

*City of*  
**SACRAMENTO**

Office of the City Attorney

Annual Report

Fiscal Year

2012-2013





James Sanchez

## City Attorney's Message

I began my service as Sacramento City Attorney in mid fiscal year 2012-2013. Since my December 1, 2012 appointment, I have endeavored to observe, listen, and learn about the office and how it serves the City of Sacramento. My focus included client interviews, judicial opinions, sister agency comments, and public feedback. I discovered an office of solid legal professionals challenged daily to meet the ever-changing legal service needs of a large City in the midst of an economic recovery. While the breadth and complexity of legal service needs for a City of half a million residents is not surprising, the resilience and creativity of our office personnel in meeting the legal service needs is commendable. Three examples of those efforts are:

- Collaboration with the Department of Utilities and the City Treasurer's Office to research and undertake the issuance of \$250,000,000 in revenue bonds to ensure an adequate water infrastructure for Sacramento's current and future needs.
- Working with the Mayor's Office, Council, City Manager's Office, and related staff to develop a working term sheet enabling the downtown Entertainment Sports Center (ESC) to move forward and keeping the Kings in Sacramento.
- Litigation efforts have kept 90%+ of cases in-house at a substantial cost savings as compared to sending cases to outside counsel.

The above examples represent the quality and complexity of work within the office.

We have also refined our office structure and goals to ensure that we continue to challenge ourselves to provide user-friendly legal services with a range of creative options to serve our clients' needs. One example of our efforts is our consolidation of our land use and some public work advisory services with our public safety and code enforcement services. This step allows consistent and practical land use advice from the planning stage clear through to the code enforcement stage.

This Annual Report summarizes our fiscal year 2012-2013 work. Thank you for the privilege of serving the City of Sacramento.

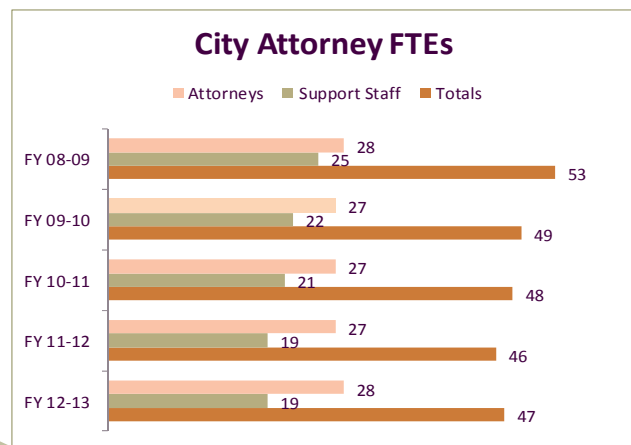
# Budget

The City Attorney's 2012-13 total budget of \$6,471,436 is derived from: General Fund, 58%; interdepartmental funds, 30%; risk management fund, 7%; water fund, 3%; and revenue, 2%.

**SAVINGS:** Based upon office efficiencies and best management practices, a net savings of \$643,008 was recognized at year-end and returned to the general fund. A majority of this savings came from employee services (positions being held unfilled). Additional savings was accomplished through sensible management of office supplies, shopping between vendors on a per-item basis for the lowest price, and negotiating reduced prices for ongoing services through longer term contracts.

| Year End Savings |           |
|------------------|-----------|
| YEAR             | TOTAL     |
| FY 08-09         | \$436,595 |
| FY 09-10         | \$554,400 |
| FY 10-11         | \$534,082 |
| FY 11-12         | \$452,279 |
| FY 12-13         | \$643,008 |

**EXPENSES:** Most expenses in fiscal year 2012-2013 remained consistent with the prior year. Extraordinary expenses included leave payouts related to employee turnover, and the costs associated with recruitment and hiring of the City Attorney. The number of budgeted positions was increased by one full time position (Deputy City Attorney II, Limited Term) to 47 employees. The current staff levels reflect a leveling out of the sharp decreases over the last five years.



# Office Section Overview



James Sanchez ~ Sandra G. Talbott ~ Matthew D. Ruyak  
Brett M. Witter ~ Gustavo L. Martinez ~ Gerald C. Hicks  
Angela Kolak ~ Kathy Montgomery

## Administration

The Administration Team develops and implements office policies and procedures; monitors overall office performance; prepares and administers the office budget; handles all personnel hiring and other personnel matters; assembles and analyzes office productivity data, including, production of an annual report; and engages in long-range planning. The administration function of the office is performed under the direction of the City Attorney.

