

**CITY OF OAKLAND**  
*COUNCIL AGENDA REPORT*

**TO:** Finance and Administrative Services Committee  
**ATTN:** Chairperson, Councilmember Jean Quan  
**FROM:** John Russo, City Attorney  
**DATE:** October 24, 2006  
**RE:** Office of the City Attorney's Annual Report, Fiscal Year 2005-2006

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## **1.0 INTRODUCTION**

This annual report summarizes the financial results of the Office of the City Attorney, outlines claims and litigation trends and highlights our ongoing community-impact initiatives during the last fiscal year (FY05-06).

Our philosophy—**law in service of the public**—guides how we provide legal services to the City of Oakland. We believe that the law should be applied in an innovative and community-oriented manner. As a team, we are committed to providing first-rate legal services that are cost-effective, efficient and accessible.

### **1.1 The Year in Review**

FY05-06 saw an expenditure increase in three areas: operating costs (up \$1.86 million to \$12.95 million), payouts (up \$ 1.19 million to \$4.37 million) and most significantly in outside counsel (up \$ 3.32 million to \$5.30 million).

Operating expenses exceeded budget because of increases in personnel costs due to City-wide cost-of-living increases and increases in the cost of benefits. These increases affected all City departments and were beyond the control of individual departments. While higher than last year, payouts are still more than \$1 million lower than the five-year average. The increase in outside counsel costs is attributable (97%) to one case: Pacific Renaissance – a breach of contract lawsuit.

The number of claims filed decreased for the fifth consecutive year (from 615 in FY04-05 to 545 in FY05-06). The vast majority (91%) of denied claims never evolve into lawsuits, underscoring the effectiveness of our strategy to thoroughly investigate and adjust claims in a fair, timely and assertive manner.

In the last six years, the number of claims filed against the City has dropped an average of 12 percent each year. Efforts by the City Administrator's Risk Management group in the area of City Safe Vehicle Driving contributed to another year of reduced vehicle accident claims. Those claims dropped for the second consecutive year (117 in FY03-04, 79 in FY04-05 and just 69 in FY05-06). In addition, the designation of our Department Counsels to better assist the Public Works and Police Departments with legal advice resulted in a continued decline in claims and lawsuits filed against both departments.

While there were fifteen more lawsuits filed against the City (142 in FY04-05 compared to 157 in FY05-06), this year's total remained well below the five-year average (201 lawsuits). For FY05-06, 162 lawsuits were resolved, with 110 resulting in no payment of money.

## 1.2 Office Profile

We continue to be one of the most diverse legal teams in the country with 78% women and 65% people of color on staff. Our 78-member team includes:

- 41 attorneys—City Attorney, 2 Assistant City Attorneys, 35 Deputy City Attorneys and 3 Neighborhood Law Corps Attorneys;
- 30 support staff—legal secretaries, paralegals, clerks, claims investigators and executive assistants; and
- 7 operations staff—budget, accounting, information technology and support, communications, personnel administration and an Open Government Program coordinator.

## 2.0 FINANCIAL ANALYSIS

For FY05-06, operating costs were \$12.95 million, payouts were \$4.37 million, litigation costs were \$1.31 million and outside counsel costs were \$5.30 million.

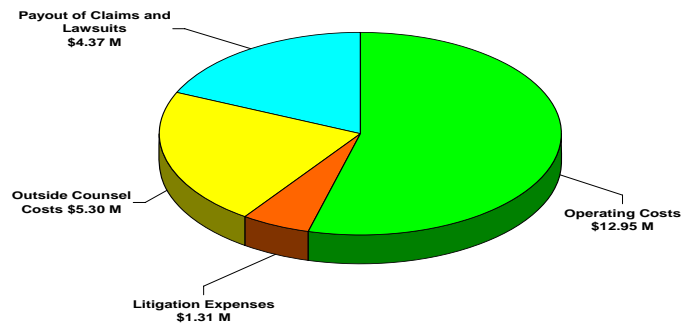


Figure 1: Cost to Provide Legal Services for FY 2005-06

## 2.1 Cost of Legal Services

In FY05-06, the cost to provide legal services to the City of Oakland was \$23.93 million (including staff/operating expenses, outside counsel costs and payouts for claims and lawsuit settlements and judgments), a 36% increase (\$6.37 million) from the prior fiscal year, as shown in **Figure 2**.

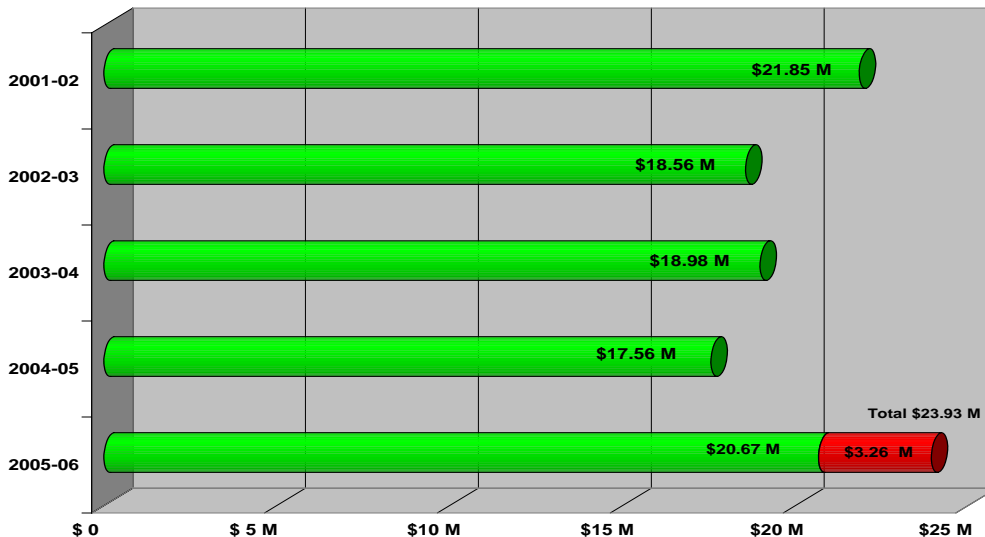
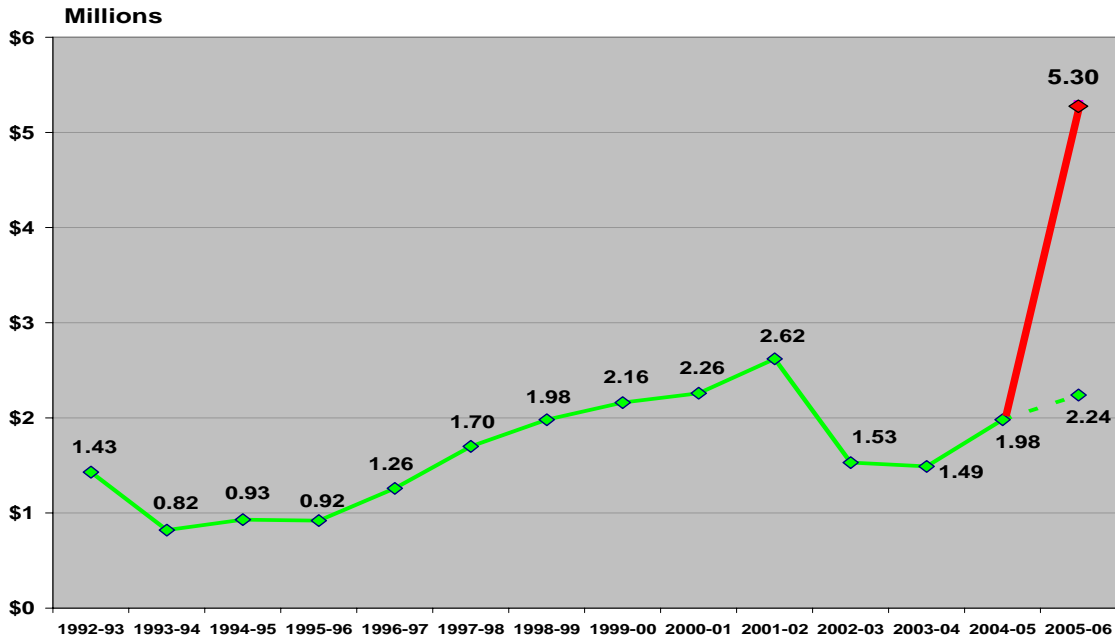


