



## REPORT

LEGISLATIVE REFERENCE BUREAU

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# 5. City Attorney's Office, 2014

**Proposed Plan and Executive Budget Review**

## 5. City Attorney's Office

### I. EXECUTIVE SUMMARY.

**Table 5.1. Statement of Changes in Operating Budget, 2013 to 2014.**

2012 Actual Expenditures	\$7,701,548
2013 Adopted Budget	\$7,472,224
Personnel Costs	
Salaries & Wages	(\$67,385)
Fringe Benefits	(\$79,103)
Total Changes	(\$146,488)
Operating Expenses	(\$8,500)
Equipment Purchases	(\$6,500)
Total Changes	(\$161,488)
2014 Proposed Budget	\$7,310,736

**1. Total expenditures down 2.2%.** The 2014 Proposed Budget for the City Attorney's Office is \$7,310,736, a decrease of 2.2% from the 2013 budgeted amount of \$7,472,224.

**2. Operating expenditures down 4.7%.** Operating expenditures proposed for 2013 are \$407,400, a \$20,100 decrease (-4.7%) from the 2013 Budget amount of \$427,500. Most of the decrease is in Professional Services which is reduced \$16,000 (-6.9%) from \$232,000 to \$216,000.

**3. Revenues down 3.5%.** Revenues for reimbursable services in the 2014 Proposed Budget are estimated to be \$797,400, a decrease of \$28,600 (-3.5%) from the 2013 Adopted Budget amount of \$826,000. Revenues represent charges for legal services, including charges to the Parking Fund and the Employees' Retirement

System in addition to cost recovery for services to RACM and HACM.

**4. Funding for Special Purpose Accounts (SPAs) reduced.** Funding for 3 additional SPAs under the control of the City Attorney's Office is unchanged in the 2014 Proposed Budget; the Insurance Fund is reduced by \$10,311 reflecting actual experience. Common Council File Number 130211, adopted July 2, 2013, authorizes up to \$460,000 in appropriations to the Outside Counsel/Expert Witness Fund to cover anticipated costs related to City Hall restoration litigation.

**5. New collections contracts initiated in 2012.** The 2 collection contracts, for claims owed the City and for claims for unpaid Municipal Court judgments, were renewed in 2012 for 5-year terms. City receivables from Kohn Law Firm collections continue to rise primarily from collections of delinquent property taxes through *In Personam* collection activity; *In Personam* collections increased nearly \$1 million to \$15,134,483 in 2012 with City receivables increasing to \$13,274,776.

**6. In rem filings.** The City filed 1,152 *in rem* proceedings to foreclose on tax delinquent properties in 2012 acquiring 744; the numbers acquired and the acquisition rate of nearly 65% were higher in 2012 than in any single year in the last decade.

**7. Funding provided for City Hall 8<sup>th</sup> Floor Remodeling.** The 2014 Proposed Budget provides \$2,010,000 in capital funding to begin the renovation of the 8<sup>th</sup> floor of City Hall, to allow the City Attorney's Office to return to its former space.

## II. INITIATIVES AND PROGRAMS.

### 1. Department Overview.

The City Attorney's Office is organized in 4 sections: The Legal Division includes 1) Litigation, Employment and Benefits, 2) Education, Development and Labor, 3) Ordinance Enforcement and General Services; and the 4) Management and Administration. Services provided include conducting litigation, providing legal advice to City officials, preparing and reviewing legislation for the Common Council, and prosecuting violations of City ordinances. The Office oversees the collection of claims and delinquent receivables. The Office is responsible for drafting all legal documents that are required in the conduct of City business. The Office is also responsible for risk management functions. In addition to the regular operating budget for the Office, expenditures for many of these activities are made from Special Purposes Accounts which include funds for Damages and Claims, Insurance, Outside Counsel/Expert Witness and Collections Contracts.