Staff development, career enhancement, and training are key focus areas for the office. The office provides a monthly State Bar approved program of Mandatory Continuing Legal Education (MCLE) and the staff attends off-site professional-association seminars.

This chart represents all new assignments/cases that the City Attorney's Office has handled throughout the fiscal year by clients. The attorneys who work with these clients are very knowledgeable of the departments' operations and the law that governs them. Fiscal year 2012-2013 had a 5% increase in new assignments over last year.

| <b>New Assignments/Cases by Clients</b> |                     |                     |                     |
|---|---------------------|---------------------|---------------------|
| <b>City Departments</b>                 | <b>FY 2010-2011</b> | <b>FY 2011-2012</b> | <b>FY 2012-2013</b> |
| City Attorney                           | 38                  | 24                  | 16                  |
| City Auditor                            | 25                  | 30                  | 42                  |
| City Clerk                              | 232                 | 136                 | 143                 |
| City Manager                            | 106                 | 105                 | 97                  |
| City Treasurer                          | 73                  | 85                  | 117                 |
| Community Development                   | 837                 | 757                 | 644                 |
| Conv., Culture & Leisure                | 263                 | 184                 | 223                 |
| Development Services                    | 10                  | 0                   | 0                   |
| Economic Development                    | 254                 | 128                 | 181                 |
| Finance                                 | 316                 | 251                 | 268                 |
| Fire                                    | 217                 | 191                 | 182                 |
| General Services                        | 727                 | 680                 | 687                 |
| Human Resources                         | 388                 | 347                 | 298                 |
| Information Technology                  | 88                  | 77                  | 104                 |
| Library Authority                       | 427                 | 316                 | 332                 |
| Mayor and Council                       | 146                 | 75                  | 65                  |
| Outside Agency Referral                 | 18                  | 115                 | 235                 |
| Parks and Recreation                    | 654                 | 313                 | 320                 |
| Police                                  | 1596                | 1883                | 2018                |
| Public Works                            | 984                 | 969                 | 988                 |
| Utilities                               | 954                 | 815                 | 881                 |
| Boards & Commissions, Other Agency      | 114                 | 62                  | 75                  |
| <b>TOTALS</b>                           | <b>8467</b>         | <b>7543</b>         | <b>7916</b>         |



## Advisory

### ATTORNEYS

**Matt Ruyak, ACA**      **Jerry Hicks, Supv. DCA**  
 Joseph Cerullo      Michael Voss  
 Joe Robinson      Sheri Chapman  
 Kourtney Burdick      Sheryl Patterson  
 Mike Sparks      Lan Wang

### LEGAL SECRETARIES

**Phyllis Zakrajsek, Supv. LS**  
 Paula Lockard  
 Jenny Manzer Beck  
 Cleo Morris  
 Desiree Stockton

### PARALEGAL

Cindy Head

The Advisory Section provides legal advice and support to the City Council, Charter Offices, and City departments in implementing City policy. Advisory attorneys touch on virtually all aspects of City business and operations in performing a broad spectrum of legal services, including ordinance drafting; contract negotiation, drafting, and review; legal advice; and representation at meetings of the City Council and City boards and commissions. Advisory attorneys must possess a significant amount of both generalized legal knowledge (e.g., torts, contracts, constitutional law, real property, etc.) and specialized knowledge in areas of municipal law (e.g., public contracts and construction, land use, water law, environmental law, zoning and planning, elections, redistricting, bonds, taxes and assessments) in order to provide appropriate legal advice to their respective clients.

|  | FY<br>2010-2011 | FY<br>2011-2012 | FY<br>2012-2013 |
|--|-----------------|-----------------|-----------------|
| *General Advisory Assignments  | 3256            | 2617            | 2911            |
| Staff Report Review/Approval   | 999             | 853             | 768             |
| Contract Review/Approval   | 1976            | 1547            | 1563            |
| Ordinances   | 23              | 22              | 21              |
| Public Records Act   | 251             | 215             | 167             |
| **Subpoenas  | 223             | 23              | 24              |
| <b>TOTALS</b>  | <b>6733</b>     | <b>5277</b>     | <b>5454</b>     |
| *Contains all other matters not individually listed below                        |                 |                 |                 |
| **Police matters including subpoenas were reassigned to NSNA during FY 2011-2012 |                 |                 |                 |

The table above reflects the various assignments and tasks performed by Advisory Section attorneys. The time spent on any one assignment or task varies based on the complexity or size of the project, collateral issues, or other factors.