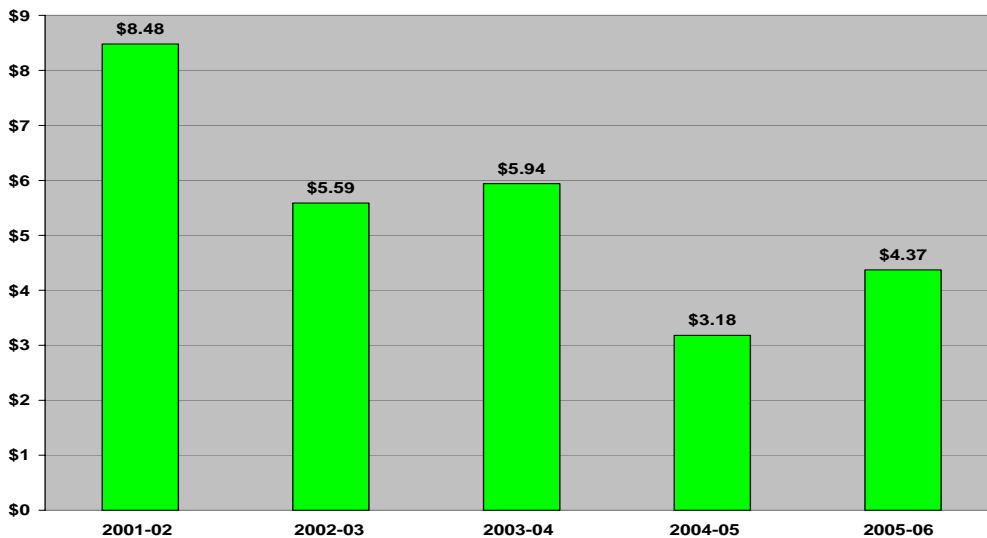
Figure 2: Cost of Legal Services

As highlighted in **Figure 2**, \$3.26 million was spent on outside counsel and the related litigation expenses for the Pacific Renaissance lawsuit for FY05-06. The Office of the City Attorney and the City Council differed in the legal strategy for The Pacific Renaissance lawsuit; nevertheless, the Office dutifully followed the Council’s direction. The outside counsel expense for FY05-06 has exceeded any year in the past fourteen years (see **Figure 3**). The broken line indicates how much was spent for FY05-06 on outside counsel excluding the Pacific Renaissance lawsuit. This lawsuit is the most expensive lawsuit in the City’s history in terms of attorney’s fees. The Council’s strategy may yet result in repayment to the City of these outside counsel fees.



**Figure 3: Outside Counsel Cost**

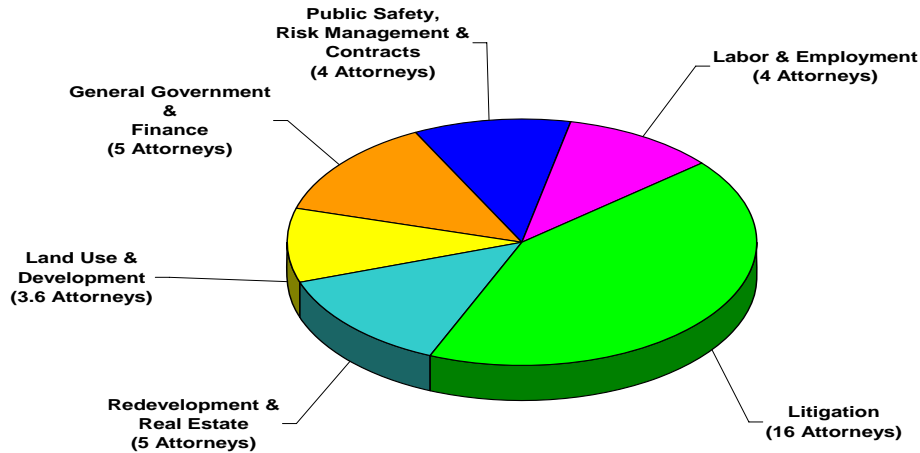
For FY05-06, the payouts for claims and lawsuits was \$4.37 million (see **Figure 4**), below the five-year average of \$5.5 million.



**Figure 4: Payout Trend Over 5 Years - Claims and Lawsuits**

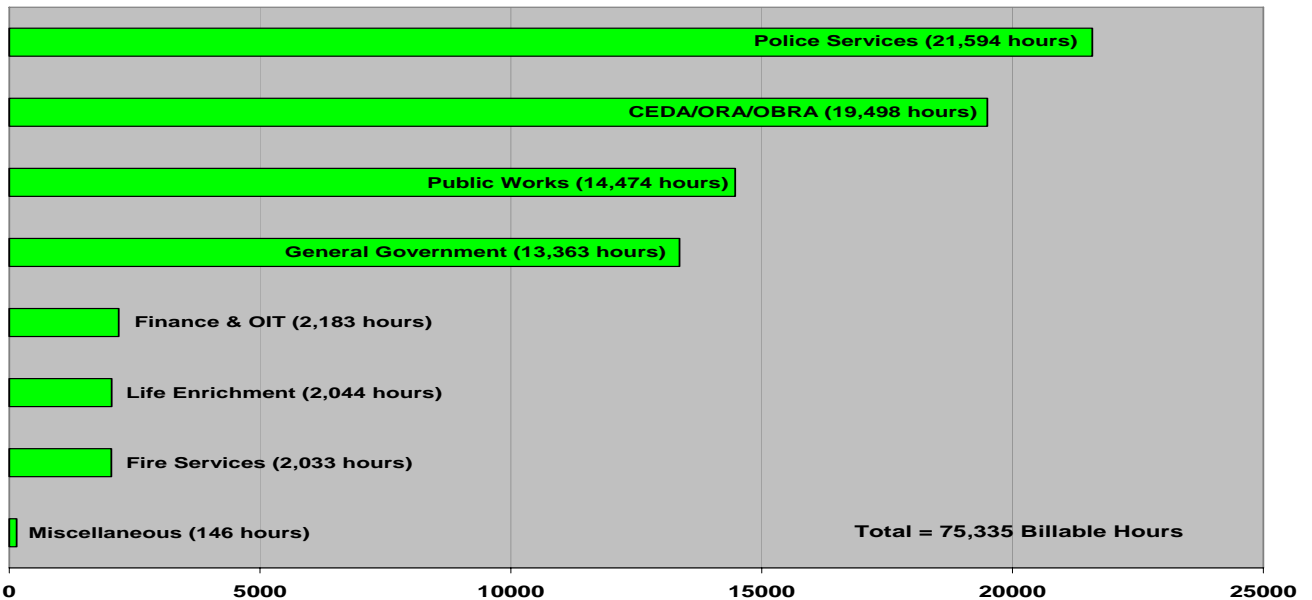
### 3.0 ALLOCATION OF LEGAL RESOURCES

The Office of the City Attorney is organized into practice areas to better serve our clients' needs. **Figure 5** shows the number of attorneys assigned to each practice area.



