

CITY OF OAKLAND
AGENDA REPORT

2010 MAY 13 PM 1:38

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Finance and Management Agency
DATE: May 25, 2010
RE: **Resolution Authorizing the City Administrator to Execute Amendment No. 2 to the Sewer Service Charges, Billing and Collection Agreement of December 12, 1997, by and Between East Bay Municipal Utility District (EBMUD) and the City of Oakland for a Term of Three Years from July 1, 2010 to July 1, 2013**

SUMMARY

Staff recommends that the City Council approve the attached resolution authorizing the City Administrator to execute Amendment #2 to Sewer Service Charges, Billing and Collection Agreement of December 12, 1997, by and between East Bay Municipal Utility District (EBMUD) and City of Oakland (*Attachment A*). Since the current agreement (Amendment #1) is expiring on July 1, 2010, the proposed Amendment will extend the term and calculation methodology of the agreement by three years from July 1, 2010 through July 1, 2013 (*Attachment B*). Additionally, it replaces paragraph 1.02 of the Agreement, which is outlined in the Key Issues & Impacts section of this report.

FISCAL IMPACT

The average annual revenue from sewer service charges by EBMUD from fiscal year 2007-08 through fiscal year 2009-10 is approximately \$33 million. The proposed rate increase involves increasing the sewer service charges sixteen percent (16%) in each year from January 2011 through January 2013. For the new contract period in fiscal year 2010-11, the revenue is projected to be \$37,744,000; in fiscal year 2011-12, it is projected to be \$43,783,000; and in fiscal year 2012-13, at \$50,788,000. The revenues are deposited into the Sewer Service Charge Fund 3100, Engineering and Construction Administration Organization 88321 and Sewer Service Charge Account number 45113.

This agreement provides oversight in the billing, collections and system programming for sewer services by EBMUD. The City has paid an average of \$895,091 in annual service charges during the last contract agreement. The projected annual cost to have EBMUD administer the service billing and collections is projected to be \$1 million for the new contract period in the 2011-13 fiscal years. This cost is budgeted within Sewer Service Charge Fund 3100, Revenue Administration Organization 08411, Accounting Services Account number 54111, and Program IP59.

Item: _____
Finance & Management Committee
May 25, 2010

BACKGROUND

Since 1962, the City has implemented a Sewer Service Charge on users of City-owned sewers. This charge provides reimbursement for costs in connection with the maintenance, repair, relocation, construction, reconstruction and operation of the City's sewer facilities.

On June 11, 1968, the Oakland City Council adopted Resolution No. 24268 C.M.S., authorizing EBMUD to perform the billing and collection of the City's Sewer Service Charges. On October 31, 1997, EBMUD terminated its 1968 billing and collection agreement as a result of establishing a new rate tier calculation system, and proposed a new agreement for billing and collection services through July 1, 2007.

On June 12, 2007, Amendment # 1 was approved by the City Administrator and extended the term of the agreement for three (3) years from July 1, 2007 to July 1, 2010. Amendment #1 deleted the exclusion of the replacement of the Customer Information System. It also deleted the limitation to "minor" fixed assets in the reimbursable Customer Service expenses calculated in Attachment C, Exhibit A. Additionally, it provided for one year's written notice before implementing a new rate tier calculation for the new Customer Information System (*Attachment C*).

The proposed Amendment #2 to the Sewer Service Charges, Billing and Collection Agreement will extend the calculation methodology and the term of the agreement through July 1, 2013.

KEY ISSUES AND IMPACTS

Staff completed a cost analysis prior to signing the December 12, 1997 agreement to ensure it was in the City's best financial interest to contract with EBMUD for the Billing and Collection of Sewer Service Charges. That analysis estimated the City would save approximately \$200,000 each year by contracting with EBMUD for this service as opposed to bringing the billing and collection responsibilities back in-house. However, it is important to note that EBMUD has indicated that it will be re-evaluating its cost to administer this Agreement when their new Customer Information System is completed. The City will receive a 12-month notice, per this Agreement, should EBMUD propose a change to the current rate tier calculation methodology.

Amendment #2 to Sewer Service Charges, Billing and Collection Agreement retains the current formulas to calculate the City's prorated share of the EBMUD's actual billing and collection costs for another three years from July 1, 2010 to July 1, 2013.