**ATTORNEYS**

**Brett Witter, Supv. DCA**  
 Michael Fry  
 Sari Myers Dierking  
 Kathleen Rogan  
 Chance Trimm



**LEGAL SECRETARIES**

**Jamie Gifford, Supv. LS**  
 Colleen Clay  
 Erica Dillard  
 Paula Lockard

**Litigation**

Litigation Section attorneys represent the City, City Council, and City staff in all litigated matters brought by or against the City. In fiscal year 2012-2013, the City Attorney’s Office remained committed to maintaining a strong Litigation Section capable of practicing in all areas of the law with sustained success.

This commitment generates significant savings to the City compared to the use of outside counsel, while also ensuring excellent results and client satisfaction.

Perhaps more important is the section’s equally strong commitment to ensure client satisfaction and confidence in the litigation process. Client satisfaction is achieved with an efficient litigation approach that relies upon communication and the client’s active participation in case development and management. Regularly scheduled status meetings with City staff keep the lines of communication open, and ensures that the client department has opportunities to provide necessary feedback. Effective communication and a commitment to achieving our clients’ goals remain critical elements in performance goals.

**New Litigation Matters**

|                         | FY 2010-2011 | FY 2011-2012 | FY 2012-2013 |
|-------------------------|--------------|--------------|--------------|
| Advice - Litigation     | N/A          | N/A          | 28           |
| Bankruptcy              | 1            | 1            | 0            |
| Civil Rights            | 6            | 23           | 21           |
| Contract                | 7            | 3            | 1            |
| Employment              | 1            | 1            | 4            |
| Human Resources/Labor   | 28           | 32           | 8            |
| Litigation Review       | 19           | 20           | 12           |
| PRA - Litigation        | N/A          | N/A          | 3            |
| Property                | 13           | 6            | 1            |
| Subpoena                | 14           | 2            | 3            |
| Subrogation -Collection | 15           | 15           | 6            |
| Tax                     | 1            | 0            | 0            |
| TRO/Injunction          | 2            | 4            | 4            |
| Tort/Appeal             | 42           | 45           | 29           |
| Writ                    | 8            | 7            | 8            |
| <b>TOTALS</b>           | <b>157</b>   | <b>159</b>   | <b>128</b>   |

**City Payouts on All Litigated Risk Cases**

| Year     | Cases Closed | Payouts       |
|----------|--------------|---------------|
| FY 08-09 | 56           | \$1,487,720   |
| FY 09-10 | 54           | \$1,346,438   |
| FY 10-11 | 42           | \$1,864,069   |
| FY 11-12 | 59           | \$3,184,220*  |
| FY 12-13 | 56           | \$1,363,666** |

\*The table does not include the full payout for an adverse verdict in FY 11-12. In that case, the amount paid exceeded the City’s self-insured retention of \$2,000,000. The above table only includes the \$2,000,000 that the City was required to pay to the plaintiff.  
 \*\*Average of less than \$25,000 per case closed.

As always, the primary goal of the Litigation Section is to achieve success in cases resolution. The ongoing commitment to ensure success by thorough analysis and aggressive litigation strategies resulted in yet another year in which most lawsuits were resolved without the payment of City funds. During fiscal year 2012-2013, the Litigation Section resolved 71.4% of damage lawsuits without the payment of money.