**Figure 5: Allocation of Attorneys**

As shown in **Figure 6**, in-house attorneys, paralegals and investigators spent 75,335 staff hours delivering legal services to City departments. Although we do not directly bill time to these departments, we closely track billable hours internally to effectively manage our resources and contain legal costs.



**Figure 6: Billable Hours by Department - 2005-06**

The designation of our Departmental Counsels for Police (Rocio Fierro) and for Public Works (Patrick Tang) has contributed to better risk management in two departments in which the City has typically had greater exposure. Legal services for the Police Department exceeded all other departments this year due to an increase in crime and compliance with the

Negotiated Settlement Agreement, which was part of the resolution of the Riders' civil rights lawsuits. Despite the apparent increase in cost to implement the NSA, it has resulted in a decline in claims brought against the Police Department, ultimately saving the City money.

#### 4.0 MANAGEMENT OF CLAIMS AND LITIGATION

##### 4.1 Claims

Claims fall into three primary categories: municipal infrastructure (streets, sewers and sidewalks), police matters (conduct, towing, jail and property damage) and accidents involving City vehicles. In FY05-06, 545 claims were filed against the City of Oakland—a 12% decrease from the previous year.

As shown in **Table 1**, claims filed against the City dropped for the fifth consecutive year. In fact, claims remain well below the ten-year average of 864. Of note is the continued drop in claims for police matters and City vehicle accidents, as well as the low number of claims in the Municipal Infrastructure category considering the harsh weather conditions and flooding at the end of 2005.

**Table 1: Types of Claims Received**

Category	2001-02	2002-03	2003-04	2004-05	2005-06	5-year average
Municipal Infrastructure	411	431	304	316	294	351
Police Matters	210	222	179	173	121	181
City Vehicle Accidents	150	103	117	79	69	104
Other*	170	103	72	51	61	92
<b>Total Claims/Year</b>	<b>941</b>	<b>859</b>	<b>672</b>	<b>619</b>	<b>545</b>	<b>728</b>

(\*Breach of Contract, City Government (Land Use, Ordinance, Charter & Policy Challenges), Code Enforcement, Claims Due to City-hired Contractors, Fire Dept – Fire-response-related damages, Liens, Rent Arbitration and Personnel claims)

Prompt response by Public Works during the rainy season, enhanced Risk Management practices such as the City Safe Vehicle Driving program and the Oakland Police Department's improved management and training are reflected in the decline of claims brought against the City.

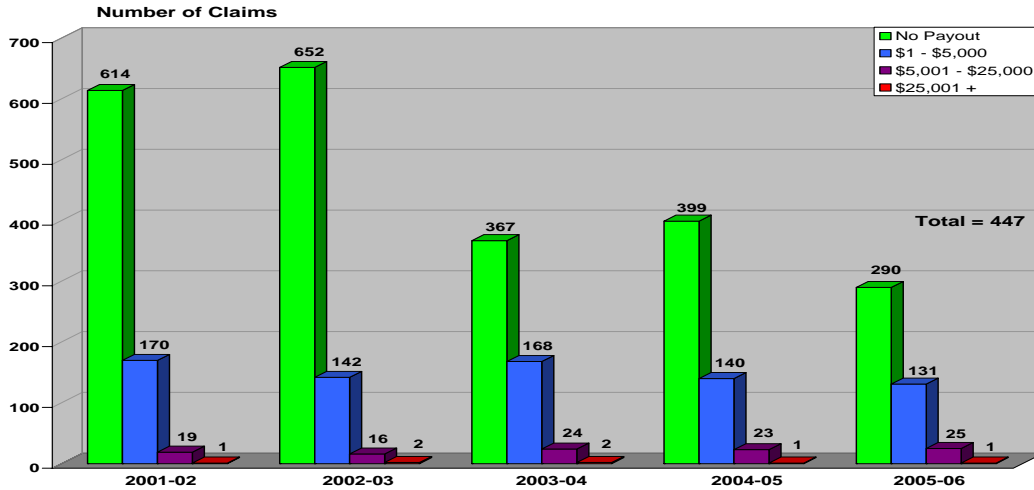


Figure 7: Claims Resolved Over 5 Years

Of the 447 claims resolved in FY05-06:

- 65% of the claims were denied with ***no payment of money***;
- Only 6% resulted in payouts of more than \$5,000.

We aggressively manage potential liability at the claims stage to reduce the number that evolve into lawsuits, thereby avoiding the significant costs of litigating a case, such as expert witnesses, depositions, research, court costs and attorney time. As shown in **Figure 8**, the majority (85%) of denied claims never become lawsuits, underscoring the effectiveness of our strategy.

