

CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND

AGENDA REPORT

TO: 2011 JUN -1 PM 1:15
Office of the City Administrator
ATTN: P. Lamont Ewell
FROM: Public Works Agency
DATE: June 14, 2011

- RE:
1. A Ordinance Amending The Oaidand Municipal Code Title 13, Chapter 13.08 To Add New Regulations Requiring Oakland Property Owners To Inspect And Certify Lower Sewer Laterals In The Public Right-Of-Way At The Time Of Property Transfer, Major Remodeling And Change In Water Service
 2. A Resolution Authorizing The City Administrator Or His Designee To Sign A Statement Of Roles And Responsibilities With The East Bay Municipal Utility District For Implementation of The East Bay Regional Private Sewer Lateral Program

SUMMARY

An ordinance has been prepared amending Oakland's Municipal Code and extending the East Bay Municipal Utility District's (EBMUD) Regional Private Sewer Lateral (PSL) Ordinance to apply to lower sewer laterals. EBMUD adopted the Regional PSL Ordinance in February 2010 and subsequently the City Council passed Ordinance No. 13025 C.M.S. in July 2010 adopting the EBMUD Regional PSL Ordinance. However, the ordinance covered only the upper portion of sewer laterals (that portion between the property line and the building). The United States Environmental Protection Agency (US EPA) is requiring Oakland to extend the EBMUD Regional PSL Ordinance to apply to lower laterals. Approval of this ordinance will bring the City into compliance with the EPA mandate.

In addition, a resolution has been prepared authorizing the City Administrator or his designee to sign a Statement of Roles and Responsibilities with EBMUD for the implementation of the East Bay PSL program in Oakland. A copy of the Statement of Roles and Responsibilities is attached as *Exhibit A* to the resolution.

It is recommended the ordinance be adopted and resolution be approved.

FISCAL IMPACT

There is no direct fiscal impact to the City by extending EBMUD's Regional Private Sewer Lateral Ordinance to apply to lower sewer laterals. The City will be required to coordinate with EBMUD to track the implementation of this program. Costs associated with this work are minor and are expected to be self-covering through the current permitting process. More importantly, if the City does not enact this ordinance, it will be in violation of the EPA Stipulated Order and subject to enforcement and legal costs.

Item: _____
Public Works Committee
June 14, 2011

BACKGROUND

The US EPA has required EBMUD and the East Bay communities within its service area, such as Oakland, to implement a regional PSL program. A private sewer lateral is the sewer pipe that connects the house to the City's main sewer in the street. The objective of this program is to reduce infiltration and inflow (I/I) of stormwater resulting from defective private sewer laterals. Infiltration and inflow are the technical terms referring to rainwater and/or groundwater that enters the sewer system through such sources as cracked pipes, leaky manholes, or improperly connected storm drains and roof gutter downspouts.

EBMUD adopted the Regional PSL Ordinance for the East Bay region in February 2010 but that ordinance covered only the portion of sewer lateral that lies within private property, known as upper lateral. The City Council passed Ordinance No. 13026 C.M.S. in July 2010 adopting the EBMUD PSL Ordinance. The US EPA is now requiring Oakland to enact another ordinance extending the EBMUD PSL Ordinance to apply to lower sewer laterals within the public rights-of-way. With the City's ordinance, EBMUD will be authorized to apply the PSL program to the entire sewer lateral, lower and upper laterals, to comply with the intent of the EPA mandate.

For the implementation of the regional PSL program, EBMUD and Oakland have agreed to sign a Statement of Roles and Responsibilities (SORR). The SORR sets forth protocols and guidelines for working together with EBMUD to coordinate the program and to provide an extensive public outreach and education program for the benefit of the homeowners, contractors, and real estate professionals.