**ATTORNEYS**

**Gustavo L. Martinez, Supv. DCA**

|                |                |
|----------------|----------------|
| Michael Benner | Gary Lindsey   |
| Paul Gale      | Steven Itagaki |
| Jeffrey Heeren | David Womack   |

**LEGAL SECRETARIES**

**Phyllis Zakrajsek, Supv. LS**

Tammara Cheung  
 Jenny Manzer Beck  
 Desiree Stockton  
 Cleo Morris  
 Paula Lockard

**PARALEGALS**

Norma Florendo  
 Lynette Fuson

**INVESTIGATOR**

David Dunlevy

**Public Safety and Land Use**

The Public Safety and Land Use Section (formerly Neighborhood Safety and Nuisance Abatement) provide legal advice to the following departments: Community Development, Utilities, and Police. The section also partners with the code enforcement division and crime suppression units [formerly Problem Oriented Policing (POP)] on enforcement matters which includes social and physical nuisance abatement; addressing public safety and security threats; and prosecuting all City code violations through administrative, civil or criminal proceedings.

This new section was formed to add the land use practice of the office to the section's existing code enforcement and public safety practices. The new section will provide comprehensive legal services to the Community Development Department as well as enforcement and transactional

services to the Police Department. By combining the public safety and land use attorneys into one section, we will provide more effective legal services to two of the largest departments in the City.

| <b><u>New PSLU Assignments/Matters</u></b> |                              |                              |                              |
|--|------------------------------|------------------------------|------------------------------|
|  | <b>FY<br/>2010-<br/>2011</b> | <b>FY<br/>2011-<br/>2012</b> | <b>FY<br/>2012-<br/>2013</b> |
| Administrative Assignments                 | 0                            | 1                            | 0                            |
| Administrative Appeals                     | 10                           | 13                           | 10                           |
| Advice                                     | 338                          | 559                          | 389                          |
| *Contracts                                 | N/A                          | N/A                          | 120                          |
| Criminal                                   | 860                          | 1089                         | 1374                         |
| Defacement of Vehicle Identification       | 0                            | 3                            | 0                            |
| Drug Evictions                             | 51                           | 18                           | 37                           |
| Gun Evictions                              | 15                           | 9                            | 15                           |
| Ordinances                                 | 5                            | 6                            | 8                            |
| Physical Nuisance Abatement                | 6                            | 3                            | 27                           |
| Pitchess Motions                           | 25                           | 35                           | 40                           |
| Public Records Act Requests                | 185                          | 89                           | 78                           |
| Social Nuisance (Litigation)               | 25                           | 11                           | 15                           |
| Subpoenas                                  | 28                           | 252                          | 200                          |
| Warrants                                   | 9                            | 4                            | 4                            |
| Weapons Cases                              | 20                           | 15                           | 17                           |
| <b>TOTALS</b>                              | <b>1577</b>                  | <b>2107</b>                  | <b>2334</b>                  |

**New PSLU Assignments/Matters by  
 Departments for FY 2012-2013**

7.26 % - Community Development  
 78.31% - Police  
 14.43% - All Other Departments

\*Police contracts were reassigned to PSLU during FY 2012-2013.

# Notable Achievements for Client

## I. Economic Development/Job Creation

These projects are job and housing generators for Sacramento

**Entertainment and Sports Center:** In March 2013, the City Council approved a non-binding term sheet with the new owners of the Sacramento Kings. Our office provided extensive advisory, counseling, and negotiating services to the City Manager's Office, the Office of the Mayor and Council for the development of a downtown Entertainment and Sports Center to realize this historical and exciting achievement.

**Downtown Railyards – Track Relocation Project:** Our office provided the legal support necessary for the City to successfully complete the track relocation project, which involved relocating the Union Pacific railroad tracks approximately 400 feet north from their existing location adjacent to H Street to just south of the historic Central Shops buildings. The project required construction of new infrastructure, including passenger, pedestrian, and service tunnels beneath the new rail corridor; bridges for 5<sup>th</sup> Street and 6<sup>th</sup> Street over the new rail corridor; and new passenger platforms and facilities. In addition to construction of new infrastructure, the project also required the City and AMTRAK to enter into a new agreement to allow AMTRAK to use the new facilities. Attorneys in our office were involved in the project at every stage, whether it was drafting, reviewing, or revising contracts; providing legal advice on specific topics such as environmental clean-up issues; or simply providing City staff with legal advice about the day-to-day issues that arose during the course of a large, complex infrastructure project. As a result of this hard work, Union Pacific and AMTRAK trains began using the relocated railroad tracks in August 2012. Relocation of the railroad tracks was a critical step in opening up the Downtown Railyards to future development, which will transform the site from an 19<sup>th</sup> and 20<sup>th</sup> century industrial complex to a 21<sup>st</sup> century mixed-use urban development.