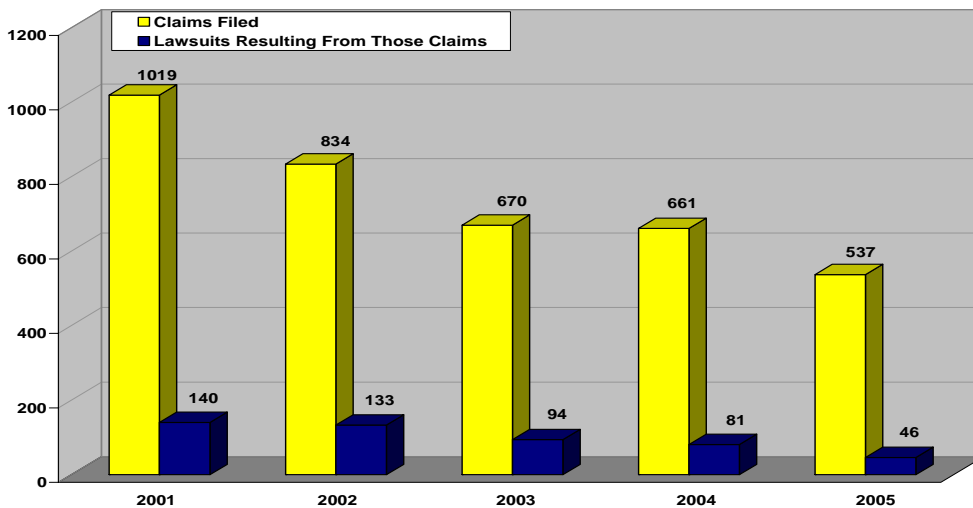


Figure 8: Claims That Evolved Into Lawsuits by Year of Incident

## 4.2 Municipal Infrastructure

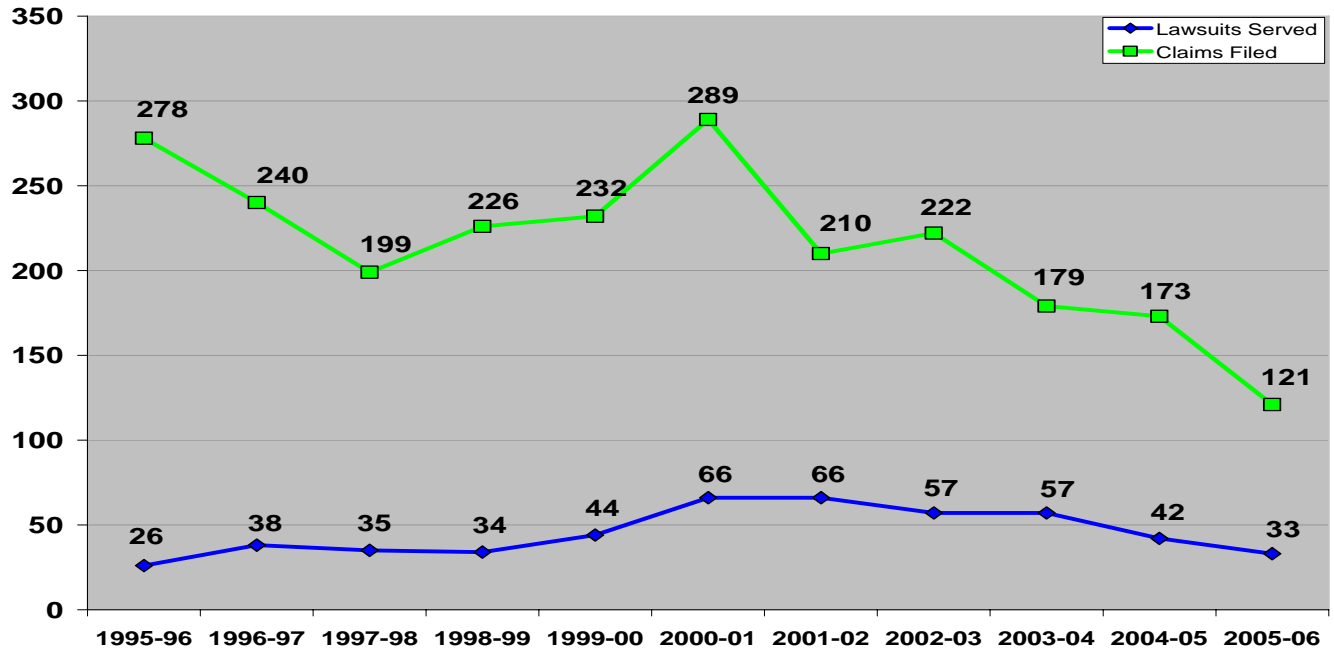
Table 1a illustrates the noticeable difference in the claims filed during “storm years” compared to claims made against the City for the *El Nino* storms of 1997-98 and claims made in FY05-06.

<b>Table 1a: Claims Received Municipal Infrastructure</b>			
<b>Category*</b>	<b>1997-98</b>	<b>1998-99</b>	<b>2005-06</b>
Streets	185	154	115
Sewers/Storm Drains	77	61	58
Landslides	22	25	0
Sidewalks	68	79	48
Trees	65	66	42
<b>TOTALS</b>	<b>417</b>	<b>385</b>	<b>263</b>

(\*Does not include claims for Building Maintenance/Operations, Park & Rec Maintenance/Medians)

### 4.3 Police Department

The progress in the Police Department to mitigate exposure to the City can also be seen in the ten years of data shown in Table 1b, in which claims against the Police Department steadily declined since 2001.



**Figure 9: Trend of Police Claims and Lawsuits Filed**

Examining ten years of data shows that claims brought against the Police Department began declining at the same time the reforms detailed in the Negotiated Settlement Agreement (NSA) were implemented. The NSA has been effective in limiting claims, thereby benefiting our officers and our City’s residents and taxpayers.

Since 2000, this office has successfully resolved 82% of all claims filed against the Oakland Police Department for no payment of money. In addition, reviewing police conduct/use of force and wrongful death lawsuits alone, more than half (51%) was resolved for no payment of money.

#### 4.4 Lawsuits

The Office of the City Attorney uses strategic litigation techniques in an effort to protect taxpayer dollars. When there is clear liability, we seek to settle claims early as a way to avoid higher costs of defense and to discourage plaintiffs' attorneys from increasing fees through needless litigation. We also reduce litigation costs and limit potential exposure by filing motions to dismiss defendants and causes of action, narrowing the scope of the defense.

Lawsuits primarily arise in four categories: municipal infrastructure/dangerous conditions (streets, sewers, storm drainage, sidewalks, trees), police conduct, personnel/labor and accidents involving City fleet vehicles.

As shown in **Table 2**, 157 lawsuits were filed against the City in FY05-06. Of note is the decline in lawsuits for police matters for a third year and a plateau in lawsuits for City vehicle accidents.

**Table 2: Types of Lawsuits Received**

Category	2001-02	2002-03	2003-04	2004-05	2005-06	5-year average
Municipal Infrastructure	74	63	54	32	47	54
Police Matters	66	57	57	42	33	51
Personnel/Labor (non-lawsuits and lawsuits)	38	18	20	16	21	23
City Vehicle Accidents	19	14	10	11	11	13
Other*	50	58	36	41	45	46
<b>Total Lawsuits/Year</b>	<b>247</b>	<b>210</b>	<b>177</b>	<b>142</b>	<b>157</b>	<b>187</b>

(\*Breach of Contract, City Government (Land Use, Ordinance, Charter & Policy Challenges), Code Enforcement, Lawsuits Due to City-hired Contractors, Fire Dept – Fire-response-related damages, Liens and Personnel)

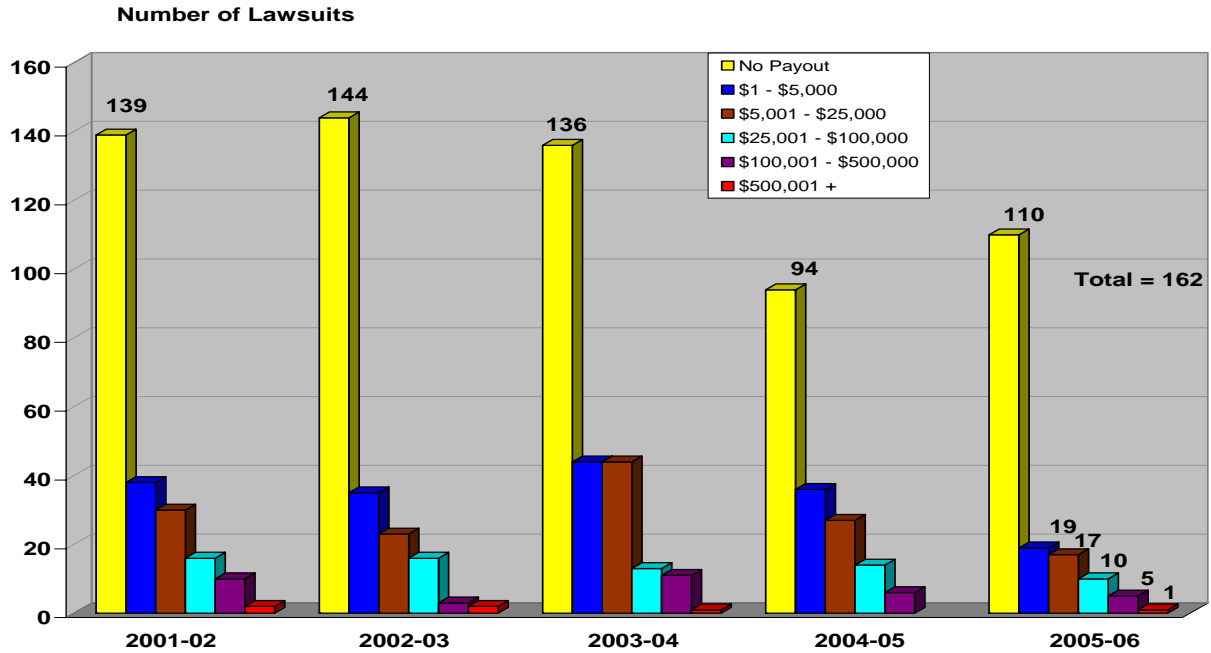


Figure 10: Lawsuits Resolved Over 5 Years

As shown in **Figure 10**, of the 162 lawsuits resolved in FY05-06:

- 110 lawsuits resulted in **no payment of money**;
- Of the remaining 52 lawsuits, one out of three resulted in payment between \$1- \$5,000;
- Only 6 lawsuits resulted in a payout of more than \$100,000 (see **Table 3**).

