demand for Legal Services across the City continues to rise. The office is required to review more and more contracts every year, and the office faces increasing demands related to public records. Also, the office has taken on more affirmative litigation matters for the City, including tax collection efforts, challenges to the legality of certain federal government's policies, opioid legislation and litigation against Monsanto for effects of PCBs.

## Program Budget

	FY 2017-18 Actuals	2018-19 Actuals	2019-20 Revised	2020-21 Requested with DP
<b>Bureau Expense</b>				
External Materials and Services	362,101	413,395	979,933	566,190
Internal Materials and Services	1,495,630	1,133,036	1,125,095	1,486,231
Personnel	10,378,878	10,924,452	12,813,962	13,634,104
<b>Sum:</b>	<b>12,236,609</b>	<b>12,470,884</b>	<b>14,918,990</b>	<b>15,686,525</b>
	FTE	67.6	70.6	72.6

**Resources:** The FY2020-21 base budget for Legal Services is \$15.7 million. Interagency agreements with other bureaus for specialized legal work represent half of the total operating resources of the office. The remainder is supported by General Fund discretionary and overhead revenue.

**Expenses:** Personnel services represent 87% of the office's expenditures. Internal services, such as rent and technology services, make up 9%. The remaining 4% is for external services such as office supplies, legal research services, continuing legal education, and legal software. The office created a technology replacement fund with resources carried over from underspending in prior years to fund the purchase, implementation, and training for new legal software solutions. This fund enables the office to put aside funds to pay for technology upgrades and replacement costs that otherwise would not be possible within one year's budget. Software replacement will take several years, and the office will request carryover of the remaining funds to FY2020-21 to continue this work.

**Staffing:** The office has 42 lawyers and 31 support professionals. The office is led by the City Attorney who is appointed by the City Council. The office has recently experienced higher employee turnover due to retirements. To remain competitive and attract and retain the best legal professionals to the City, the office should keep its salary and benefits levels consistent with other public sector legal offices. This requested budget does not include any requests for staff increases, and instead is focused on creating stability and consistency in the office after a period of change.

**Assets and Liabilities:** The office's legal practice management and knowledgebase software system is its only physical asset.

### Program Information

**Bureau:** Office of the City Attorney      **Program Contact:** Crystine Jividen  
**Website:** <https://www.portlandoregon.gov/attorney/>      **Contact Phone** (503) 823-4047

City of Portland  
**Office of the City Attorney**

PM1. Report for FY 2020-21 Requested Budget

**Run Date & Time**

Monday, January 27, 2020

11:41:07 AM

**EFFICIENCY MEASURES**

Performance Measure	KPM	FY 2016-17 Actuals	FY 2017-18 Actuals	FY 2018-19 Actuals	FY 2019-20 Target	FY 2019-20 YTD Actuals	FY 2020-21 Target	Strategic Target
AT_0007 Annual costs of outside counsel		\$508,718	\$490,695	\$341,568	\$500,000	\$260,000	\$500,000	\$500,000
AT_0008 Cost of service per attorney hour		\$138	\$141	\$150	\$164	\$160	\$169	\$170

**WORKLOAD MEASURES**

Performance Measure	KPM	FY 2016-17 Actuals	FY 2017-18 Actuals	FY 2018-19 Actuals	FY 2019-20 Target	FY 2019-20 YTD Actuals	FY 2020-21 Target	Strategic Target
AT_0004 Number of contracts reviewed and approved		9,938	11,432	10,290	11,000	5,030	10,200	10,000
AT_0006 Number of training hours provided by City Attorney staff to other City staff		468	394	421	400	130	300	400
AT_0001 Number of litigation cases		1,580	1,481	1,324	1,300	560	1,250	1,300

**EFFECTIVE MEASURES**

Performance Measure	KPM	FY 2016-17 Actuals	FY 2017-18 Actuals	FY 2018-19 Actuals	FY 2019-20 Target	FY 2019-20 YTD Actuals	FY 2020-21 Target	Strategic Target
AT_0010 Percentage of cases favorably resolved		90%	97%	96%	90%	98%	95%	90%

City of Portland  
**Requested Budget Equity Report**

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**Office of the City Attorney**

**Requested Budget & Racial Equity Plan Update:**

The Racial Equity Plan for the City Attorney's Office identifies the following long-term goals: 1) End disparities in City government hiring and promotion; 2) Provide equitable City services to all residents; 3) Create greater opportunities for City government contracting and procurement; and 4) Make racial equity and inclusion an integral component of the Office's identity and culture.

The Racial Equity Plan identifies several concrete actions to pursue these goals, and the following identified actions are all funded in the requested budget for the City Attorney's Office: 1) Continue Honors Attorney and Law Clerk programs to provide opportunities for lawyers from historically underrepresented and diverse backgrounds; 2) Costs to advertise in print and web-based minority outreach services and to recruit from law schools with substantial populations of people of color, including historically black law schools; 3) Require all lawyers and staff to attend two racial equity training events per year; 4) Support Oregon State Bar equity programs by paying for all attorneys to participate in the Bar's Diversity Section, and support a variety of other specialty bar events.

**Racial Equity Plan Link:** <https://www.portlandoregon.gov/oehr/article/595601>

**Requested Budget Community Engagement:**

The budget advisory committee for the City Attorney's Office includes a member of the public. The committee reviewed and considered the office's budget and provided feedback.