KEY ISSUES AND IMPACTS

Oakland is required to enact this ordinance extending EBMUD's PSL Ordinance to lower laterals by June 21, 2011. As with the previously adopted ordinance, property owners will be required to obtain a "Compliance Certificate" prior to any one of the following three events: a) transferring property title, b) obtaining any permit for the construction or significant modification of the property, or c) obtaining an approval for a change in water service meter size. This program will become effective later this year. EBMUD will perform inspections under the SORR.

The "Compliance Certificates" will be issued by EBMUD and will be valid for 20 years from the date of issuance for complete replacement of the private sewer lateral, and 7 years from the date of issuance for compliance resulting from a repair or testing without a repair. A compliance certificate confirms that the sewer lateral serving the subject property is in good condition and is not a source of infiltration or inflow of rainwater. The property owner will be responsible for all work required for the certification of the PSL in accordance with EBMUD's procedures. All repair and replacement work will be required to conform to the City of Oakland's standards and permit requirements. The typical cost of replacing the private sewer lateral ranges from \$3,000.00 to \$6,000.00. In certain situations, a back flow valve may be needed as required by the City Plumbing Code.

While the primary purpose of the program is to identify laterals that contribute to infiltration and inflows, a side benefit is that deteriorated laterals will be identified before they fail and cause costly sewer backups into homes and businesses.

SUSTAINABLE OPPORTUNITIES

Economic: The certification of private sewer laterals will create more jobs for small and potentially local contractors. New laterals may increase the value of the subject property. The typical cost to property owners for replacing private sewer laterals ranges from \$3,000.00 to \$6,000.00, and the fee for obtaining Compliance Certification from EBMUD is \$150.00.

Environmental: Repairing or replacing leaky sewers will reduce sewer leaks and overflows and thereby provide benefits to the environment.

Social Equity: The adoption of EBMUD's PSL Ordinance will help reduce and possibly eliminate wastewater overflows, thereby benefiting all Oakland residents. The ordinance will be applied to homes that change ownership and to those that are planned for major remodeling. It does not target a specific group or neighborhood.

DISABILITY AND SENIOR CITIZEN ACCESS

There is no direct impact or benefit to seniors or people with disabilities.

RECOMMENDATION AND RATIONALE

Adoption of the ordinance will allow the City to comply with the US EPA mandate. It is recommended that the City of Oakland adopts the ordinance and extend EBMUD's Private Sewer Lateral Regional Ordinance as amended in EBMUD's Ordinance No. 311 to include lower laterals. In addition, approval of the resolution will authorize the City Administrator or his designee to sign a Statement of Roles and Responsibilities for the implementation of the East Bay Regional Private Sewer Lateral Program.

Item: _____

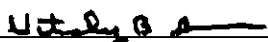
Public Works Committee

June 14, 2011

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt the ordinance and approve the resolution.

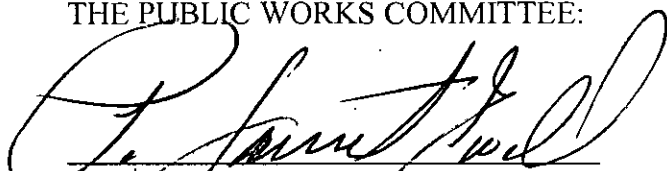
Respectfully submitted,


Vitaly B. Troyan, P.E., Director
Public Works Agency

Reviewed by:
Michael Neary, P.E., Assistant Director,
PWA, Department of Engineering and Construction

Prepared by:
Allen Law, P.E., Supervising Civil Engineer
Engineering Design & R.O.W. Management Division

APPROVED AND FORWARDED TO
THE PUBLIC WORKS COMMITTEE:


Office of the City Administrator

INTRODUCED BY COUNCILMEMBER _____

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE
TITLE 13, CHAPTER 13.08 TO ADD NEW REGULATIONS
REQUIRING OAKLAND PROPERTY OWNERS TO INSPECT
AND CERTIFY LOWER SEWER LATERALS IN THE PUBLIC
RIGHT-OF-WAY AT THE TIME OF PROPERTY TRANSFER,
MAJOR REMODELING AND CHANGE IN WATER SERVICE**

