

# CITY OF OAKLAND



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## Via Email and Hand Delivery

**HONORABLE MAYOR JEAN QUAN  
COUNCIL PRESIDENT PAT KERNIGHAN AND MEMBERS OF THE CITY COUNCIL  
CITY ADMINISTRATOR HENRY GARDNER**  
Oakland, California

**Subject: Reduction in Outside Counsel Costs – Fiscal Year 2013-2014**

Dear Mayor Quan, City Councilmembers and City Administrator Gardner:

### **Purpose of Report**

The purpose of this letter is to advise you of the outside counsel savings resulting from the Council's budgeting of two new in-house attorneys and one legal secretary in Fiscal Year ("FY") 2013-14 for the City Attorney's Office. Outside counsel costs dropped by more than a third (35%) to **\$4.47 million in FY 2013-14** compared to **\$6.86 million** in the previous fiscal year (FY 2012-13).

Outside counsel costs for FY 2013-14 are \$2.39 million less than FY 2012-13 outside counsel costs. Put another way, the City saved 3.6 times the annual cost of the three new positions the Council added to our FY 2013-14 budget. (The annual cost of the salary and benefits for the three new positions is \$659,722.)

### **Background**

In January 2013 we submitted our FY2013-15 budget proposal to the City Administrator. We outlined a plan to cut the cost of legal services by hiring additional in-house attorneys and support staff, thereby reducing the City's need to hire more expensive outside counsel.

The Mayor's proposed budget and the City Council's adopted budget for FY 2013-15 included two additional attorneys and one legal secretary for FY 2013-14. The second year of the Council's two-year budget adds two attorneys and one paralegal to the City Attorney's Office in FY 2014-15.

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As we have advised in our annual reports for a number of years, the demand for outside counsel varies from year-to-year, sometimes dramatically, depending upon the number of in-house staff in the City Attorney's Office and the volume, complexity and types of legal issues the City is addressing. For example, events such as the dissolution of Redevelopment Agencies, the U.S. Environmental Protection Agency's Clean Water Act lawsuit, the Zero Waste negotiations, the Oakland Army Base development and other major projects and cases may necessitate significant outside counsel expenses in any given year.

Prior to the current two-year budget, the City Attorney's Office lost more than a third of its staff (19 attorneys and 14 support staff) over the preceding ten-year period. These are actual "bodies" that went out the door, not vacant positions or transfers of employees from the General Purpose Fund to other funds.

We have consistently advised the Council in numerous communications and in our annual reports, that budget cuts require our Office to retain more expensive outside counsel because the City Attorney does not have discretion to decline to perform City Charter-mandated duties. The demand for legal services has increased over time due to factors such as a more litigious society, the City's aging infrastructure of sidewalks, streets, sewers and buildings, and progressive City leaders who continue to develop and adopt important and cutting edge laws, policies and programs to protect residents' and taxpayers' rights, health and safety and enhance the quality of life. In addition, the technological advances that we have witnessed require ongoing upgrades and replacement of key systems – computers, websites, internet and online access, lapel cameras for police officers to record their interactions. All of these matters require legal advice and assistance.

In our January 2013 budget proposal, we once again advised that the higher cost of outside counsel outweighed the savings the City realized by cutting in-house legal staff. For example, during the four-year period of FY 2007-08 through FY 2010-11, staff cuts reduced the Office's budget by \$3 million. However, during that same period the cost of outside counsel rose from \$1.74 million to \$6.38 million, an increase of \$4.64 million. The City spent much more on outside counsel than it saved by cutting in-house legal staff. Contracting out legal services to more expensive outside attorneys increased the total cost of legal services and reduced the money available for other vital City services such as police, sidewalk and street repairs, libraries, etc.

Our FY 2013-2015 budget proposal recommended restoring a total of 11 positions (six attorneys and five support staff positions) to begin to reverse the trend of escalating outside counsel costs.

**Outside Counsel Costs FY 2013-14**

The Council’s decision to restore staff positions to the City Attorney’s Office helped to reduce the cost of outside counsel and the overall cost of legal services in the first year of the budget (FY 2013-14).

The following charts show the reduction in outside counsel expenses and the net savings the City realized taking into account the cost of the three new staff positions in FY 2013-14.

**Chart #1: Reduction in Outside Counsel Costs  
 FY 2012-13 – FY 2013-14**

Outside Counsel Cost FY 2012-13	\$6.86 million
Outside Counsel Cost FY 2013-14	\$4.47 million
<b>Reduction:</b>	<b>\$2.39 million<sup>1</sup></b>

**Chart #2: Net Savings (Reduction in Outside Counsel Costs Minus the Annual Cost of Three New Positions in FY 2013-14)**

Special Counsel	\$292,304
Legal Administrative Assistant	\$114,911
Deputy City Attorney IV	\$252,507
<b>Total Annual Cost (Salary &amp; Benefits)<sup>2</sup></b>	<b>\$659,722</b>
<b>Net Savings:</b>	<b>\$1,730,278</b>

<sup>1</sup> The reduction in outside counsel costs is 3.6 times the total annual cost of the three positions the FY 2013-14 budget added to the City Attorney’s Office.

<sup>2</sup> The actual cost of the three new positions in FY 2013-14 is less than the annual cost of \$659,722 for the positions due to the time it took to complete the recruitment and hiring process.



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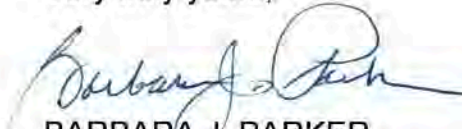
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The City Attorney's Office was able to handle a significant amount of work in-house that otherwise would have been contracted out due to the new positions.

We expect to achieve savings due to the Council's restoration of two additional attorneys and a paralegal in this fiscal year's (FY 2014-15) budget. It is important to note again that major and/or specialized legal matters such as Waste Management franchise negotiations and lawsuit, the EPA Clean Water Act lawsuit, Oakland Army Base redevelopment, Oakland A's License Agreement negotiations and police civil rights/use of force cases will continue to require use of outside counsel. The cost of outside counsel will vary each year depending on the types and number of legal issues/matters and time constraints given our in house resource. However, as the above cost analysis shows, the need to retain outside counsel services will continue to decrease if the Council restores additional in-house positions in FY 2015-16 and beyond.

Very truly yours,



BARBARA J. PARKER  
City Attorney