The proposed Amendment #2 to the Sewer Service Charges, Billing and Collection Agreement will do the following:

- Extend the term of the agreement by three years from July 1, 2010 to July 1, 2013.
- Extend the current calculation methodology to calculate the City's prorated share of

EBMUD's actual billing and collection expenses from July 1, 2010 through July 1, 2013.

- Replace paragraph 1.02 of the Agreement in its entirety with the following:

“The District will bill and collect the Agency’s sewer service charge pursuant to the terms of this Agreement until July 1, 2013 unless otherwise terminated as provided in paragraph 1.05. The District will provide twelve months written notice prior to implementing a new rate tier calculation for the District to recover from the Agency its proportionate share of the cost of the new Customer Information System.”

In order to ensure that utilizing the services of EBMUD is still in the best interest of the City, the Finance and Management Agency, Revenue Division is in the process of reviewing other alternatives since the cost of utilizing EBMUD to provide Sewer Service Billings and Collections continues to increase.

Should the City wish to terminate the Agreement, the City is required to provide EBMUD a 90 day notice. Therefore, extending this Agreement would not limit the City’s ability to pursue other options for revenue collection in a timely manner.

Regardless of the assumed significance of the impact of the new rate tier structure, the Finance and Management Agency will prepare a new cost benefit analysis to determine if it is still in the best financial interest of the City to continue to contract with EBMUD for this service, and will make a recommendation regarding whether or not to continue with the agreement based on that analysis.

SUSTAINABLE OPPORTUNITIES

There is no impact to economic, environmental or social equity opportunities following actions under this report.

DISABILITY AND SENIOR CITIZEN ACCESS

There is no impact to disability or senior citizen access following actions under this report.

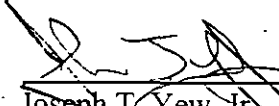
RECOMMENDATION(S) AND RATIONALE

Staff recommends that the City Council approve this resolution authorizing the City Administrator to execute Amendment No. 2 to Sewer Service Charges, Billing and Collection Agreement of December 12, 1997, by and between East Bay Municipal Utility District and the City of Oakland.

Item: _____
Finance & Management Committee
May 25, 2010

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council approve the above recommendations to Amendment No. 2 to Sewer Service Charges, Billing and Collection of December 12, 1997.




Joseph T. Yew, Jr.
Finance Director/Treasurer
Finance & Management Agency

Prepared by:
David McPherson
Revenue & Tax Administrator
Revenue Division

- Attachment A - Sewer Service Charge & Collection Agreement of December 12, 1997
- Attachment B - Amendment #2 to Sewer Service Charges, Billing & Collection Agreement of December 12, 1997
- Attachment C - Amendment #1 to Sewer Service Charges, Billing & Collection Agreement of December 12, 1997

APPROVED AND FORWARDED TO THE
FINANCE COMMITTEE:



Office of the City Administrator

ATTACHMENT A

SEWER SERVICE CHARGE BILLING AND COLLECTION AGREEMENT

THIS AGREEMENT, made and entered into this 12th day of December, 1997, by and between the CITY OF OAKLAND, a municipal corporation, hereinafter called "the Agency" and the EAST BAY MUNICIPAL UTILITY DISTRICT, a public agency organized and existing under the laws of the State of California, hereinafter called "the District", supersedes any and all other previous Sewer Service Charge Billing and Collection Agreements between the Agency and the District;

W I T N E S S E T H :

I.

General Provisions

- 1.01 Purpose of Agreement. The City Council of the Agency has adopted its Ordinance No. 6551 C.M.S., hereinafter referred to as "the ordinance", establishing sewer service charges for the use of sewer facilities owned and operated by the Agency, and for the purpose of facilitating the billing and collection of such charges. The Agency has submitted a request to bill sewer service charges in the form required by District (Exhibit B) and has requested that the District bill and collect the Agency's charges for such sewer service, and the District is willing to perform such billing and collection subject to the terms and conditions set forth herein.
- 1.02 Term of Agreement. The District will bill and collect the Agency's sewer service charge pursuant to the terms of this Agreement until July 1, 2007 unless otherwise terminated as provided in paragraph 1.05.