WHEREAS, the United States Environmental Protection Agency (EPA) requires the City of Oakland, other East Bay municipalities and the East Bay Municipal Utility District (EBMUD) to develop and implement a regional program to reduce infiltration and inflow (I/I) into the cities' sewer systems and EBMUD's collection and treatment system; and

WHEREAS, EPA is requiring Oakland's property owners to have private building sewers (both upper building sewer laterals on private property and lower building sewer laterals in the public right-of-way) inspected and certified at the time of property transfer, major remodeling, or changes in water service to address infiltration and inflow (I/I) into building sewers; and

WHEREAS, in February 2010 EBMUD adopted regional regulations (EBMUD Regional Private Sewer Lateral Ordinance No. 311) to inspect and certify upper building sewer laterals; and

WHEREAS, the City of Oakland passed an ordinance amending Oakland Municipal Code Chapter 13.08 to adopt EBMUD's upper building sewer lateral regulation in Oakland (Ordinance No. 13026 C.M.S., passed July 2010); and

WHEREAS, EPA is requiring the City of Oakland to further regulate lower building sewer laterals in the same manner as upper building sewer laterals; and

WHEREAS, the City of Oakland desires to have EBMUD inspect and certify lower building sewer laterals at the same time it inspects and certifies upper building sewer laterals; and

WHEREAS, EBMUD has agreed to inspect and certify lower building laterals at the same time it addresses upper building sewer laterals; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1.

Add the following definitions to Section 13.08.020 – Definitions.

“Compliance Certificate” means a certificate issued by EBMUD indicating that a building sewer (upper building sewer lateral and lower building sewer lateral) complies with the requirements as set forth in the EBMUD Regional PSL Ordinance, Title VIII and this Chapter.

“EBMUD” means the East Bay Municipal Utility District, Special District No.1.

“EBMUD Regional PSL Ordinance” means the East Bay Municipal Utility District Ordinance 311, Title VIII, Regulation of Private Sewer Laterals, its implementation and any future amendments or modifications thereto.

Section 2.

Section 13.08.600 of Chapter 13 of the Oakland Municipal Code is added now to read:

13.08.600 – Building Sewer Inspection, Replacement, Compliance with EBMUD Regional PSL Ordinance, and Compliance Certificates.

The property owner shall be responsible for inspecting building sewers, obtaining all required permits, performing all necessary building sewer repair or replacement, scheduling inspections with EBMUD, passing a verification test witnessed by EBMUD, obtaining and filing with the City a Compliance Certificate from EBMUD as set forth in the EBMUD Regional PSL Ordinance for the entire building sewer (upper building sewer lateral and lower building sewer lateral) when one or more of the following events occurs:

- A. Title Transfer. Prior to transferring title associated with the sale of any real property that contains any structure with a building sewer. Title transfer means the sale or transfer of an entire real property estate or the fee interest in that real property estate and does not include the sale or transfer of partial interest, including a leasehold. In addition, the following shall not be included: (1) transfer by a fiduciary in the course of the administration of a decedent’s estate, guardianship, conservatorship, or trust, (2) transfers from one co-owner to one or more other co-owners, or from one or more co-owners into or from a revocable trust, if the trust is for the benefit of the grantor or grantors, (3) transfers made by a trustor to fund an inter vivos trust. (4) transfers made to a spouse, to a registered domestic partner as defined in Section 297 of the Family Code, or to a person or persons in the lineal line of consanguinity of one or more of the transferors. (5) transfers between spouses or registered domestic partners resulting from a decree of dissolution of marriage or domestic partnership, or a decree of legal separation or from a property settlement agreement incidental to a decree.
- B. Construction and Remodeling. Whenever a property owner applies for any permit or other approval needed for construction, remodeling, modification or alteration of any structure with a building sewer where the cost of the work is estimated to exceed \$100,000.