### 2. Community Prosecution/Nuisance Abatement Program.

Since 2005, the Community Prosecution/Nuisance Abatement Unit has collaborated with community agencies and other City departments to abate nuisance properties, eliminate known drug and gang houses, investigate and prosecute problem licensed premises, address boarded-up and vacant properties, and prosecute prostitution and other ordinance violations. The 2005 budget provided initial funding to hire 2 additional Assistant City Attorneys, and 3 attorneys are currently assigned to community prosecution/nuisance abatement efforts.

The program continues activities that were originally begun with several city-wide initiatives; however, the focus and functions have changed over the years as needs change. Some of the program's current activities include:

- **Licensed Premises Investigation and Prosecution.** The program has increasingly assisted the Police Department in efforts to bring license non-renewals and revocations to the Licenses Committee, and to successfully prosecute non-compliant licensees in Municipal Court. These efforts include taverns, "cash for gold" establishments, corner stores, and salvage yards.
- **Nuisance and Foreclosed Property Issues.** The program has partnered closely with the Department of Neighborhood Services over the past 2 years, to better deal with nuisance properties, foreclosed properties, occupancy permit issues, building code violations, demolition and training. Initiatives include a "worst of the worst" program that targets particularly difficult property owners in Circuit Court. The Office is also filing affirmative lawsuits to assist DNS in enforcing its orders.

The attorneys have worked on drafting and implementing many ordinances directed at abandoned and foreclosed properties, and will begin obtaining special inspection warrants. The Office's bankruptcy and foreclosure attorneys have also been involved in addressing some of the worst properties through *in rem* and bankruptcy legal proceedings. The attorneys handle all court challenges to raze orders. The Office prosecutes all building and zoning code violations.

- **Police Department Training and Assistance.** The program continues to work closely with the Police Department community liaisons, aldermanic aides, Neighborhood Services inspectors, assistant district attorneys, and community representatives to improve the s. 80-10 process for addressing chronic nuisance 2 properties. The attorneys appear at the Administrative Review Appeals Board in support of the Police Department's s. 80-10 determinations.

The attorneys have also provided support for many police initiatives, such as party houses, prostitution, drug paraphernalia, salvage investigations and cash-for-gold establishments. The attorneys participate in regularly scheduled meetings in the district stations.

- **Drug and Gang House Abatement.** The Office receives all charging documents relating to the sale of drugs at properties in the city of Milwaukee. Files are opened to track the addresses and property owners, to identify repeat offenders. The attorneys meet with the Police Department and the landlords of the worst violators, and ensure that every landlord receives a notice from the Police Department so that drug dealers can appropriately be evicted. The attorneys participate in knock-and-talks and other strategies to address gang-related problems in the neighborhoods.

### 3. Collection of City Receivables.

The Office maintains 2 contracts with outside firms for the regular collection of City receivables and Municipal Court judgments. Expenditures in 2011 and 2012 for these contracts were \$860,495 and \$867,572, respectively. These amounts are fixed under contract, representing total cost and fee amounts.

- **City Receivables:** The Kohn Law Firm collected nearly \$15.4 million on behalf of the City in 2011 resulting in net receipts of nearly \$13.5 million. Under a new 5-year contract dated December 20, 2011, the Kohn Law Firm collected nearly \$16.5 million in 2012 resulting in net receipts to the City of nearly \$14.4 million, an increase of \$6.8% from 2011. This represents a continuing significant increase from 2009 collections of approximately \$12.5 million with net receipts of approximately \$10.9 million. Figures are based upon independent annual audit reports. It is anticipated that 2013 experience will continue to reflect a higher level of collections in part due to an improving economy.

A 5-year contract with the Kohn Law Firm expired in 2011. Following a competitive RFP process, a new 5-year contract with Kohn, commencing January 1, 2012, was authorized by Common Council File Number 110929, adopted November 30, 2011. The Kohn Law Firm reports that 5,726 claims were placed with the firm for *In Personam* delinquent tax collection in 2012 and 5,990 to date in 2013.