**Downtown Railyards - 5<sup>th</sup> Street & Railyards Boulevard Project Delivery Agreement:** After lengthy negotiations, the City entered into an agreement to deliver the 5<sup>th</sup> Street and Railyards Boulevard construction project on behalf of IA Sacramento Holdings, L.L.C. (the owner of the majority of the Downtown Railyards). During the negotiation process, our office drafted and revised the agreement many times until it was in a form agreeable to both sides. As part of the drafting process, our office provided City staff with legal advice and ideas about protections that could be incorporated into the agreement to mitigate the City's financial risks associated with the agreement. The City will use its vast experience in overseeing public infrastructure projects to deliver this critical roadway project, which involves construction of an extension of 5<sup>th</sup> Street from H Street to the new Railyards Boulevard, and construction of Railyards Boulevard from 7<sup>th</sup> Street to Bercut Drive. Once completed, these roadways (along with the extension of 6<sup>th</sup> Street from H Street to Railyards Boulevard, which the City is currently constructing) will provide critical backbone infrastructure that will support the development of the Downtown Railyards.



**Curtis Park Village:** The 71-acre site of the former Union Pacific Railroad Company's operations was approved for redevelopment to include over 500 housing units and retail commercial businesses. Due to the significant remediation costs, the developer needed financial assistance for its infrastructure improvements. Our office obtained a \$9 million State Proposition 1C grant for this project. We reviewed the grant agreement and drafted the assignment agreement to protect the City's interests to insure that the developer bid the work in accordance with City procedures, and Emerging Small Business Enterprise (ESBE) requirements, and assisted in the development of the affordable senior housing as required under the grant.

**Redevelopment Agency Dissolution:** State legislation required the City to assume new duties to manage the dissolution of the prior redevelopment agency, to pay debts and implement contracts affecting 11 project areas, and to dispose of over 100 properties. Our office has been instrumental in services that keep key City projects moving forward. These services include advice, negotiation, and representation before courts and administrative bodies.

## II. Infrastructure Support

These projects ensure City services are available to support economic recovery

**Water Treatment Plants Rehabilitation Project:** Our office provided legal support and representation for the Water Treatment Plants Rehabilitation Project. The \$113,000,000 contract for the project was awarded by the City Council in April 2013. We assisted in preparing the bid documents and numerous related contracts and agreements; provided legal advice on contracting issues, property acquisition, and environmental compliance; prepared the City's bid protest response; and represented the City throughout the protest hearing process. Our office participated in rating agency presentations for issuance of the bonds funding the project; assisted the Department of Utilities in the preparation of information needed for the bond issuance; assisted with the preparation of numerous staff reports for approval of various project components; and provided legal advice relative to various post-award issues. Our office will continue to provide legal support for this project through its completion in 2016.

**Bonds:** Our office assisted the City Treasurer's Office and the Department of Utilities with the successful sale in March 2013 of the City's water-revenue bonds. The sale price was \$248,512,218.50 (par amount of \$215,195,000 plus original-issue premium of \$33,317,218.50), with the amount available for projects, after paying the costs of sale and establishing a debt-service reserve fund was \$239,500,000. The Department of Utilities will use these funds to rehabilitate the Fairbairn Water Treatment Plant (on the American River) and the Sacramento River Water Treatment Plant, to replace miles of aging pipelines, to acquire and install approximately 15,000 water meters, and to rehabilitate 10 groundwater wells. The bonds will be repaid over 30 years exclusively from water-system revenues; the City's General Fund is not liable.

**Norwood Avenue Bridge Project:** Our office assisted the Department of Public Works with an ongoing dispute with a contractor concerning the Norwood Avenue Bridge Project. The work consisted of in-depth research regarding federal disadvantaged business enterprise requirements and advising City staff with regard to the contractor's and the City's obligations.