- C. Change in Water Services. Whenever a property owner applies for any permit or other approval from the EBMUD for an increase or decrease in size of the owner's water meter.
- D. An Individually-Owned Unit in a Multi-Unit Structure Served by a Common Private Sewer or Shared Laterals such as condominium or other common interest development. Within the period of time set forth in the EBMUD Regional Ordinance, the homeowners' association or a responsible party for this type of multi-unit structure shall determine if the sewer lateral(s) is(are) in compliance with the EBMUD Regional PSL Ordinance and perform any necessary repair or replacement work to achieve compliance. Thereafter, re-certification of the sewer lateral shall occur at twenty (20) year intervals.
- E. Property Developments Other Than Those Specified in (D) Above With Sanitary Sewers Totaling Greater Than 1000 Feet In Length. Within the period of time set forth in the EBMUD Regional PSL Ordinance, property owners or responsible parties for property developments with sanitary sewers totaling greater than 1000 feet in length, shall submit for EBMUD approval, a Condition Assessment Plan with a schedule to perform testing to assess the condition of all of the sewer laterals on the property to determine compliance with the EBMUD Regional PSL Ordinance. Within the period of time specified in the EBMUD Regional PSL Ordinance, property owners or responsible parties shall complete all condition assessment testing, and submit a Final Corrective Action Work Plan for EBMUD approval. Thereafter, re-certification of the sewer lateral shall occur at twenty (20) year intervals.
- F. Exception. A property owner of a structure with a building sewer that is less than 10 years old from the date of: (1) intended title transfer, (2) obtaining a permit for remodeling, or (3) obtaining an approval for the change in water service, and has appropriate evidence, such as a valid building permit showing that the sewer lateral was replaced in total and received a final inspection from the City, may request an Exemption Certificate from EBMUD and does not have to obtain a Compliance Certificate.
- G. Dangerous and Insanitary Sewer Condition. Whenever a dangerous or insanitary sewer condition is found as set forth by this Chapter and a notice to abate is provided according to the procedure established by the Director of Public Works.

Section 3.

Section 13.08.610 of Chapter 13 of the Oakland Municipal Code is added now to read:

13.08.610 – Responsibility and Standards for Maintenance of Upper and Lower Building Sewer Laterals.

It shall be the responsibility of the property owner to perform all required maintenance, repairs and replacement of the upper and lower building sewer lateral in accordance with EBMUD's and the City of Oakland's ordinance requirements. Standards for maintenance of the upper and lower building sewer lateral are set forth below:

- A. The upper and lower building sewer lateral shall be kept free from roots, grease deposits, and other solids, which may impede or obstruct the flow.
- B. All joints shall be watertight and all pipes shall be sound.

- C. The upper and lower building sewer lateral pipe shall be free of any structural defects such as fractures, cracks, breaks, openings, or missing portions.
- D. All cleanouts shall be securely sealed with a proper cap or approved overflow device at all times.
- E. There shall be no non-sanitary sewer connections to the upper or lower sewer lateral or to any plumbing that connects to the upper or lower sewer lateral.

Section 4.

Section 13.08.620 of Chapter 13 of the Oakland Municipal Code is added now to read:

13.08.620 – Adoption of the EBMUD Regional PSL Ordinance by Reference.

The East Bay Municipal Utility District Ordinance 311, Title VIII, Regulation of Private Sewer Laterals is hereby adopted by reference. The City Council may adopt amendments or modifications to the ordinance thereto, as the ordinance may be amended or modified by EBMUD.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

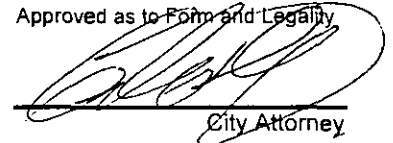
ATTEST: _____
 LaTonda Simmons
 City Clerk and Clerk of the Council
 of the City of Oakland, California