Table 3: Payouts of Claims and Lawsuits More Than \$100,000 in 2005-06

Case	Type	Payout
<i>Port Anti-War Demonstration</i>	Police Conduct - Force	\$1,549,750
<i>Bari v. City of Oakland (Earth First)</i>	Police Conduct - Non-force	\$500,000 * * Third of four annual payments to total \$2M
<i>Kyle v. City of Oakland</i>	Trip & Fall - Street	\$364,500
<i>Gray v. City of Oakland</i>	Trip & Fall - Street	\$175,000
<i>Baker v. City of Oakland</i>	Wrongful Termination	\$120,000
<i>Breeden v. City of Oakland</i>	Dangerous Condition - Traffic Signal	\$103,967

#### 4.5 Payouts to Settle Claims and Lawsuits

Figures 11 – 12 and Tables 4 – 7 provide a breakdown of the payouts to settle claims and lawsuits during the past five years from several perspectives:

- Payouts by cause category (Figure 11)

- Payouts by City department (Figure 12)
- Payouts related to police matters (Table 4)
- Payouts related to municipal infrastructure by category (Table 5)
- Payouts for accidents involving City vehicles by City department (Table 6)
- Payouts related to personnel/labor matters by department (Table 7)

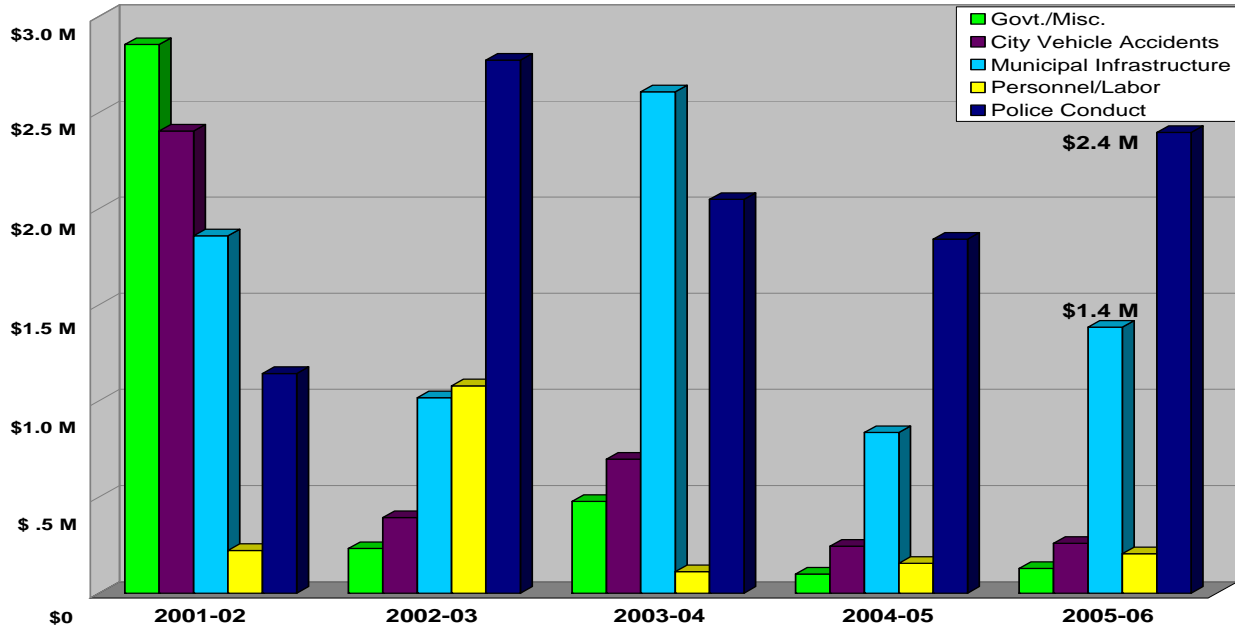


Figure 11: Total Payouts of Claims and Lawsuits by Category

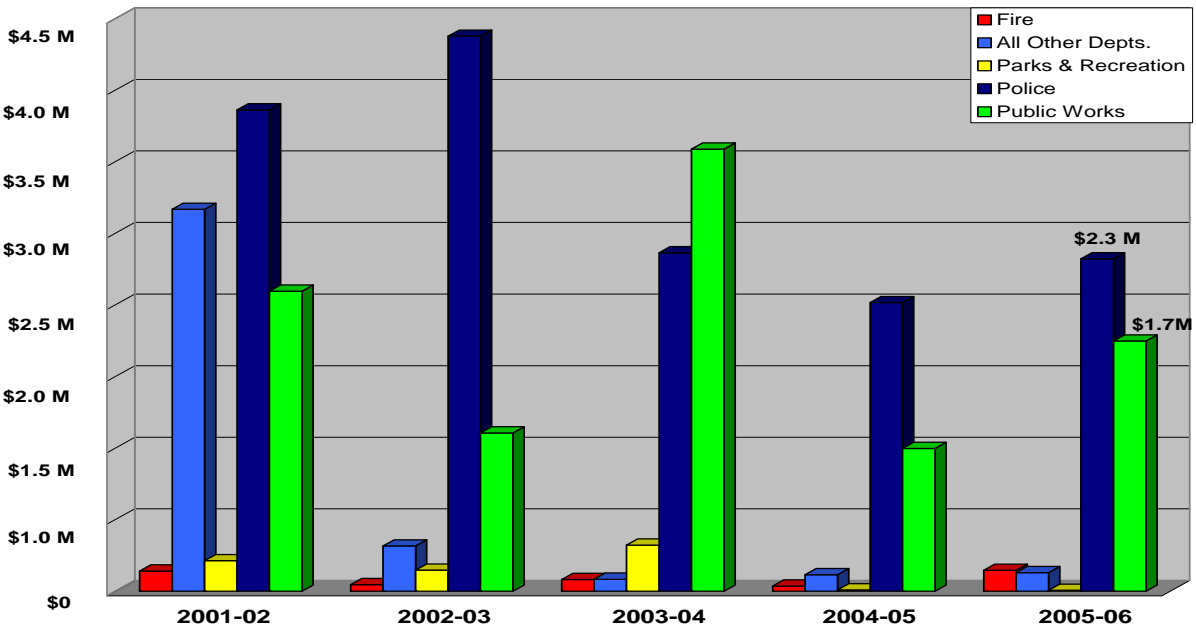


Figure 12: Payouts by Department

NOTE: The amount in payouts for the Police Department in Figure 12 includes the money spent for conduct and non-conduct cases in addition to payouts for vehicle accidents.