Note: claims are identified by parcel, but a parcel may be referred in multiple years. In addition, more than 150 delinquent real estate tax claims are placed for collection annually on parcels that the City has designated as "do-not-acquire" properties; these claims may be pursued as a simple debt outside of the foreclosure process on a more expedited timeframe.

An amendment to the Kohn contract was authorized by Common Council File Number 130538, adopted September 24, 2013, which reduces the fees charged by Kohn for collection of delinquent real and personal property taxes due to the decision to refer cases from the Treasurer's Office on a more expedited timeframe. Increased collections are anticipated.

**Table 5.2 . Collections by the Kohn Law Firm in 2011 and 2012.**

Receivable Account	2011 Total Amount Collected	2011 Net Amount Received	2012 Total Amount Collected	2012 Total Amount Received	Change in Amounts Received
Building & Inspection	\$118,423	\$89,150	\$98,034	\$79,849	(\$9,301)
City Treasurer, Personal Property Taxes	\$649,899	\$551,621	\$731,192	\$623,707	\$72,086
City Treasurer, Real Estate Taxes	\$14,185,277	\$12,481,031	\$15,134,483	\$13,274,776	\$793,745
Miscellaneous and Neighborhood Services Raze Claims*	\$61,815	\$49,557	\$80,199	\$66,449	\$16,892
Police Department Overpay	\$8,863	\$6,326	\$4,016	\$3,071	(\$3,255)
Public Works	\$332,735	\$246,708	\$335,089	\$259,960	\$13,252
School Board of Directors	\$24,364	\$18,679	\$49,565	\$39,416	\$20,737
Water Works	\$14,139	\$9,931	\$30,350	\$21,524	\$11,593
Total	\$15,398,972	\$13,454,956	\$16,467,349	\$14,372,023	\$917,067

\*Though included in Miscellaneous collections for 2011, figures for Raze Claims have been separately reported for 2012; the audited report finds total collections of \$71,927 and net City receivables of \$59,385 for Raze Claims.

- Municipal Court Judgments:** Over the 3-year period from 2010 to 2012, Municipal Court judgments (including forfeitures, costs, fees and other assessments) totaled nearly \$55 million, of which more than \$25 million remains unpaid. The Harris & Harris collection agency provides collection services for the Municipal Court under a 5-year contract which was renewed following a brief extension in the contract in 2012. The Harris & Harris agency, following a competitive process, was awarded a new 5-year contract and has now opened offices in Downtown Milwaukee.

An amount of approximately \$4.76 million was collected by Harris & Harris in 2012, an increase of 5.6% over the approximately \$4.51 million collected in 2011. Additionally, in the first 7 months of 2013, approximately \$3.42 million has been collected. Total collections in 2013 are currently behind those of 2012, but month-to-month fluctuations make accurate predictions difficult. Larger monthly totals are generally received early in the year due to the tax intercept program. More than \$2.6 million was collected in the first 3 months of 2012 and less than \$2.2 million was collected in the first 3 months of 2013.

#### 4. *In Rem* Foreclosure.

The City Attorney represents the City Treasurer whose duties under s. 75.521, Wis. Stats., and ch. 19 of the Milwaukee Charter include bringing *in rem* actions to foreclose on certain tax-delinquent properties. All *in rem* foreclosure proceedings must be conducted in strict compliance with state uniformity and due process requirements. The City Attorney has prepared an Internal Protocol that identifies certain properties for “Community-Improvement-In-Rem Foreclosure-Actions” authorized by Resolution File Numbers 100862, 091517 and 030680.