1.03 Supervision and Control by the District. The District shall have sole and exclusive supervision and control over its operations under this Agreement, including but not limited to the method of preparing the District bills and making the collections thereunder; the selection, design and use of forms and changes thereto; and the selection and use of data processing equipment and office machinery by the District in the performance of this Agreement. The District's decisions with respect to any and all aspects of its billing and collection operations shall be final and conclusive. The Agency agrees that the District may make changes in its billing and collection procedures during the term of this Agreement, and in the equipment required therefor. The Agency further agrees that the payments to be made by the Agency pursuant to the terms of this Agreement may include a proportionate share of the costs of such changes as illustrated by the shared cost billing and collection formula (Exhibit A).

1.04 Communications. All requests by the Agency to add, delete, modify or in any way change its sewer service charges or to obtain information concerning individual accounts or groups of accounts or any other data shall be made in writing to the Secretary of the District, or to such other person designated by the District, and signed by the Agency's liaison (see paragraph 3.02).

1.05 Termination of Agreement. This Agreement may be terminated at any time by either party hereto upon:

(a) the District giving the Agency at least twelve (12) months written notice of such termination, or

(b) the Agency giving the District at least ninety (90) days written notice of such termination.

Termination of this Agreement shall not affect the Agency's liability, as provided herein, to pay the cost of services which have been rendered by the District pursuant to the terms of this Agreement; however, after notice of termination is given by Agency as provided herein, no costs incurred by the District for upgrades or changes in equipment, software, personnel or procedures that occur subsequent to such notification shall be assessed or billed to the Agency.

II.

Services and Facilities to be Furnished by the District

2.01 Billing and Collection Services Provided. The District agrees to furnish the labor, services, materials and equipment required to program its customer billing system (including testing and installation) to provide for billing and collection of the Agency's sewer charge, including:

- (1) identification of the Agency's sewer service charge on the District water bills;
- (2) collection of same with said water bills;
- (3) identification of collections relating to said charge; and
- (4) remittance to the Agency of the cash collection from the Agency's sewer service charge billing, adjusted for debits and credits allowed by this Agreement.

2.02 Requests for Sewer Service Charge Rate and Structural Changes.

a. Frequency of Requests. The District agrees to implement either one sewer service charge rate change or one sewer service charge structural change per calendar year (see paragraph 2.02ci,ii). Although the

Agency may request other rate or structural changes, it is wholly within the District's discretion to determine whether to implement the Agency's request unless the rate and/or structural change is mandated by court or legislative action. If any change is requested as a result of court order or other legal mandate, Agency shall identify the mandate and any legally mandated compliance date(s) and provide supporting documentation to the District. Agency requests to implement such mandated rate and/or structural changes shall conform to the requirements set forth in 2.02(b), including the applicable period specified therein to effect such changes.

- b. Form of Requests. All requests for rate and structural changes shall be submitted on the Sewer Service Charges and Rates Request Form attached hereto as Exhibit B. The Agency shall submit the required information to effect a rate change sixty (60) days prior to the beginning date of the bill period for which the new rate will apply. The sixty day period shall commence upon receipt of a revised Sewer Service Charges and Rates Request Form that is complete, correct and acceptable to the District. The Agency shall submit the required information on the same form to effect a structural change six (6) months prior to implementation of said change. The six month period shall commence upon payment by the Agency of the deposit described below.
- c. Charges to Process Requests. Charges to process any rate or structural change shall be in addition to other charges set forth in this Agreement and shall be based upon the actual costs to process and implement the change.

i. Rate Changes. Rate changes are changes only in the rates (dollar value) applied to existing billing structure. (Examples: change metered rate from \$1.00 per ccuft to \$1.50 per ccuft, flat charge from \$10 per billing period to \$15 per billing period, etc.) For requested rate changes, the District will provide to the Agency an estimate of the cost to implement the rate change within thirty (30) days of the Agency's request therefor. The Agency understands and agrees that the actual cost to implement the rate change could exceed the District's estimate and further agrees to pay said actual costs within thirty (30) days of receipt of the District's invoice therefor.

ii. Structural Changes. Structural changes are changes in the manner in which the accounts are billed. (Examples: change flat charge to volume charge, add minimum or maximum charge, etc.) For requested structural changes, the Agency agrees to deposit with the District a sum equal to fifty percent (50%) of the District's estimated cost to implement the structural change prior to the District commencing performance of the work related thereto. The Agency understands and agrees that the actual cost to implement the structural change could exceed the District's estimate and further agrees to pay said actual costs, less the Agency's deposit, within thirty (30) days of receipt of the District's invoice therefor. The District agrees to refund any of the Agency's deposit funds that the District determines to be unexpended in the implementation of the structural change.