**Base Budget Constraints:**

Limited staffing has inhibited the office's ability to track progress on equity goals. The office's small administrative staff was reduced in the FY2016-17 budget due to a mandatory reduction. As a result, the office has not had the ability to track data as thoroughly as it would like to report on the office's equity plan and strategies in a timely manner. Without the proper data collection and analysis, it is difficult to do a thorough evaluation of progress toward equity goals. In addition, the office continues to want to revamp its website to provide more information to the public about legal resources for low income and historically disadvantaged communities. This work, however, would require research, engagement, and translation services at a cost not included in the base budget.



City of Portland  
**Requested Budget Equity Report**

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### **Notable Changes:**

The office has increased its focus on equity in recent years. The office is currently undertaking a year-long, multi-faceted inclusive workplace project to continue to build a more equitable office culture. The office has retained outside equity consultants to provide officewide, small group, and individual equity coaching sessions. This effort will mark the culmination of several years of intense focus on equity in the office. In addition, the office encourages employees to devote up to two hours per month of work time to equity trainings. Employees also are permitted to attend equity trainings and conferences on a case-by-case basis where these advance the work of the City.

### **Equity Manager Role in Budget Development**

The office does not have dedicated equity staff such as an Equity Manager. However, the office has an Equity and Diversity Committee, and several members of that Committee participated in the budget development process, including the City Attorney.

<b>Equity Manager:</b>	Tracy Reeve	<b>Contact Phone:</b>	(503) 823-4047
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### **ADA Title II Transition Plan:**

The requested budget maintains funding for attorney positions that advise all City bureaus on their ADA Title II obligations. Maintaining funding for these positions is a critical way the office helps the City achieve its equity goals.

### **Accommodations:**

Translation services, and access to those translation services are included in the base budget.

### **Capital Assets & Intergenerational Equity**

The only significant capital asset of the office consists of its legal document management software. This asset is maintained so that data can be migrated to newer systems as needed. The office also has created a technology replacement fund to ensure consistent funding for upgrading or replacing software as it becomes obsolete.

Measure Title	PM 2017-18 Actuals	PM 2018-19 Actuals	PM 2019-20 YTD Actuals	PM 2019-20 Target	PM 2020-21 Target	Strategic Target
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City of Portland  
**Requested Budget Equity Report**

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**Data Tracking  
Methodology:**

The office uses both quantitative and qualitative data to track progress toward the goals in our Racial Equity Plan. For example, the office tracks quantitative data regarding the demographics of its legal professionals to compare the office's composition to the legal market in Oregon and the overall population in Portland. The office also tracks quantitative data on the number of equity training events employees attend. Also, on a qualitative basis, the annual performance evaluation process for the office includes an explicit question asking how employees contribute to an equitable and inclusive workplace. However, one analyst position was eliminated in the FY2016-17 budget reductions. As a result, the office's capacity to analyze data has been diminished which makes it difficult to effectively evaluate progress toward equity goals.

**Hiring, Retention, & Employment Outreach:**

The requested budget preserves all positions in the office, and particularly shields those that directly advance the office's equity goals.

**Contracting Opportunities**

The requested budget maintains funding for attorney positions advising the City on its efforts to promote contracting opportunities for disadvantaged, minority, women, and emerging small businesses. This includes both general contracting advice and legal advice regarding specific programs such as the Community Equity and Inclusion Plan (CEIP), Community Opportunities and Enhancement Program (COEP), and Clean Energy Community Benefits Fund. Maintaining the budget for these legal services helps the City achieve its equity goals.

City of Portland  
**Requested Budget Equity Report**

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### **Engaging Communities Most Impacted by Inequities**

The budget retains the Honors Attorney program and the Law Clerk program, both of which are aimed at providing high-quality legal experience to attorneys and law-students of diverse backgrounds and those from underrepresented communities. These programs provide valuable help to the office, and they also help address systemic and institutional barriers in the legal market that have historically made it difficult for people of color to achieve equal success in the profession.

On a community wide basis, the budget continues ongoing funding for an attorney position advising the Police Bureau regarding its policies and compliance with the U.S. Department of Justice Settlement Agreement. Police Bureau policies impact underserved communities and providing support to the Police Bureau's policy team is important legal work to advancing the City's equity goals. The budget request also continues the staff support for tax collection efforts on behalf of the Revenue Division. The office has helped collect millions for the General Fund, and that money can be used to support programs that assist the most vulnerable in our community. Ensuring that for-profit businesses pay their legally required share in taxes to help support the most vulnerable in our community represents important equity work contemplated by the budget.

Equity continues to be one of the office's four strategic goals and the office will continue to fund training on use of an equity lens in the provision of legal services. Office lawyers also continue to actively track and participate in many national legal issues that raise very significant equity concerns, including challenges to a variety of the President's immigration actions, DACA restrictions, national Opioid litigation and environmental justice litigation.

### **Empowering Communities Most Impacted by Inequities**

The requested budget maintains funding for the Honors Attorney and Law Clerk programs, which are designed to build capacity and increase outreach to people of color and those traditionally underrepresented in the legal profession, and provide exposure to a career in public interest law. The budget continues funding for attorney participation in Oregon State Bar activities that support equity and equity education. The budget continues funding tax collection work, so that businesses will pay their legally required taxes and the revenue can be used by the City Council to help those most in need in our community. The budget includes the attorney position devoted to helping the Police Bureau write and periodically update its policies, which advances the City's equity goals by ensuring an equity lens is applied to Police Bureau policies. The budget continues funding for civil rights related legal work, including legal work to support the City's Title VI and ADA Title II programs, anti-discrimination training for City employees and myriad other legal and policy obligations that are equity-related.