- The protocol was initiated following the filing experience of 2001 and 2002 when foreclosure filings were against 2,775 and 1,577 delinquent tax parcels, respectively, resulted in acquiring 1,096 parcels including more than 100 vacant lots. The lower numbers of parcels filed against and acquired are reflected in Table 5.3 for the years 2005 through 2008.
- Beginning in 2009, the average number of parcels acquired in foreclosure has been more than 500, and has grown to 744 in 2012 (74 vacant lots and 670 “improved” parcels).
- Three foreclosure files were initiated by the City Treasurer in 2010 involving 979, 71 and 39 delinquent tax parcels, respectively.
- Equalizing the number of parcels in each filing has resulted in a more even workload through the year. Four foreclosure files were initiated in 2011 involving 221, 242, 272 and 256 delinquent tax parcels, respectively. Three foreclosure files were initiated in 2012 involving 401, 394 and 357 delinquent tax parcels, respectively.
- In 2013 there have been 3 filings against a total of 1,102 parcels; the first filing against 385 parcels resulted in acquisition of 25 vacant lots and 222 “improved” parcels.

**Table 5.3. In Rem Tax Foreclosure Redemption and Acquisitions Rates, 2005-2012.**

Year	Filed Against	Parcels Acquired	Redemption Rate	Acquisition Rate
2005	598	263	56.0%	44.0%
2006	417	160	61.6%	38.4%
2007	385	155	59.7%	40.3%
2008	508	184	63.8%	36.2%
2009	892	461	48.3%	51.7%
2010	1,089	532	51.2%	48.9%
2011	991	597	39.8%	60.2%
2012	1,152	744	35.4%	64.6%
Total	6,032	3,096	48.7%	51.3%

**III. EXPENDITURES.****Table 5.4. Changes in Expenditure Amounts by Account.**

<b>Expenditure Account</b>	<b>2012 Actual</b>	<b>2013 Adopted Budget</b>	<b>% Change</b>	<b>2014 Proposed Budget</b>	<b>% Change</b>
Salaries and Wages	\$4,882,935	\$4,743,124	-2.9%	\$4,675,739	-1.4%
Fringe Benefits	\$2,349,402	\$2,276,700	-3.1%	\$2,197,597	-3.5%
Operating Expenditures	\$398,346	\$407,400	2.3%	\$398,900	-2.1%
Equipment Purchases	\$70,865	\$45,000	-36.5%	\$38,500	-14.4%
Total Operating Budget	\$7,701,548	\$7,472,224	-3.0%	\$7,310,736	-2.2%

**1. Budget Summary.**

The total 2014 Proposed Budget is \$7,310,736, a decrease of \$161,488 (-2.2%) from the 2013 Adopted Budget amount of \$7,472,224. This decrease is largely the result of reductions in Fringe Benefits costs and an increase in the Personnel Cost Adjustment. No amounts are budgeted for Special Funds.

**2. Personnel Costs.**

Personnel costs in the 2014 Proposed Budget are \$6,873,336, a decrease of \$146,488 (-2.1%). Salaries and wages decrease \$67,385 (-1.4%). Fringe benefits decrease \$79,103 (-3.5%).

**3. Operating Expenditures.**

Operating Expenditures in the 2013 Proposed Budget are \$398,900, a decrease of \$8,500 (-2.1%) from the 2013 Adopted Budget amount of \$427,500. The changes can be attributed primarily to the following:

- A reduction in General Office Expense of \$1,000 from the 2013 Adopted Budget and 2014 Requested Budget amount of \$35,000.
- A reduction in Information Technology Services of \$5,500 from the 2013 Adopted Budget and the 2014 Requested Budget amount of \$100,500. See the discussion of IT and data services in Part V. This reduction is consistent with actual 2012 expenditures of \$92,472.
- A reduction in Other Operating Services of \$2,000 from the 2013 Adopted Budget and the 2014 Requested Budget amount of \$15,600. This reduction is consistent with actual 2012 expenditures of \$12,642.

#### 4. Equipment Purchases.

Equipment purchases in the 2013 Proposed Budget are \$32,500, a decrease of \$6,500 (16.7%) from the 2013 Adopted Budget amount of \$39,000. The major expenditures from the 2013 Equipment Purchases account are for books and legal reference materials. The 2014 Requested Budget of \$34,000 was \$5,000 less than the 2013 Adopted Budget. The 2014 Proposed Budget is \$1,500 less than the Requested Budget.