2.03 Delayed Implementation of Requests. Upon written notice to the Agency, the District may delay, for a period not to exceed sixty (60) days, implementation of any requested change in the sewer service charges if the District determines that such delay is necessary to facilitate the District's operations. The District will notify the Agency within 15 days of making a decision if a delay in implementation is required. The notice will include an estimate of the duration of the delay. The Agency understands that revenue anticipated by the Agency as a result of the change in its sewer service charge will not be billed by the District during the period of delay. The Agency expressly agrees that the District shall have no responsibility or liability with respect to such anticipated revenue.

2.04 Billing and Collection. For purposes of billing and collection of the Agency's sewer service charge, the District agrees to furnish the labor, services, materials and equipment required for billing, collection, maintenance of customers' records, and customer contact on new services, account closings, allowances and adjustments. Materials so furnished by the District will include the prepared bills, mailing envelopes, postage, and enclosed return envelopes. Equipment to be furnished and used by the District in performing this Agreement will consist of the equipment, hardware and software now or hereafter operated and used from time to time by the District in billing for its own water and sewage disposal accounts.

2.05 Method of Billing and Collection. The system used to bill, record and collect the Agency's sewer service charge will conform to the District's system, policies and procedures for the handling of its own accounts. In particular, and without limiting the generality of the foregoing, the following shall apply to billing and collection of the Agency's sewer service charges:

- a. The Agency's sewer service charge will be billed on the same bimonthly or monthly basis as the related District accounts.
- b. Interest and penalties or other delinquent charges, if any, imposed by the Agency in connection with its sewer service charge shall not be billed or collected by the District.
- c. The District's collection routines, including bill extensions and date of write-offs, shall be used in connection with the Agency's sewer service charge. In the event of account write-offs, the District will furnish to the Agency information regarding the amount of revenue written-off, and the accounts will be handled by the District's collection agent. The Agency agrees not to pursue any collection activity on written-off accounts.
- d. The District will make allowances and revenue adjustments in the Agency's sewer service charge in accordance with its practices for the District accounts.
- e. Partial payments will be allocated between the Agency and the District in proportion to the amount of the charges billed.
- f. The District will collect Agency revenues only on accounts which the District bills through its regular billing process.
- g. The District will adjust the cash collection remitted to the Agency to account for such items as returned checks, erroneous applications and accounting adjustments.

2.06 Sewer Service Charges to be Billed and Collected. The District agrees to bill and collect only the Agency's sewer service and/or sewage treatment charge for each customer served by the Agency in whose name a monthly or bimonthly charge for water will be made by the District for its own account. Such billed charges will be in the respective amounts specified by the Agency's Sewer Service Charges and Rates Request Form, attached hereto as Exhibit B and incorporated herein by this reference. The District agrees to provide one (1) line on its water bill for such Agency sewer service charges.

- a. The Agency's sewer service charges may be structured to bill either by metered water use or by flat rate according to Business Classification Code (BCC). In no case shall the District bill tiered Agency sewer service charge rates. In no case shall the District bill individual sewer service charges for specific accounts that would otherwise be billed according to the District's Business Classification Code (BCC) of said accounts.
- b. The Agency agrees to use the District's standard system of rate codes.
- c. Sewer service charges will be billed for the first day of the applicable billing period and for each day thereafter during the entire billing period.
- d. The District will cease billing sewer service charges for any or all classifications within ninety (90) days of receipt of the Agency's written request to do so.
- e. The parties agree that, in the event that the District does not bill an account that is identified as an account to be billed in the Agency's Request To Bill

Sewer Service Charges, or in any change thereto, the District shall have no liability therefor and no obligation to collect said unbilled revenue or to pay any costs that may be incurred by the Agency, or by any other person or entity, to collect said unbilled revenue.

