



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: SUSANA ALCALA WOOD
City Attorney

SUBJECT: Amicus Curie Brief Authority

DATE: January 29, 2026

Approved

Date

COUNCIL DISTRICT: City Wide

RECOMMENDATION

Authorize the City Attorney to join Amicus Curiae briefs filed on behalf of public agencies arising from federal actions that impact (1) funding to the City of San Jose; (2) City operations, programs and services; or (3) directly conflict with City policies and City Council authority to establish policy.

BACKGROUND

The Administration and City Attorney's Office continue to monitor changes to federal policy that impact City of San José's funding, operations, programs, services and policies. In 2025, the City Council authorized joining several amicus briefs which protected the City's interest:

- *Planned Parenthood Federation of America, Inc. et al. v. Robert F. Kennedy Jr.*: This lawsuit challenges the cut to Medicaid and other federal funding to entities that provide women's health care including elective abortions such as Planned Parenthood under the "One Beautiful Bill Act." Planned Parenthood was able to secure a preliminary injunction which the federal government appealed to the First Circuit Court of Appeals. The First Circuit initially stayed the injunction pending appeal, and after expedited briefing, determined that Planned Parenthood was unlikely to succeed on the merits, vacating the preliminary injunction and remanded the case for further proceedings.

- *Illinois v. Trump*: This lawsuit challenged the deployment of the national guard to Chicago. The District Court for Illinois barred the federalization and deployment of the National Guard in Illinois. On appeal, the Seventh Circuit stayed the federalization of the National Guard but maintained the bar on deployment. The Federal government appealed to the Supreme Court for stay of the District Court's order. The Supreme Court found the federal government was unable to show a source that would allow the military to execute the laws in Illinois, and thus denied the application for the stay of the lower court holding. Following this decision, President Trump announced on social media that the national guard would be withdrawn from Illinois, Oregon, and California.

•*Newsom v. Trump*: This lawsuit arose out of deployment of national guard to Los Angeles. The case challenges the President's authority to deploy the military to execute domestic laws unless necessary to protect federal property, personnel, and federal function. While the lower district court issued a preliminary injunction, the Ninth Circuit stayed the injunction pending appeal on the merits. Following the decision in *Illinois v. Trump*, the federal government agreed to lift the stay, returning California National Guard to state control.

•*State of Oregon v. Trump*: This lawsuit challenges the deployment of national guard from Oregon, California, and Texas to Portland. After two temporary restraining orders were issued, the district court granted a preliminary injunction enjoining the Secretary of Defense from federalizing and deploying the various branches of the national guard to Portland. The federal government requested an administrative stay of the injunction while on appeal, which was denied. This case was pending appeal in the Ninth Circuit Court of Appeals, until the Supreme Court issued their preliminary order in *Illinois v. Trump*. After the Supreme Court's order, the federal government announced they would be withdrawing the national guard from Oregon.

•*US v. City of Rochester*: This lawsuit was brought by DOJ against City of Rochester when they refused to allow local law enforcement to be used for civil immigration enforcement under Rochester's sanctuary laws. The amicus focused on the importance of "sanctuary policies" to public health and safety. The original complaint incorporated an outdated sanctuary policy, so the district court dismissed the complaint with leave to amend. The federal government submitted an amended complaint on December 19, 2025. City of Rochester's response to the amended complaint is due on January 30, 2026.

•*Culture of Life Family Services (COLFS) v. Bonta*: COLFS sought an injunction prohibit Attorney General Bonta from enforcing California Unfair Competition Law or False Advertising Law to COLFS speech. COLFS promotes "abortion pill reversal," a medically unproven practice that claims to reverse the effects of medication abortion. COLFS sought the injunction claiming prosecution would violate their free speech rights. The district court denied their motion for preliminary injunction, and COLFS appealed to the Ninth Circuit Court of Appeals. Oral arguments were heard on October 9, 2025. The amicus brief supports the Attorney General and argues that local government entities must be empowered to investigate and enforce laws implicating the public health of their communities.

ANALYSIS

RES2024-99, the City's Sunshine Policy requires the City Attorney to request authority to file a brief as a friend of the court in open session unless they advise the City Council that because of potential liability to the City, filing a brief as a friend of the court should be discussed in closed session. There may be future requests to join other public agencies on issues consistent with City Council's previous approval to join in amicus and with legislative priorities. Some examples of conflict with City policies that arose in 2025 included conditioning federal funding on cooperation with civil immigration enforcement in conflict with California state law, San Jose's

policy as a Welcoming City, and San Jose Police Duty Manual; conditioning federal funding on elimination of diversity and equity policies and practices; or deployment of national guard to engage in enforcement of domestic laws on contravention of local authority to maintain public health and safety.

Due to rapidly changing federal policies and actions, the City has received many requests to join in amicus briefs that require a response before the City Council can consider the matter. The requested authority will give the City Attorney discretion to join amicus briefs. In assessing each request, the City Attorney will work with the City Manager's Office to confirm whether and to what extent the proposed federal action will impact the City. Approving the recommendation would enable the City Attorney's Office on behalf of the City to join in amicus briefs filed on behalf of public agencies arising from federal actions that impact (1) funding to the City of San Jose; (2) City operations, programs and services; or (3) directly conflict with City policies and City Council authority to establish policy. This approval would ensure that we move swiftly to advocate for San José's interests.

EVALUATION AND FOLLOW-UP

The City Council will receive an informational memo regarding each amicus brief opportunity that fall within the scope of the requested authority; and the impact of the issue being litigated on the City of San Jose's funding, policies, operations, programs and services.

PUBLIC OUTREACH

This memorandum has been posted on the City's website for the February 10, 2026 agenda.

CEQA

Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment.

By: _____/s/_____
SUSANA ALCALA WOOD
City Attorney

Cc: Jennifer Maguire, City Manager