#### IV. PERSONNEL.

**Table 5.5. Changes in Full-Time Equivalent (FTE) and Authorized Positions.**

Position Category	2012 Actual	2013 Adopted Budget	Change	2014 Proposed Budget	Change
O&M FTEs	55.99	57.00	1.01	57.60	0.60
Non-O&M FTEs	1.24	2.00	0.76	2.00	0
Total Authorized Positions	63	63	0	63	0

##### 1. Personnel Changes.

The total number of authorized positions in the department under the 2014 Proposed Budget is 63, the same number of positions as authorized in the 2012 and 2013 Adopted Budgets. Changes in Full Time Equivalent are summarized in Table 5.5.

- The 2012 budget provided for converting one Assistant City Attorney position to an unfunded Auxiliary position. This position was restored to full funding in the 2013 Budget, without a change in authorized positions.
- There is an increase of 0.60 O&M FTEs to effectively adjust the time of 2 Assistant City Attorney III positions from 1.20 FTEs to one full FTE and one 0.80 FTE. This adjustment reflects increased workloads involving the Milwaukee Public Schools (MPS) and the increased prosecution of “subrogation” cases.

Two factors have increased the MPS workload: first, there has been an increase in the number of appeals of special education determinations; second, the elimination of collective bargaining by Act 10 has created an entirely new human resource environment resulting in increases in requests for opinions and advice.

Claims by injured City workers against 3<sup>rd</sup> parties have increased in recent years resulting in increases in the number of claims that the City may pursue to collect amounts to reimburse the City for worker compensation awards.

- Budget Footnote A continues to provide that one position of Assistant City Attorney is to be vacant “...for each of up to two filled Deputy City Attorney positions.”



## **2. Vacancies.**

There have been 4 vacancies for Assistant City Attorney III positions since the adoption of the 2013 Budget. One position has been filled and 3 remain vacant but have been authorized.

## **3. Retirements.**

The Employees' Retirement System has identified the City Attorney's Office as one of the 6 City agencies with the highest proportions of retirement-eligible employees over the next 10 years.

## **4. Proposal for Merit Pay System.**

The City Attorney's Office has presented a proposal for a merit pay system to DER for review. The 2014 Proposed Budget and Plan does not reflect the proposal. However, consideration of the plan is continuing and may provide a model for City-wide changes.

## **V. INFORMATION TECHNOLOGY.**

The Office has contracted for IT services with the firm Information Technology Services for Lawyers (ITS Law) for several years. Annual expenditures under this sole-source contract are expected to be reduced from levels of approximately \$70,000 per year over the course of the next year as upgrades are completed and additional support is obtained from ITMD. The services provided by ITS Law involve at least one day of consultant support per week to assist in upgrading and integrating a variety of software systems, troubleshooting problems, and training staff on newer systems.

The Office is currently undergoing significant software changes, including upgrading the primary elements of business software (ProLaw and DocsOPEN) to current versions. Simultaneously, each office computer is to be upgraded to current versions of Windows operating systems and Microsoft Office. Further upgrading should be unnecessary for several years. Initially planned for completion in 2013, the Office reports that the timetable may be moved into early 2014.

Completion of these upgrades is expected to reduce reliance upon the contract with ITSLaw and the Office plans to move more IT support tasks to ITMD over the course of 2014.

One issue which has been raised in recent years is related to the handling, storage and retrieval of voluminous records many of which, in addition to being subject to Open Records requests, may be subject to discovery in litigation. The Office reports that closed files have been scanned for approximately a year, and digital information has been stored in a ProLaw database. Most of the closed files from 2009 to the present are now stored in this manner. Paper files are still maintained, but the information is accessible digitally. Efforts have been coordinated with the Office's technology contractor and with the Document Services Section to identify possible improvements in the processes and standards used for search, retrieval and related tasks. One option under consideration is to implement scanning by the Documents Services Section to be processed with Optical Character Recognition software. This could allow for more immediate and efficient full-text search functions. Also under consideration is moving away from archival storage in ProLaw and utilizing either the DocsOPEN system in the Office or the City-wide eVault system.