- 2.07 Notification to the Public. The Agency agrees to provide public outreach, in a form and manner jointly determined by the District and the Agency, to affected customers advising them of any change in the Agency's sewer service charge prior to the effective date of said change. In all cases, the Agency shall provide its customers through its public outreach program with an Agency telephone number for customer inquiries regarding said change. It is understood and agreed that the District will not explain or respond to customer inquiries about the Agency's policy in levying sewer service charges, or changes thereto, and will only inform customers that the charges correctly reflect the expressed request of the Agency. Customers shall be directed to the Agency for further clarification of the rationale behind setting said charges.

- 2.08 Identification of Services to be Included for the Agency's Charge. Upon execution of this Agreement the Agency shall submit to the District a detailed map of its service territory. A revised map shall be submitted not later than fifteen (15) days after any subsequent modification of the Agency's territory. Said maps shall clearly show, by individual address, which services are to be included for sewer service charges.

- 2.09 Services Excluded from the Agency's Charge. The Agency shall designate promptly to the District by name and account number such services as are to be excluded from all billing and collection by the District, and those that are to be

billed directly by the Agency. Services may be added to, or deleted from, said list of excluded premises by the Agency at any time. Such additions or exclusions shall be for future billings only and shall not be retroactive to prior billed periods.

2.10 Payments to the Agency. Except as otherwise provided in this Agreement, the District shall remit monthly to the Agency the amount of its sewer service charges collected by the District. The District will also provide to the Agency a monthly summary of the total amount billed, collected, credited and written-off by the District pursuant to this Agreement.

2.11 District Right to Terminate Water Service. It is understood and agreed that this Agreement shall in no way restrict or limit the District right to terminate water service for nonpayment of billed charges or other permissible reason. The parties expressly agree that the District shall have no liability whatsoever for any reduction in sewer service charge revenue due to a termination of water service.

2.12 Yearly Consumption Data. Upon request, the District will provide to the Agency yearly consumption data in the format described in Exhibit C which format may be revised by the District from time to time. Said data will be produced once each calendar year. The medium for the data shall be diskette or electronic file transfer. Charges for said data shall be in addition to other charges set forth in this Agreement and shall be based upon the actual cost to produce the data. The District is not obligated under the terms of this Agreement to provide any other special reports, data, mailing labels or mailing lists. In the event this Agreement is terminated, the District will continue to provide yearly consumption data upon the Agency's request and the Agency will pay the District's cost to produce said data.

The District is not obligated to make available to the Agency any other form of data requested for individual customer records or groups of such records except as part of the annual consumption data.

The Agency should review the annual consumption data for accuracy and advise the District as soon as practicable of any omissions, errors or discrepancies in the billing of its sewer service charges.

III.

Obligations of the Agency

3.01 Payments to be Made by the Agency.

- a. Billing and Collection Expense. The District will annually calculate the estimated monthly cost to bill and collect the Agency's sewer service charge. The calculation of said estimated cost, as shown in Exhibit A, shall be based upon (a) the District's knowledge of the cost to collect on behalf of its own accounts and (b) the amount of revenue collected, number of accounts to be billed, and number of meters read for the Agency compared to the total revenue collected, number of accounts billed, and meters read by the District. Said estimated costs shall be reduced by an allocation of late payment penalty fees billed by the District, based upon the the Agency's portion of total revenue billed. During the fiscal year in which the billing and collection of the Agency's sewer service charge is commenced, the Agency shall pay to the District, on a monthly basis, said estimated cost.

At the close of the initial fiscal year, and at the close of each subsequent fiscal year, the District will calculate the actual costs incurred to bill and collect the Agency's sewer service charge. If the District's actual costs are greater than the estimated costs paid by the Agency, the Agency shall pay the difference to the District within thirty (30) days of the District's invoice therefor. If the District's actual costs are less than the estimated costs paid by the Agency, the District will apply a credit to the Agency's account. The actual cost calculation by the District at the close of each fiscal year shall be the estimated monthly charge which shall be paid by the Agency during the next fiscal year. The District will provide to the Agency an annual reconciliation of billing and collection actual costs to estimated costs for the preceding year and provide projected estimated costs for the following two years.

Calculation by the District of its actual costs to bill and collect the Agency's sewer service charge shall be conducted according to standard accounting practices on a shared cost basis. The District agrees that the charge to the Agency shall not exceed the reasonable costs of providing the services rendered hereunder. Subject to the limitations expressed herein, the parties agree that the District's determination of its actual costs shall be final.