**Table 4: Payouts of Claims & Lawsuits**

<b>Police Matters</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>5-year average</b>
Alleged Use of Force	\$155,175	\$2,571,000	\$1,380,775	\$992,040	\$1,853,000	\$1,390,398
Conduct—Non-force	\$671,139	\$35,570	\$649,618	\$735,900	\$502,832	\$519,012
Alleged Wrongful Death	\$291,868	\$166,000	\$4,000	\$50,000	\$0	\$102,374
Vehicle Accidents	\$2,194,962	\$197,953	\$315,574	\$111,434	\$117,074	\$587,399
Property Loss	\$13,928	\$13,389	\$7,316	\$63,120	\$39,820	\$27,515
Towing	\$10,367	\$56,484	\$6,838	\$0	\$378	\$14,813
Personnel/Labor	\$24,900	\$836,432	\$0	\$63,000	\$85,000	\$201,866
<b>Total Paid/Year</b>	<b>\$3,337,439</b>	<b>\$3,040,396</b>	<b>\$2,364,121</b>	<b>\$2,015,494</b>	<b>\$2,598,104</b>	<b>\$2,671,111</b>

**Table 5: Payouts of Claims & Lawsuits**

<b>Infrastructure</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>5-year average</b>
Building & Park Maintenance	\$93,242	\$29,963	\$18,611	\$17,343	\$19,766	\$35,785
Sewers/Storm Drains	\$442,319	\$194,612	\$833,220	\$216,866	\$357,197	\$408,843
Sidewalks	\$208,031	\$491,240	\$568,970	\$287,222	\$145,303	\$340,153
Streets	\$398,731	\$96,659	\$245,966	\$206,164	\$761,039	\$341,712
Landslides	\$492,032	\$127,500	\$864,706	\$23,957	\$25,975	\$306,834
Trees	\$92,295	\$71,323	\$76,255	\$83,967	\$73,822	\$79,532
<b>Total Paid/Year</b>	<b>\$1,634,355</b>	<b>\$939,974</b>	<b>\$2,531,473</b>	<b>\$835,519</b>	<b>\$1,383,102</b>	<b>\$1,464,885</b>

**Table 6: Payouts of Claims & Lawsuits**

<b>City Vehicle Accidents</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>5-year average</b>
Police	\$2,194,962	\$197,953	\$315,574	\$111,434	\$117,074	\$587,399
Public Works	\$123,075	\$118,814	\$73,351	\$92,617	\$91,572	\$99,886
Parks & Recreation	\$18,834	\$37,099	\$220,750	\$3,833	\$6,864	\$57,476
Fire	\$57,590	\$27,646	\$76,211	\$34,817	\$25,439	\$44,341
Other Departments	\$6,882	\$11,654	\$11,142	\$1,502	\$18,243	\$9,885
<b>Total Paid/Year</b>	<b>\$2,401,343</b>	<b>\$393,166</b>	<b>\$697,028</b>	<b>\$244,203</b>	<b>\$259,192</b>	<b>\$798,986</b>

**Table 7: Payouts of Claims & Lawsuits**

<b>Personnel/Labor</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>5-year average</b>
Police	\$24,900	\$836,432	\$0	\$63,000	\$85,000	\$201,866
Parks & Recreation	\$0	\$0	\$9,000	\$0	\$0	\$1,800
General Government/Other	\$65,000	\$227,961	\$15,000	\$92,000	\$0	\$79,992
Public Works	\$55,000	\$0	\$87,500	\$0	\$0	\$28,500
Fire Services	\$81,800	\$14,000	\$0	\$0	\$120,000	\$43,160
<b>Total Paid/Year</b>	<b>\$144,900</b>	<b>\$1,064,393</b>	<b>\$111,500</b>	<b>\$155,000</b>	<b>\$205,000</b>	<b>\$336,159</b>

## **5.0 COMMUNITY IMPACT INITIATIVES**

We fulfill our motto—**law in service of the public**—by defending Oakland’s progressive policies in court and initiating legal action when the community’s quality of life or economic interests are violated. Our attorneys look for ways to use the law as a powerful problem-solving tool and as a means to serve the community’s best interests.

### **5.1 Neighborhood Law Corps**

Last year, the Office of the City Attorney’s innovative community lawyering program received the equivalent of a Pulitzer Prize for public service—the Helen Putnam Award for Excellence from the League of California Cities. This year we are proud to announce that the Neighborhood Law Corps is a finalist for the National League of Cities Award for Municipal Excellence. Other Neighborhood Law Corps accomplishments for the year include:

- Abating 12 drug nuisance locations/properties;
- Prosecuting 33 alcohol-related nuisance suits;
- Prosecuting 2 landlords for substandard housing;
- Abating 2 problem hotels, 16 blighted properties and 3 general public nuisance cases.

### **5.2 Open Government Program**

The Open Government Program ensures that our City government conducts the people’s business on behalf of the people, accountable to the people and in full view of the people. This is reinforced through ongoing training and monitoring of boards and commissions to make sure agendas are properly noticed.

On a daily basis, program staff assists citizens seeking public information through City departments. In addition, the staff provides legal and technical assistance to City departments and monitors requests for public records received by departments for compliance. During the last fiscal year, the Open Government Program handled 169 public records requests.

### **5.3 Caltrans Letter of Agreement**

In December 2005, Caltrans officials, President De La Fuente and the City Attorney’s Office signed a Letter of Understanding outlining regular maintenance of Caltrans’ properties in Oakland. The agreement put an end to the City of Oakland’s public nuisance lawsuit in Alameda Superior Court.

Historically, the abysmal condition of Caltrans’ vacant lots, yards, highway ramps and overpasses had been a source of misery in Oakland: diminishing our quality of life, reducing property values, inviting dumping and creating dangerous conditions. At the request of citizen complaints, the City Attorney’s Office pursued avenues to establish a maintenance agreement with the state.

The Letter of Understanding between the City and Caltrans states:

- Caltrans will submit monthly maintenance records of its work in Oakland;
- Caltrans will also supply records of money spent on maintenance in Oakland and the top 25 populated cities in District 4;
- A semi-annual public hearing will be held before the City Council to take public comment and report on maintenance of Caltrans’ properties;

- Caltrans will meet monthly with Public Works and City staff to target hot spots and other maintenance issues;
- Caltrans agrees to provide a comprehensive listing of all properties in Oakland so the information can be integrated into the City's computerized mapping system;
- Caltrans will permit the City of Oakland to hold leasees of its properties accountable to the agreement.

#### **5.4 Megan's Law Office Hours**

Through a cooperative effort with the Oakland Police Department and the Oakland Unified School District, the City Attorney's Office instituted Megan's Law Office Hours on the sixth floor of City Hall, Monday through Friday from 8:30am – 4:30pm. Bilingual City Attorney staff is available to assist Spanish-, Vietnamese- and Mandarin-speaking members of the public in navigating the State Attorney General's website to get information about the identity and location of registered sex offenders.

#### **5.5 Lead Paint Class Action Lawsuit**

In October 2000, the City of Oakland joined with other California counties and government entities in a class action lawsuit against makers of lead paint. The lawsuit alleges that lead paint makers knowingly sold lead-based paint products that polluted the environment and poisoned people, especially children. The public entities demanded to be reimbursed for the millions of dollars spent treating those harmed by ingesting lead and removing the toxic substance from public buildings.

In February 2006, a jury in Providence, Rhode Island found that three former lead paint makers created a public nuisance that continues today to poison children. The verdict meant that companies could be held responsible for millions of dollars in cleanup and mitigation costs. Two weeks after the Providence decision, the California Sixth Court of Appeal reversed a lower court decision dismissing the lawsuit. We are hopeful this decision will result in Oakland receiving significant sums of money to deal with the problem of lead paint in municipal buildings.