DATE OF ATTESTATION: _____

NOTICE AND DIGEST

**ORDINANCE
AMENDING OAKLAND MUNICIPAL CODE
TITLE 13, CHAPTER 13.08
TO ADD NEW REGULATIONS REQUIRING
OAKLAND PROPERTY OWNERS TO INSPECT AND CERTIFY
LOWER SEWER LATERALS IN THE PUBLIC RIGHT-OF-WAY AT
THE TIME OF PROPERTY TRANSFER, MAJOR REMODELING
AND CHANGE IN WATER SERVICE**

This Ordinance will amend chapter 13 of the Oakland Municipal Code (Section 13.08) and will add new regulations requiring inspection of private building sewer laterals within public right-of-way, performing the necessary repairs, scheduling an inspection with East Bay Municipal Utility District (EBMUD), passing a verification test witnessed by EBMUD, and obtaining a Compliance Certificate from EBMUD as set forth in the EBMUD Regional Private Sewer Lateral Ordinance. This requirement will be triggered at the time of property transfer, major remodeling where the cost of the remodel work is estimated to exceed \$100,000 or changes in water service from EBMUD.



City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

SEP 11 11 16 AM '16

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HIS DESIGNEE TO SIGN A STATEMENT OF ROLES AND RESPONSIBILITIES WITH THE EAST BAY MUNICIPAL UTILITY DISTRICT FOR IMPLEMENTATION OF THE EAST BAY REGIONAL PRIVATE SEWER LATERAL PROGRAM

WHEREAS, the U.S. Environmental Protection Agency (EPA) is requiring the City of Oakland and EBMUD to develop and implement a regional private sewer lateral certification program; and

WHEREAS, such regional private sewer lateral is required to address infiltration and inflow (I/I) into the entire private sewer lateral, upper building sewer lateral and lower building sewer lateral; and

WHEREAS, in February 2010 the East Bay Municipal Utility District (EBMUD) adopted a Regional Private Sewer Lateral (PSL) Ordinance to address infiltration and inflow (I/I) into upper building sewer laterals; and

WHEREAS, EBMUD's Regional Private Sewer Lateral Ordinance applies to the jurisdictions in the District's SD-1 wastewater service area including the City of Oakland; and

WHEREAS, the U.S. Environmental Protection Agency (EPA) is requiring the City of Oakland to extend the EBMUD PSL Ordinance to apply to lower building sewer laterals; and

WHEREAS, the City of Oakland and EBMUD are required to sign a Statement of Roles and Responsibilities for Implementation of the East Bay Regional Private Sewer Lateral Program; and

WHEREAS, a copy of said Statement of Roles and Responsibilities is attached as *Exhibit A*; now, therefore be h

RESOLVED: That the City Administrator or his designee is hereby authorized to sign said Statement of Roles and Responsibilities between the City and the East Bay Municipal Utility District for Implementation of the East Bay Regional Private Sewer Lateral Program.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and
PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

**STATEMENT OF ROLES AND RESPONSIBILITIES
BETWEEN THE CITY OF OAKLAND (OAKLAND)
AND THE EAST BAY MUNICIPAL UTILITY DISTRICT (DISTRICT)
FOR IMPLEMENTATION OF
EAST BAY REGIONAL PRIVATE SEWER LATERAL PROGRAM**

DEFINITIONS

1. **Compliance Certificate:** A certificate issued by the DISTRICT indicating that the private sewer lateral complies with the DISTRICT's verification test requirements.
2. **Enforcement:** Punitive measures taken by DISTRICT to achieve compliance by those failing to satisfy the Regional Private Sewer Lateral (PSL) Ordinance requirements.
3. **Outreach Materials:** Information prepared by DISTRICT, and mutually agreed to by OAKLAND and DISTRICT, about the Regional PSL Program describing procedures, processes, and fees for distribution to property owners, real estate and escrow professionals, contractors and other interested parties.
4. **Regional Private Sewer Lateral (PSL) Ordinance:** East Bay Municipal Utility District Ordinance No. 311 Section VIII titled "Regulation of Upper Sewer Laterals" that sets forth requirements for upper laterals to be inspected and if necessary repaired or replaced when certain triggers are met by a property owner.
5. **OAKLAND'S Municipal Code:** City of Oakland's local municipal ordinances and regulations.
6. **Regional Private Sewer Lateral (PSL) Program:** The comprehensive management effort to implement the requirements of both the Regional PSL Ordinance and related portions of OAKLAND'S Municipal Code. The Regional PSL Program requires the testing of privately owned sewer laterals and where needed, repair or replacement of defective laterals by property owners who are:
 - selling their homes;
 - performing building remodel projects in excess of \$100,000; or
 - changing their water meter size.