- b. Manner of Payment. The aforesaid charges for billing and collection costs, and other charges set forth in this Agreement, shall be paid by the Agency to the District within thirty (30) days following billing by the District. Checks should be made payable to East Bay Municipal Utility District, P.O. Box 24055, Oakland, CA 94623.

The Agency and the District agree that the District may debit sewer service charges collected by the District, which have not yet been remitted to the Agency pursuant to paragraph 2.10 herein, to satisfy any unpaid and overdue sum owing to the District by the Agency.

- 3.02 Liaison by the Agency with District. The Agency shall designate a representative for liaison with the District to cooperate in the handling of disputed accounts and other matters arising under the administration of this Agreement. The District will make available to the Agency upon request District records pertinent to the billing and collection of the Agency's sewer service charges.
- 3.03 Confidentiality of Records. The Agency acknowledges that District records pertaining to individual customers may be protected by a constitutional right of privacy or may contain proprietary information. The Agency agrees to limit access to data furnished to the Agency pursuant to this Agreement and not to make such data available for public inspection unless required by law to make disclosure. The Agency shall inform the District prior to making such disclosure. Subject to these limitations, the District agrees to furnish customer account data to the Agency solely for the intended purpose of this Agreement. The Agency agrees that the only use it shall make of such data shall be for development and substantiation of sewer service charges.
- 3.04 Liability of the Agency. The Agency agrees to indemnify, defend and hold harmless the District, its board, officers, employees and agents from and against any and all loss, liability, expense, claims, costs, suits, damages, including attorney's fees or demands of whatever character, direct or consequential, arising from the billing or collection of the Agency's sewer service charge or from the furnishing of customer account data to the Agency, except to the extent

attorney's fees or demands of whatever character, direct or consequential, arising from the billing or collection of the Agency's sewer service charge or from the furnishing of customer account data to the Agency, except to the extent caused by the sole negligence or willful misconduct of the District, its officers, agents and employees. The Agency agrees that the District may itself defend, at its own election, any such actions brought against the District arising out of the billing or collection of such sewer service charge, and the Agency agrees to indemnify the District against any judgments or damages for which the District may be found to be liable in such action or actions and to reimburse the District for any costs incurred, including attorney's fees, arising from the defense of such actions. In the event action is brought against the Agency, or it is joined therein, the Agency shall provide its own defense at the sole cost and expense of the Agency.

3.05 Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

3.06 Severability. Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the parties.

3.07 Amendments. This Agreement is not subject to modification or amendment, except by a writing executed by both the Agency and the District, which writing shall expressly state that it is intended by the parties to amend the terms and conditions of this Agreement.

3.08 Whole Agreement. This Agreement has 15 pages excluding any exhibits described herein. This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

IN WITNESS WHEREOF, Agency, by and through its officers, duly authorized by Resolution No. 73936 ^{C.M.S.} and District, by and through its General Manager or designee, duly authorized to act, have executed this Agreement in triplicate on the day and year first written above.

CITY OF OAKLAND

EAST BAY MUNICIPAL UTILITY DISTRICT

Dolores E. Blandford Rebecca F. Lamoreaux
 Signature INTERIM Signature

ASSISTANT CITY MANAGER Rebecca F. Lamoreaux
 Name Name

DOLORES E. BLANDFORD Manager of Customer & Community Services
 Title Title

DECEMBER 1, 1997 December 12, 1997
 Date Date

 (Seal)

 (Seal)

Agency Shared-Cost Calculations for Billing and Collection of Sewer Service Charges.

The following outline is a numerical and narrative description of the shared-cost calculations for Billing and Collection of sewer service charges for any agency. It is for illustrative purposes only and does not represent any particular agency charges. The schedule summarizing the share of Billing and Collection expenses for the "Agency" follows the narrative.

The Billing and Collection expenses come from Collection, Customer Service and Meter Reading Activities, and they are allocated based on each agency's share of revenues collected, share of bills issued, and share of meters read by the District.