#### **5.6 Global Warming Litigation**

Actively working to reduce the causes of global warming, the City of Oakland joined environmental organizations in the lawsuit by Friends of the Earth, Inc. and Greenpeace Inc., against the Overseas Private Investment Corporation (OPIC) and the Export-Import Bank of the United States (Ex-Im).

The lawsuit alleges that OPIC and Ex-Im have provided assistance to projects that contribute to climate changes associated with the effects of global warming without complying with the requirements of the National Environmental Policy Act of 1969 and the Administrative Procedure Act.

Recently, Oakland and the other plaintiffs made history by surviving the defendants' motion for summary judgment, making this the first and only lawsuit on climate change to pass the legal standing challenge. The case will now move forward on the merits.

#### **5.7 Defending Oakland's Just Cause Ordinance**

The Office of the City Attorney successfully defended a line-by-line challenge to Measure EE, the Just Cause Eviction ordinance. The challenger's case was based on the premise that state law preempted local law.

Alameda County Superior Court Judge Brick upheld the ordinance with these provisions intact:

- Landlords are required to give tenants an opportunity to cure lease and other violations before evicting the tenant;
- Tenants are permitted to recover attorney's fees against landlords who violate the ordinance or wrongfully evict a tenant;
- Tenants may recover treble damages against a landlord who wrongfully evicts a tenant.

## 5.8 Katrina Legal Assistance

The Office of the City Attorney joined several law firms in volunteering to provide legal assistance to the New Orleans City Council to address the impacts of Hurricane Katrina. For example, staff drafted and reviewed ordinances for the New Orleans City Council and continues to be available to advise on pertinent legal issues as well as provide assistance to the Advancement Project, a non-profit that is providing assistance to municipalities and Katrina victims around the country, including those victims displaced to Oakland.

## 6.0 PROJECT HIGHLIGHTS

Attorneys provide legal services in nearly every aspect of municipal affairs. They negotiate contracts, advise on housing and economic development projects, draft new legislation, advise clients about labor and personnel issues, negotiate real estate transactions, issue municipal bonds, provide advice about municipal elections and ethics, defend the City's ordinances against challenges in court and initiate legal proceedings to address public nuisance problems in Oakland's neighborhoods. Highlights from our work in 2005-06 are summarized in **Attachments A – E**.

## 7.0 CONCLUSION

We are proud to represent a progressive and innovative City where the law can be utilized as a tool for community empowerment and improvement. We are dedicated to defending Oakland's policies in court and initiating legal action when the community's quality of life or economic interests are jeopardized. Our commitment to accountability, fiscal responsibility and access to City government continues to be the cornerstone of our work.

Respectfully submitted,



John A. Russo  
City Attorney

## ATTACHMENT A

### 6.1 Redevelopment & Real Estate

- Closed transaction and construction started on the Forest City Uptown Project to develop 700 units of housing, including affordable housing, retail space and a new public park.
- Closed the sale of property to AF Evans Co. for development of phase 2 of the Market Square residential project, 86 units of ownership housing at the old Housewives Market site.
- Negotiated and executed a Disposition and Development Agreement with Resources for Community Development for the development of 80 units of affordable housing near the Fox Theater.
- Helped develop much-needed parking downtown by entering into a Disposition and Development Agreement and closing on the sale of property to develop the 17<sup>th</sup> Street Garage; garage now open to the public.
- Obtained Council approval to enter into a revised structure for the Disposition and Development Agreement for the renovation of the historic Fox Theater.
- Closed the sale of the Jack London Gateway Shopping Center in West Oakland to a group led by the East Bay Asian Local Development Corporation and the West Oakland Marketplace Advancement Company.
- Helped retain Sears downtown by closing the leaseback of the Sears Auto Center.
- Assisted with the development of the MacArthur Transit Village, a mixed-use retail and housing project on the MacArthur BART parking lot, by negotiating an Exclusive Negotiating Agreement with the developer, MacArthur Transit Community Partners.
- Negotiated a Disposition and Development Agreement with a developer for neighborhood-serving retail and housing at a vacant site on 35<sup>th</sup> Avenue and MacArthur Boulevard.
- Negotiated and executed an MOU and a marketing agreement with Oakland Economic Development Corp. for development of the Coliseum BART Transit Village.
- Negotiated and executed a lease agreement with Caltrans for leasing property, constructing and operating a skateboard park in West Oakland.
- Negotiated a sub-lease agreement with Bordertown Skateboard Park, Inc. for construction and operation of a skateboard park in West Oakland.
- Negotiated a purchase and sale agreement and terms for a maintenance agreement with Butters Land Trust for City acquisition of open space.
- Drafted and executed leases for City office properties (e.g. City Center, City Store), and for City use of private properties (e.g. 1330 Broadway, 1970 Broadway, Lakepark Ave.).
- Drafted and executed licenses for Head Start Centers and other City uses (e.g. police substation).
- Negotiated a Disposition and Development Agreement with Cotter & Coyle for the development of 40 housing units at a vacant site at 3860 Martin Luther King Jr. Way.

- Negotiated loan agreements with Habitat for Humanity for development of 26-unit ownership affordable housing project on Edes Ave.
- Restructured Disposition and Development Agreement with Toler Heights Estates LLC, authorizing development of residential units.
- Assisted in drafting and negotiating affordable housing provisions of the Development Agreement for the Oak to Ninth project, as well as negotiating and executing a Cooperation Agreement with community groups for the project.
- Negotiated and executed an Exclusive Negotiation Agreement with 7<sup>th</sup> Street Community Partners for the purchase and sale of Caltrans property at 5<sup>th</sup> and Kirkham in West Oakland for housing development.
- Negotiated and executed an Exclusive Negotiation Agreement with Paramount Village, LLC for the sale of the Telegraph Plaza Garage and other property near the Paramount Theater for mixed-use development.
- Negotiated a loan guaranty from the Redevelopment Agency for a new emergency shelter project in East Oakland.
- Negotiated and executed an MOU and a marketing agreement with Oakland Economic Development Corp. for development of the Coliseum BART Transit Village.
- Helped develop affordable housing by closing development loans to non-profit housing developers, including loans to the following projects:
  - Altenheim Senior Housing, phase 2
  - Fox Courts Project
  - Central Station Apartments Project
  - Madison and 4<sup>th</sup> Project
  - Calaveras Gardens
- After several years of litigation with the U.S. Navy and the Department of Justice, negotiated and oversaw the transfer of 5.5 valuable acres of the former Oak Knoll Naval Facility to the Redevelopment Agency.
- Oversaw the transition of financial and accounting systems, ongoing environmental remediation, the completion of regulatory requirements and negotiations with the Port of Oakland for the transfer of the Army Base to the Redevelopment Agency.
- Assisted with the ongoing management and impending closure of the Oakland Army Base Leasing Program.
- Drafted and executed leases for OBRA properties.
- Negotiated an Exclusive Negotiating Agreement with the Fulton Partners Development Group (controlled by the Wayans family) for development of a film production studio and theme park in West Oakland.
- Assisted staff in satisfying the homeless assistance component of the Oakland Army Base Redevelopment Plan.
- Negotiated the sale of land to Caltrans to support the Bay Bridge Expansion Project.