7. Verification Test: A test consisting of a low pressure air or water exfiltration test conducted on a private sewer lateral to ensure that the lateral is free of leaks.
8. Waiver Process: OAKLAND'S process to enable a property owner to receive a waiver for performing work on the lower lateral under certain approved conditions.
9. Exemption Certificate: A certificate issued by the DISTRICT when the property owner provides appropriate evidence, such as a valid building permit, showing that the sewer lateral was replaced in total less than 10 years ago. When an Exemption Certificate is issued the property owner does not have to obtain a Compliance Certificate.

OUTREACH

1. DISTRICT agrees to produce and provide to OAKLAND (with replenishments as needed) outreach materials for the Regional PSL Program. DISTRICT agrees to maintain
 - a. A website for the Regional PSL Program with appropriate referrals to OAKLAND'S web pages; and
 - b. A Phone number and contact person where the public can get answers to questions about the program.
2. OAKLAND agrees to make available outreach materials, prepared by the DISTRICT for the Regional PSL Program at City Hall, Oakland's Permit Center and other locations as needed.
3. OAKLAND and DISTRICT shall assist each other in outreach activities, as needed.

PERMITTING AND INSPECTION

1. OAKLAND continues to be the permitting agency for all sewer lateral work in accordance with OAKLAND'S Municipal Code.
2. OAKLAND agrees to expeditiously issue sewer and encroachment permits for sewer lateral work that must be performed for the Regional PSL Program.
3. DISTRICT agrees to expeditiously schedule sewer lateral verification tests and issue Compliance Certificates when a sewer lateral passes such tests.
4. OAKLAND shall continue to perform construction and materials inspection for all sewer lateral work.

5. DISTRICT shall witness the verification test for the entire sewer lateral, consisting of the upper lateral and lower lateral and document compliance or non-compliance.

CERTIFICATES AND WAIVERS

1. DISTRICT shall issue a single Compliance Certificate valid for an entire sewer lateral that passes the verification test. The DISTRICT will not issue a Compliance Certificate in the event either an upper lateral or a lower lateral does not pass a verification test on a property, unless the upper lateral passes and a waiver from OAKLAND for the lower lateral work is granted.

If OAKLAND wishes to issue a waiver, OAKLAND shall:

- a) fill out the DISTRICT provided waiver form (Attachment A),
 - b) return the waiver form to the property owner, and
 - c) direct the property owner to return the waiver form to the DISTRICT.
2. OAKLAND shall not complete a final inspection to finalize a project for remodeling projects in excess of \$100,000 until the property owner produces a Compliance Certificate or Exemption Certificate for sewer lateral work required by the Regional PSL Program.
 3. OAKLAND shall make available information to property owners about the benefits of obtaining a Regional PSL Program Compliance Certificate even where compliance is not mandated by the Regional PSL Program.