## VI. SPECIAL PURPOSE ACCOUNTS (SPA).

SPAs are budgeted outside of departmental operating accounts, and control over SPAs is provided to departments by resolution. The 2014 Proposed Budget includes funding for the SPAs identified in Table 5.6.

**Table 5.6. Changes in Special Purpose Accounts by Account.**

Account	2013 Adopted Budget	2012 Carryover	Expended as of 9/26/2013	2014 Proposed Budget
Collection Contract Fund	\$885,000	\$0	\$437,529	\$885,000
Damages and Claims Fund	\$1,225,000	\$56,000	\$849,486	\$1,225,000
Insurance Fund	\$440,000	\$0	\$411,964	\$429,689
Nuisance Abatement Fund	\$0	\$0	\$0	\$0
Outside Counsel-Expert Witness Fund*	\$430,000	\$80,377	\$408,116*	\$430,000
Total	\$2,980,000	\$136,377	\$2,107,095	\$2,969,689

\*Figures do not include the Contingent Fund appropriation and authorized expenditures of up to \$460,000 described in section V. item 5.

### 1. Collection Contract Fund, \$885,000.

The Collection Contract Fund covers the costs to the City of placing delinquent taxes, Municipal Court judgments and other collectibles with the Kohn Law Firm and Harris & Harris, LTD, under the collections contracts described in Part II, Section 3. The proceeds to the City from these collection activities are returned to the General Fund. In 2012, these proceeds totaled more than \$19.1 million.

### 2. Damages and Claims Fund, \$1,225,000.

The Damages and Claims Fund is used to pay damages and claims against the City that have been settled or resolved or that are the result of a judgment or order from a court or other tribunal. Since the beginning of 2012, nearly 20 resolutions settling claims and authorizing a expenditures from the Damages and Claims Fund have been adopted in amounts ranging from \$500 to nearly \$120,000. Settlement of claims in the *Frank Jude* litigation for higher amounts were paid from contingent borrowing. Other cases combined expenditures from the Damages and Claims Fund with other fund sources.

The figure budgeted for Damages and Claims has often been a “place-holder” because of difficulties in forecasting whether and when large liabilities may come due. For example, total expenditures in 2007 from the Damages and Claims fund approached \$14 million due largely to the *Alexander* litigation (MPD discrimination case). In anticipation of this demand on the Fund, the budget for 2007 was more than doubled; nevertheless, nearly \$10 million additional appropriations became necessary.

**Table 5.7 Expenditures from the Damages and Claims Fund, 2006-2012.**

Year	Budgeted	Expenditure	Difference From Budget
2006	\$1,875,000	\$1,213,158	\$661,842
2007	\$3,875,000	\$13,723,873	(\$9,848,873)
2008	\$1,375,000	\$3,471,137	(\$2,096,137)
2009	\$1,375,000	\$4,399,201	(\$3,024,201)
2010	\$1,375,000	\$1,136,690	\$238,310
2011	\$1,375,000	\$1,102,886	\$272,114
2012	\$1,275,000	\$3,574,428	(\$2,299,428)
Average	\$1,789,286	\$4,088,768	(\$2,299,482)

It has been suggested that there may be a high risk of exposure to large judgments over the next several years in connection with the so-called "body cavity search" cases.

### **3. Insurance Fund, \$429,689.**

Policy premiums of approximately \$429,689 are decreased \$10,311 (2.3%) to more accurately reflect the actual costs of participating in the Local Government Insurance Fund (for property insurance in an amount of \$238,000) and the premiums and payments for approximately 30 additional policies and performance bonds. The actual expenditures for policy premiums and performance bond payments in 2012 totaled \$416,671.