**Consumnes River Boulevard/I-5 Interchange:** Our office has been working with the Department of Public Works over a period of many years to construct this complex project. The project will extend Consumnes River Boulevard at Franklin Boulevard to Freeport Boulevard and construct a new interchange and a new bridge crossing over Morrison Creek and the Union Pacific railroad tracks. It will include 3.5 miles of new roadway, on-street bike lanes, 8-foot wide bifurcated sidewalks, and street lights and landscaping. The project will reduce traffic congestion on Mack Road and provide access to the Delta Shores development site which consists of retail, commercial, and residential sites. Our office engaged in long term negotiations and contract drafting and review with the developers of Delta Shores, with private property owners, as well as with various public agencies with real property or facilities impacted by the project including Regional Transit, SMUD, the Freeport Regional Water Authority, and Sacramento Regional Sanitation District.

**Conergy Solar Project:** Our office was instrumental in drafting and negotiating a ground lease and license agreement for the construction and operation of the solar facility located at Sutter's Park Landing. The solar park will generate up to 1.5 mega-watts of power which will provide revenue for the City. By locating the project in a City park, it provides added benefit for public access, education, and demonstration of the City's commitment to sustainability in a unique location.

### III. Code Enforcement/Quality of Life

These projects enhance the City ability to respond to unique public health and safety issues in Sacramento and ensure a high quality of life for our residents.

**Streamlined Process for Nuisance Properties:** Our office developed a streamlined nuisance abatement process to address dilapidated properties when owners are deceased and there is no one to repair the property. Now, the City can use its status as a creditor of the estate to petition the court to open probate and appoint a Personal Representative (PR). The PR obtains authority from the court to sell the home. The PR and their attorney are paid out of the proceeds of the sale, and any excess funds are disbursed to existing heirs, if any. The property is normally sold to a developer after a series of bids. The property is then remodeled and taken off the City's list of nuisance properties.

**Elder Creek Recycling Center:** This illegally operating recycling center attempted to overturn the City's enforcement efforts against it by administratively appealing the City's orders and filing a lawsuit in state court. Our office successfully defended the City's enforcement actions, and the recycling center is now closed.

**The American Spirit Sports Bar:** This bar, located in District 3, had a long history of criminal activity. Since at least 2009, neighbors had complained of entertainment activities that led to loud music, drug activity, and frequent disturbances in the bar's parking lot. Our office filed a civil lawsuit to remedy the social nuisances. As part of the settlement agreement, the bar's owner agreed to surrender its entertainment permit.

The complaints and calls for service decreased until a double shooting at the bar in the summer of 2012. As a result of that incident we informed the owner and landlord of the shopping center that the bar was ignoring its responsibility to police its patrons and that our office would file a lawsuit against both the owner and tenant to stop the criminal activity.

The shopping center owner decided to remedy the conditions at the bar through an eviction. In early 2013, the sheriff's department forcefully evicted the bar tenant terminating the social nuisances that had plagued the neighborhood because of the disorderly conduct.

**Camping Ordinance:** Our office successfully defended the City in a lawsuit challenging the constitutionality of the City's camping ordinance. Twenty-six homeless individuals alleged the City's camping ordinance was facially invalid on constitutional grounds and that their constitutional rights were violated in connection with their arrest or issuance of camping citations. Pursuant to a motion filed by our office, the Sacramento County Superior Court dismissed all claims asserted by plaintiffs including; the facial challenge to the City's camping ordinance.

**Board of Plumbing Examiners Ordinance:** Our office assisted Community Development Department staff in revising the ordinance governing the board of plumbing examiners. The ordinance had not been modified since being enacted in 1976. We made numerous changes to the ordinance to bring the ordinance more in line with City practices. In addition, the changes clarified the role of the board of plumbing examiners as well as the City Manager.

**1832 Beverly Way:** After years of attempts to informally cure the code violations on this Land Park property and the nuisance behavior by its owner, the City filed a nuisance abatement lawsuit against the property owner and obtained a judgment against him. The property owner vacated the property but continued to neglect the property, making it an eyesore in the neighborhood. To resolve the continuing problems, the City forced the sale of the property this past year to collect on its judgment. This long-standing neighborhood nuisance property is now under new ownership and is finally being rehabilitated.