- Negotiated the licensing of City property to Caltrans for both reconstruction and new construction of an overpass at 5<sup>th</sup> Ave.
- Negotiated an exchange agreement with the Port of Oakland, the Oakland Base Reuse Authority and the California State Lands Commission to exchange portions of the Oakland Army Base in and out of the state tidelands trust, enabling the development of the Army Base to its highest and best use.
- Negotiated the purchase of a 19-acre development site adjacent to the former Oakland Army Base from the U.S. Army Reserves, with the transfer of a portion of the site to the Port of Oakland for future development of a Joint Intermodal Terminal, and an Exclusive Negotiating Agreement with Costco for development of a wholesale and retail warehouse on the site.
- Successfully defended Measure EE, the Just Cause Eviction Ordinance, against a legal challenge.
- Drafted an ordinance enacted by the City Council allowing rent reductions for Katrina victims who relocated to Oakland.
- Assisted in developing conservation standards for open space properties acquired with bond proceeds.
- Assisted with the restructuring and collection of delinquent commercial loans.
- Negotiated and executed Convention Center Management Agreement with Integrated Services Corp.
- Finalized an amendment to the Disposition and Development Agreement with the Shorenstein Company to develop parcels in the City Center project.

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## ATTACHMENT B

### 6.2 General Government & Finance

- Completed long-term license agreement for the use of Peralta House and Garden by Friends of Peralta Hacienda Historical Park.
- Successfully fought to recoup \$500,000 from Duke Energy, \$3.5 million from Williams Energy and an additional \$673,950 from Reliant Energy as one of the 16 local government parties participating in the energy settlements.
- Drafted the legislation for new "Excess Litter Fee," which requires fast food restaurants, liquor stores and gasoline station markets to clean up the litter they cause or pay for clean up.
- Issued key legal opinions answering matters on separations of powers, election law, the calculation of Kid's First! funds and the legal use of public funds.
- Assisted staff in establishing the Laurel Property Business Improvement District and in renewing other Business Improvement Districts.
- Participated in departmental training on revised grant agreements pertaining to Kids First! and the Community Development Block Grant.
- Assisted with issuance of the City of Oakland 2005-2006 Tax and Revenue Anticipation Notes (\$70,000,000) to fund cash flow for the 2005-2006 Fiscal Year.
- Assisted with issuance of the Redevelopment Agency of the City of Oakland, Multifamily Housing Revenue Bonds (\$160,000,000), 2005 Series A to assist in financing the acquisition, construction and development of a 665-unit multifamily rental housing project known as the Uptown Apartments.
- Assisted with issuance of Redevelopment Agency of the City of Oakland, Subordinated Housing Set Aside Revenue Refunding Bonds, Series 2006A (\$2,195,000) and Series 2006A-T (\$82,645,000) for the purpose of providing funds to finance low and moderate income housing activities.
- Assisted with the issuance of the City of Oakland General Obligation Bonds - Series 2005, Measure G (\$21,000,000) to acquire, renovate, approve, construct and finance existing and additional educational activities for the Oakland Museum of California and the Oakland Zoo.
- Successfully defended in Superior Court the popularly enacted Measure Y, "The Violence Prevention and Public Safety Act of 2004," which ensured funding for police, firefighting and violence-prevention social services.

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## ATTACHMENT C

### 6.3 Public Safety, Risk Management & Contracts

- Negotiated and prepared multiple contracts for new computerized and technical systems – an automated library system, new public safety radio equipment, a online media City Council meeting system, a business-tax collection system and an audio shot-surveillance system.
- Proactively facilitated the establishment of management and administration systems for the MacArthur Undergrounding project—a major City, PG&E, Comcast and SBC joint project in East Oakland.
- Negotiated funding and use agreements with the Port of Oakland for construction of a new, clean-fuel fueling station in Oakland to serve the City of Oakland, Port of Oakland and other public and private consumers.
- Negotiated and completed development, construction and donation agreements with non-profit developers and donors for several park improvements, including the Lake Merritt Boat House, Greenman Field and other City parks.
- Assisted staff in developing and drafting a public-private participation policy for community groups in the development and improvement of local parks.
- Trained 300 City staff on professional services contracting.
- Negotiated agreements with BART for the seismic retrofitting of BART infrastructure and facilities in Oakland.
- Negotiated agreements to extend BART service to the Oakland International Airport.
- Negotiated a settlement of claims by PG&E that the City is liable for cost of electricity provided to a bankrupt telecommunications provider (Metricom); the settlement resulted in the City paying nothing on the claim.
- Negotiated and drafted revisions to agreements with the Oakland Housing Authority for construction of a City park at the Oakland Housing Authority Coliseum Gardens site.
- Negotiated design and construction agreements for the rehabilitation of Oakland's Fox Theater.
- Received special commendation from independent monitors of the OPD Negotiated Settlement for work to obtain compliance with the Negotiated Settlement Agreement and reverse the non-compliance problems of past years.
- Researched and revised Oakland Police Department policies required by the Negotiated Settlement Agreement, including Use of Force, investigation and Internal Affairs Division operations policies.
- Conducted training for all OPD commanders (Deputy Chiefs, Captains, Lieutenants and Sergeants) on the liability for unconstitutional acts of subordinates as well as the legal requirements to minimize liability.
- Conducted line-up training for the line officers on landlord-tenant issues.
- Initiated training for the sergeants on federal and state laws related to police liability.

## ATTACHMENT D

### 6.4 Land Use & Development

- Assisted in the approval of the Kaiser Permanente Oakland Medical Center Master Plan to enable retrofit of medical facilities in accordance with state law deadlines.
- Assisted in the approval of the Arcadia Park (Pulte) Residential Project in East Oakland.
- Negotiated a development agreement and advised staff on City's consideration and approval of the Oak-to-Ninth development project, consisting of up to 3,100 residential units, approximately 200,000 square feet of commercial space, parks and open space, marinas, roads and infrastructure and shoreline improvements.
- Provided legal assistance to ensure sufficient financial assurances for public infrastructure to support the Uptown redevelopment project.
- Assisted in drafting Oakland's first Traffic Impact Fee Ordinance, designed to ensure a funding mechanism for traffic improvements related to new development in the Southeast portion of the City.
- Helped implement Oakland's second Geologic Hazard Abatement District, which is designed to prevent, mitigate, control or abate geologic problems such as landslides, mudslides and soil erosion.
- Prepared a moratorium ordinance to temporarily prohibit new wireless telecommunications facilities to allow staff to address City Council concerns regarding the impacts of such facilities on the surrounding community and the City.
- Helped draft amendments to the City's Planning Code regulating wireless telecommunications facilities to address City Council concerns.
- Worked with CEDA staff to streamline Oakland's condominium-conversion process from application intake to final approval.
- Worked with CEDA staff to implement the conditions of approval for the Wood Street residential development and provided legal advice regarding financing mechanisms to ensure ongoing park maintenance for the project.
- Assisted in the approval of the 51st and Telegraph Residential Project.
- Successfully defended the City in longstanding litigation from both the developer and neighbors relating to 1903 Tunnel Road.
- Assisted in achieving compliance with new storm water discharge regulatory requirements.



## ATTACHMENT E

### 6.5 Labor & Employment

- Advised City administration, agencies, departments and supervisors concerning obligations and employee rights pursuant to statutes, ordinances and the federal and state constitutions.
- Resolved eleven individual disciplinary matters and four contractual disputes, including the decision upholding closure of the jail and the resolution of Local 790's grievance regarding the 2003-2004 layoffs.
- Provided anti-sexual harassment training to the Police Department and Fire Department.
- Provided assistance to the Police Department in complying with its obligations under the Negotiated Settlement Agreement.
- Provided advice concerning the enforcement of Oakland's Equal Benefits Ordinance and Equal Access Ordinances.
- Provided advice concerning contract negotiations with the Oakland Police Officers Association.

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