### **4. Nuisance Abatement Fund, \$0.**

The "Nuisance Abatement Fund," was established in 2008 to replace the Receivership Fund, reflecting the end of servicing the Woodlands receivership project and the actual use of these funds for other nuisance abatement efforts. The amount budgeted for this fund in 2012 was \$25,000. No amount was budgeted for this SPA in 2013 and none is proposed for 2014. Expenditures totaling \$3,059 were made in 2012, but no amount has been carried over.

### **5. Outside Counsel/Expert Witness Fund, \$430,000.**

The City Attorney has expenditure authority for the Outside Counsel/Expert Witness Fund Special Purpose Account. Common Council File Number 030083 directs the City Attorney to advise the Judiciary and Legislation Committee in writing within 48 hours of the hiring of any outside counsel whose compensation is anticipated to exceed \$10,000. The City Attorney is also directed to file a written report to the Judiciary and Legislation Committee every other meeting providing expenditure figures for the Outside Counsel/Expert Witness Fund Special Purpose Account.

- Common Council File Number 130211, adopted July 2, 2013, appropriated up to \$460,000 from the 2013 Common Council Contingent Fund for the Outside Counsel/Expert Witness Fund for expenditures related to City Hall restoration litigation. An amount of \$102,261 remained unexpended as of September 26, 2013.

Funds from the Contingent Fund appropriation have not yet been expended, and it is possible that the full appropriation authority may not need to be exercised.

- The reports for expenditures in 2012 and 2013 can be accessed as attachments to Council File Numbers 111254, 111390, 120077, 120933, 121286, 121376, 121396 and 130692. Earlier files reflect considerable itemized expenses related to the *Frank Jude* litigation while later files reflect expenditures related to the City Hall restoration litigation. Also figuring prominently in the itemized costs and fees have been expenditures related to tax assessment litigation.

## VII. REVENUES.

**Table 5.8. Changes in Revenue.**

Revenue Account (Charges for Services)	2012 Actual Expenditures	2013 Adopted Budget	% Change	2014 Proposed Budget	% Change
<b>Total</b>	\$764,038.00	\$826,000.00	8.10%	\$797,400.00	(3.5%)

The 2014 Proposed Budget estimates that \$797,400 will be generated in revenues from charges for services by the department, a \$28,600 (-3.5%) decrease from the 2013 Budget estimate. The revenues generated by the Office are primarily reimbursements from other agencies for services rendered. These sources include funds collected as a result of services to RACM, HACM and Water Works.

One additional revenue amount of \$20,000 for reimbursement from the vacation of *In Rem* judgments has been recognized by the Comptroller as 2014 revenue. This revenue appears in a separate revenue account and not in the Charges for Services account.

The projected decrease in budgeted revenues for 2014 is consistent with current experience and does not reflect any significant change in services provided by the Office.

**Table 5.9. 2014 Estimated Revenues By Source.\***

Source	2012 Actual Revenue	2013 Estimated Revenue	2014 Estimated Revenue
Employees' Retirement System	\$178,217	\$190,000	\$185,000
Central Service Costs	\$55,537	\$50,000	\$52,400
Services to RACM*	\$297,407	\$300,000	\$300,000
Services to HACM	\$11,195	\$127,000	\$115,000
Services to Water	\$101,585	\$100,000	\$106,000
Other Charges for Services	\$20,023	\$59,000	\$39,000
Vacation of In Rem Judgments	\$15,500	\$25,000	\$20,000

\*Estimates provided by the Comptroller's Office.

Note: An account identified as "Miscellaneous" revenue recorded an average of more than \$24,000 annually in City Attorney revenues over the 4-year period 2009 to 2012; no amount for Miscellaneous revenue was estimated or recognized by the Comptroller's Office or budgeted in 2013 and none is included in the 2014 Proposed Budget.

## VIII. CAPITAL PROJECTS.

The 2014 Proposed Budget includes \$2,010,000 in funding for one capital project. No capital funding was provided in 2012 or 2013.