**City Hall Outdoor Space:** Our office drafted an ordinance governing the use of the outdoor space at City Hall. The ordinance recognizes the need for a working environment for City employees that is free from unreasonable distraction and disruption, but also recognizes that City Hall serves as the seat of City government and the plaza is often the site of public protests and demonstrations on City, Regional, State, and National affairs. The ordinance reconciles these potentially competing uses.

## IV. Updating the City Laws and Practices

These actions allowed the City to simplify its processes and better serve the public.

**Ordinances governing the City's Utility Services and Billing:** Our office drafted two ordinances that significantly revised and updated the four City Code chapters governing the City's utility services and utility service billing. The first ordinance overhauled and completely revised City Code Chapter 13.10 (Solid Waste Management) to update and simplify this chapter and implement the Solid Waste Business Plan following voter approval of Measure T. The second ordinance made numerous changes to City Code Chapters 13.04 (Water), 13.08 (Sewer), and 13.12 (Utility Billing) to reflect current procedures and requirements and better address certain utility service issues encountered by City staff.

**Sports Marketing:** Our office completed a comprehensive plan to overhaul the City's sports marketing efforts. Under the new plan, the City will work with the Sacramento Convention and Visitors Bureau to attract professional and amateur sporting events to the City such as the Amgen Tour of California and the World Masters Athletics Championships.

**Assessment District Surplus Funds:** The office worked extensively with City staff in establishing the legal foundation for transferring over \$8.5 million from assessment district surplus funds accounts dating back many decades to the General Fund. The money was a much needed addition to the General Fund, allowing it to fund City Services to the public.

**Pools:** Due to budget constraints, the City did not have sufficient funding to open the pool at Southside Park during the summer of 2012. Our office, working with the neighborhood association and the YMCA contracted with the YMCA to open the Southside pool for recreational swimming using various sources of funding. Protocols regarding YMCA's operation of a City pool needed to be established as part of the license agreement drafted by our office. Due to the success of this endeavor, the YMCA operated three City pools during the summer of 2013 under the terms of a revised license agreement.

## V. Litigation

The office actively prosecutes City interests and defends City in a range of cases. Our strategies include realistic assessments of City liability and aggressive defense of City interests. During fiscal year 2012-2013, the City resolved 71.4% of cases seeking recovery from City without any monetary payment.

**Emergency Response Cost Recovery:** The office was instrumental in helping the Fire Department recover \$124,263 for emergency response costs related to a hazardous materials incident that occurred in July 2000 at 8542 Elder Creek Drive in the City of Sacramento. This was a full cost recovery for the City.

**Dangerous Condition:** In two separate dangerous condition cases relating to trip-and-fall incidents on City sidewalks, our office successfully tendered the City's defense to the adjacent property owners and co-defendants pursuant to the City's sidewalk ordinance. In both cases, the City was initially named as a defendant along with the adjacent property owner. The City paid nothing to resolve either case and paid no further defense costs to defend either case after both defense tenders were accepted.

**Recovery of Uncollected Fees:** In a collection case, the City sought to recover approximately \$19,000 in unpaid development impact fees associated with building permits in a residential development. Several building permits had expired before construction began and when new building permits were pulled, recently assessed development impact fees were not charged at the time of issuance of the new permits. A subsequent audit revealed these fees should have been collected. The City initiated a lawsuit to recover the fees and was successful in collecting the unpaid development impact fees and pre-judgment interest on the fees.

**Wrongful Death Case:** The office prevailed on a petition for relief from the claims presentation requirement in a multi-million dollar wrongful death case involving the alleged medical malpractice of the Sacramento Fire Department. Plaintiff failed to file a claim with the City during the six-month claim presentation period and instead filed a petition with the superior court, asking for relief from the claim filing requirement. The superior court ruled for the City and the plaintiff was precluded from suing the City in this case.

**California Public Records Act (PRA):** The office prevailed on a writ alleging that the Urban Forestry Services Division (UFS) repeatedly violated the California Public Records Act. The petitioner claimed that UFS engaged in a pattern of systematically violating the PRA, evidenced by its alleged failure to properly comply with eight requests he made over approximately six months in 2010 and 2011. The court rejected each of the petitioner's claims.

## VI. Labor Relations

The office was called upon to provide research and staff support in critical labor negotiations with 7 employee units. These services included research and advice on major retirement, health and benefit law changes.