DATA SHARING and ANNUAL REPORTING

1. DISTRICT will prepare annual report as required by the regulatory agencies.
2. DISTRICT will develop and maintain a regional database of records for the Regional PSL Program and will share data, as reasonably requested, in a timely fashion.
3. As required by its Stipulated Order, beginning July 1, 2012, OAKLAND shall "submit to EBMUD [i.e., DISTRICT], in either electronic or hard copy format as the City [i.e., OAKLAND] chooses, a monthly log of all remodel permits for jobs greater than \$100,000 where a final inspection has been completed to finalize the project;" the monthly log shall include the parcel number and address of each job where the final inspection was completed the prior month.
4. OAKLAND shall provide to DISTRICT a copy of its GIS based maps showing sub-basins in which sewers have been rehabilitated from calendar year 2000 to 2010. If property owners seeking Exemption Certificates ask OAKLAND for copies of historic sewer permits, OAKLAND shall utilize its best efforts to expeditiously provide copies of such permits, if available.

5. DISTRICT and OAKLAND agree to identify key staff contacts involved with the Regional PSL Program.

ENFORCEMENT

1. Enforcement actions for work to be performed on upper private sewer laterals under the Regional PSL Ordinance shall be the sole responsibility of the DISTRICT.
2. Enforcement actions for work not completed in accordance with OAKLAND'S Municipal Code shall be the sole responsibility of OAKLAND.

MODIFICATIONS

DISTRICT and OAKLAND may modify this Statement by written agreement at any time. Each party agrees to meet and confer in good faith upon request of the other party for a modification.

INSURANCE

The Parties to this Statement shall maintain during the life of the Statement Workers' Compensation, Commercial General and Automobile Liability Insurance or comparable self insurance.

TERM

This Statement may not be terminated prior to June 30, 2014, unless either (1) OAKLAND obtains EPA approval of a no-less-stringent application for an OAKLAND PSL ordinance or (2) the parties mutually agree to terminate. Thereafter, this Statement may be terminated by either (1) mutual agreement of the parties or (2) six months' written notice from the terminating party to the other party.

ADVICE OF COUNSEL:

Each of the signators to this Statement affirms and acknowledges that it has read and fully appreciates and understands the words, terms, conditions and provisions of this Statement applicable to such signator, is fully and entirely satisfied with the same, has had the opportunity to be represented by legal counsel of its choice in the negotiation, preparation and execution of this Statement, has had the opportunity to confer with its counsel prior to the execution of this Statement, and has executed this Statement voluntarily and of its own free will and act.

The signators specifically agree that any rule of construction, to the effect that ambiguities are to be resolved against the drafting party, shall not apply to the interpretation of this Statement.

ENTIRE STATEMENT

This Statement represents the entire understanding of DISTRICT and OAKLAND as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Statement may only be modified by amendment in writing signed by each party.

SEVERABILITY

Should any part, term, or provision of this Statement be decided or declared by the Courts to be, or otherwise found to be, illegal or in conflict with any laws of the State of California or the United States, or otherwise be rendered unenforceable, or ineffectual, the validity of the remaining parts, terms, portions or provisions shall be deemed severable and shall not be affected thereby, providing such remaining parts, terms, portions or provisions can be construed in substance to constitute the Statement that the Parties to this Statement intended to enter into in the first instance.

AUTHORITY TO EXECUTE STATEMENT

Each of the signators to this Statement warrant to each of the other signators that it has obtained the necessary consent and authority to execute this Statement and to make this Statement binding upon itself

COUNTERPARTS

This Statement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe to the same in duplicate.

EAST BAY MUNICIPAL UTILITY DISTRICT

By: _____
General Manager

Date: _____

CITY OF OAKLAND

By: _____
City Administrator

Date: _____

Regional Private Sewer Lateral Program

PRIVATE SEWER LOWER LATERAL WAIVER

Parcel Address:

Street Address

City

Parcel Number: _____ - _____ - _____ - _____

Expiration: _____

Special Instructions:

Submit a copy of this document to EBMUD as evidence that compliance with the Regional Private Sewer Lateral Program lower lateral requirements have been waived. Retain a copy of this waiver for your records for any future parcel sale, re-model greater than \$100,000, or change of water meter size.

Waiver Number: _____

Issue Date: _____

Reason for Waiver (check one):

Paving Moratorium

Other – describe: _____

Issued by:

City, Department, Employee Name and Title

Signature: _____