### 1. Currently-Funded Projects.

#### City Hall 8<sup>th</sup> Floor Remodeling, \$2,010,000

In 2006, the City Attorney's Office was moved from the 8th floor of City Hall to accommodate the City Hall Restoration project. It was anticipated that the City Attorney would need to vacate the 8th floor for 2-3 years. The City Attorney currently occupies space on the 7th and 10th floors of the Zeidler Municipal Building (ZMB).

The City Attorney indicates that its current location is insufficient in terms of size and design. There are no office accommodations for 2 attorneys to perform their functions. The space lacks adequate storage and preparation areas for on-going projects and litigation. As a result, the Office of the City Attorney lacks the space, privacy and security recommended for the sensitive and confidential nature of its work.

The City Attorney submitted a capital request for inclusion in the 2011 Budget to make the improvements necessary to allow the Office to return to the 8th floor of City Hall. The submittal included detailed cost estimates and a proposed floor plan. The total 6-year cost was estimated to be \$4.8 million (\$282.40/SF). The request was not funded.

A revised request was submitted for the 2012 Budget which proposed implementing the project over 3 years with additional funding required in 2013 and 2014. Although the estimated cost of the project remained at \$4.8 million, the Capital Improvements Committee expressed concern that phasing the project over 3 years would cause unnecessary increases in the overall cost. The Committee recommended implementing the project over no more than 2 years. The 2012 Proposed Budget provided authority to borrow \$1.6 million in 2012 to begin the renovation. The funding was removed from the 2012 Budget by amendment. The project was not included in the 2013 Budget but remained in the City's 6-year capital plan.

For 2014, the total 6-year request is \$5.5 million, (approx. \$322/SF) an increase of 14% from when it was first requested in 2011. Of the estimated project cost, approximately \$1.5 million will be used to fund the upgrade of the electrical, mechanical and fire suppression systems. These systems will need to be upgraded regardless of which department occupies the 8th floor.

The 2014 Proposed Budget also provides \$150,000 to move the Fire and Police Commission to the space that is currently occupied by the City Attorney on the 10<sup>th</sup> Floor of the ZMB. If the City Attorney project does not move forward, an alternate location for the Fire and Police Commission will need to be identified.

The Capital Improvements Committee recognizes that the City Attorney's current location does not adequately meet the needs of the department. However, it recommended that a comprehensive exploration and evaluation of all options be undertaken by an advisory committee to determine the best use of space in the City Hall Complex before funding is provided for this project.

## **2. Unfunded Capital Requests.**

There are no unfunded capital requests for 2014.

## **3. Project Updates.**

There are no recent capital projects.

## **4. Future Capital Requests.**

The only out-year request relates to the 8th Floor of City Hall project. The total cost of that project is estimated to be \$5,488,981.

**IX. ISSUES TO CONSIDER.**

1. In its review of the 2014 capital requests, the Capital Improvements Committee noted a lack of coordination regarding the use of space at City facilities. There are a number of departments, including the City Attorney, that have made requests to have offices remodeled, reconfigured or relocated. At this time there is no authoritative body that monitors departmental needs and no comprehensive plan to allocate space in the City's facilities. The Committee suggested that it would be beneficial to have a plan which would allow individual requests and proposals to be evaluated within a framework of the overall needs of the City.

2. It appears likely that demands upon the Damages and Claims Fund SPA in the next several years may well exceed the current level of funding which has been reduced to \$1,225,000 in the 2013 Budget and in the Proposed 2014 Budget. Average budget appropriations since 2006 have been slightly more than \$1.7 million. Average annual expenditures have been much higher due to outlier years (2007, 2009 and 2012) and have exceeded \$4 million.

3. The staff and management configuration (as well as physical configuration) of the Office is likely to change significantly over the next several years. This provides an excellent opportunity to more fully examine and shape management and technology systems. A professional audit of the Office may therefore be timely. An audit of the City Attorney's Office of Denver (June, 2013) provides one example of an assessment of litigation and claims management performance, efficiency and effectiveness of management practices, cost controls and technological support.

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