**Sacramento Public Library Labor Negotiation:** The office assisted the Sacramento Public Library Authority to complete protracted and contentious labor negotiations with its supervisory unit. Our attorneys provided significant support in labor negotiations, review of labor agreements, management of outside counsel, advice at meetings, and drafting of related policies and implementing resolutions.

## Forthcoming Challenges


Retention of seasoned staff to maintain legal service levels is one of the City Attorney's budget priorities for FY13-14 due to a trend toward attrition of experienced staff to higher-paying public sector jobs. To continue to meet the legal needs of the client, the organization focused on retention of seasoned staff along with recruiting, developing, and training existing and new staff.

The City Attorney's Office addressed the retention issue within the budget process by making available \$125,685 in its employee service budget to accommodate modest merit-based pay increases ranging from 1-3%. This was accomplished by decreasing staff by 1.0 vacant FTE, decreasing expenses in its service and supplies budget thereby creating a net zero impact on the existing budget. Recognition for quality performance and keeping the office competitive with its public sector competition was a priority in order to keep employees focused on their mission as the City continues to move out of a recessionary period toward one of growth.

The office will work to develop additional proposals to reward productivity and retain seasoned staff members.



**Economic Development:** In the upcoming fiscal year, the Economic Development Department will face a number of challenging projects that will require significant advice and support from the City Attorney's Office. Examples of these projects include: continued disposition of the Redevelopment Agency Successor Agency assets and integration of Sacramento Housing and Redevelopment Agency functions into the City, negotiating a possible extension of the purchase option for the Army Depot property, and dealing with various issues related to the Sacramento Kings and the new and old arenas.



**Continuing Planning & Development Code—Implementation:** The update of the new Planning and Development Code will present many challenging opportunities for the City Attorney's Office. The first phase of the streamlined development process provides for staff-level review of projects consistent with standards and guidelines. This update will ensure only major projects go forward to the Planning and Design Commission, and enhance flexibility in land uses. In addition, the upcoming related phases will present many issues to be dealt with relating to the mixed income housing ordinance revision, the updates of ordinances for the housing trust fund, subdivision, floodplain management, and signs. There will also be updates of Citywide design guidelines and energy efficiency standards to support the Climate Action Plan. We anticipate many code interpretation and related compliance questions to be addressed by our office.

## Office Programs



### Law Clerks

Over the past six years, the office's law clerk program has expanded from one summer law clerk to four law clerks each semester and over the summer. We have hosted approximately 37 students since 2007. We have received applicants from students at the University of the Pacific, McGeorge School of Law, the University of California at Davis, University of California at Berkeley, Pepperdine, and the University of Virginia. The law clerks obtain academic credit and gain a wealth of experience as they work on issues from all three of the office's sections, involving research and writing memoranda, motions, and briefs. They also have the opportunity to take "field trips" which include attending meetings, ordinance-review sessions, arbitrations, mediations, depositions, hearings, and trials, all of which help them integrate what they learn in school with to a real work setting.

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### City Attorneys' Law Day Event on May 1, 2013: "Realizing the Dream: Equality for All - Are We There Yet?"

The City Attorney's Fourth Annual Law Day event focused on the topic of civil rights and equal protection under the law. Following the American Bar Association theme, the office presented a speaker event that featured four speakers: Judge Emily Vasquez of the Sacramento Superior Court spoke about her experiences as a woman in the legal profession; Rico Ozaki of the organization My Sister's House spoke about human trafficking; Stacie Ford, Esq. of the organization Run for Courage spoke on child sex trafficking; and Senior Deputy City Attorney Sari Myers Dierking spoke on current Supreme Court cases under review that illustrate both sides of the affirmative action issue. The event was open to the public and concluded with the speech by Dr. Martin Luther King, Jr., "I Have a Dream." The Law Day theme for 2013 commemorated the 150<sup>th</sup> anniversary of the Emancipation Proclamation and the 50<sup>th</sup> anniversary of Dr. King's famous speech.



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### Summer at City Hall

For the third year, the office has mentored high-school students as summer interns through the Summer at City Hall Program. This year we hosted four high school students. The students were given tasks that helped them learn skills needed to work in an office environment, such as answering the phones, greeting customers and dealing with the public, selecting proper work attire, and updating the law library's publications.



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