Calculation	Definition
<p>Share of Collections</p> <p>Annual Agency Revenue collected for "Agency" of \$600,000 is</p> <p align="center">divided by the</p> <p>Annual District Revenue collected of \$200,000,000 to equal .003.</p> <p align="center">This factor is multiplied by</p> <p>Annual District Collection expenses of \$3,000,000 to equal "Agency's" share of Collection expenses totaling \$9,000.</p>	<p>Annual Agency Revenue collected is the yearly amount of sewage revenue invoiced on each bill relating to the agency.</p> <p>Annual District Revenue collected is the yearly amount of District water and District sewage treatment and agency revenue invoiced on each District water bill:</p> <p>Annual District Collection expenses are defined as Salaries and Employee Benefits, Services and Supplies, and Fixed Assets (minor) directly charged to Collections during the Year. In addition to the direct charges, an overhead amount is charged based on Total Collection Salary and Employee Benefit dollars.</p>

Calculation	Definition
<p data-bbox="235 463 706 491">Share of Customer Services</p> <p data-bbox="235 555 706 640">Sixty percent of Annual District Customer Service expenses of \$5,000,000, or \$3,000,000, is</p> <p data-bbox="446 1006 657 1034">divided by the</p> <p data-bbox="215 1112 755 1198">Annual number of District bills rendered to customers of 2,200,000 to equal the Cost per Bill of \$1.3636.</p> <p data-bbox="215 1219 706 1247">The Cost per Bill is multiplied by</p> <p data-bbox="215 1268 755 1395">"Agency's" participatory share of billing entities, 1 of 3 on each bill, or 33.33 percent. The Cost per Bill for the agency charge is \$.4545. This amount is</p> <p data-bbox="297 1453 495 1481">multiplied by</p> <p data-bbox="215 1538 706 1644">the Annual number of "Agency" bills issued by the District of 30,000 to equal "Agency's" share of Customer Service expenses of \$13,635.</p>	<p data-bbox="803 538 1356 1176">Annual District Customer Service expenses are defined as Salaries and Employee Benefits, Services and Supplies, and Fixed Assets (minor) directly charged to Business Office Administration (excluding replacement of Customer Information System), Repair Business Office Bldgs., and Equipment, Grounds keeping B.O.'s, Customer Records and Billings, Customer Information Systems, and Administrative and General during the Year. In addition to the direct charges, an overhead amount is charged based on Total Customer Services Salary and Employee Benefit dollars. At the present time, forty percent of the total Customer Services expenses relate only to Water System business and are not shared by agencies, and sixty percent relates to total combined District water, District sewage treatment, and agency business.</p> <p data-bbox="803 1332 1339 1389">Annual number of District bills used to collect revenues for the District.</p> <p data-bbox="803 1438 1339 1779">The portion of each bill relating to the Agency refers to the number of entities who share the benefit of billing. District Water, District Wastewater, and Agency are the three current entities who may share billing and collection. However, all three may not be present on all bills. Agencies that share the benefit of billing with only District Water have a participatory share of billing of 1 of 2 entities or 50 percent.</p> <p data-bbox="803 1800 1339 1985">The Annual number of Agency bills issued by the District may include charges for District Water, District Wastewater, and Agency. One, two or three entities may be listed on each bill depending on the location of the service.</p>

Calculation	Definition
<p data-bbox="251 404 665 436">Share of Meter Reading</p> <p data-bbox="251 500 820 563">Annual District Meter Reading expenses of \$2,000,000 is</p> <p data-bbox="332 744 544 776">divided by the</p> <p data-bbox="235 798 795 883">Annual number of District bills rendered to customers of 2,200,000 to equal the Cost per Bill of \$.9091.</p> <p data-bbox="235 904 747 936">The Cost per Bill is multiplied by</p> <p data-bbox="235 957 803 1095">"Agency's" participatory share of each billing, entities 1 of 3 on each bill, or 33.33 percent. The Cost per Bill for the agency charge is \$.303. This amount is</p> <p data-bbox="324 1138 519 1170">multiplied by</p> <p data-bbox="227 1244 787 1361">the annual number of "Agency" bills requiring flow data from meter readings of 3,000 to equal "Agency's" share of Meter Reading Costs of \$909.</p>	<p data-bbox="836 457 1388 723">Total annual District Meter Reading expenses are defined as Salaries and Employee Benefits, Services and Supplies, and Fixed Assets (minor) directly charged to - Read Meters during the Year. In addition to the direct charges, an overhead amount is charged based on Total Meter Reading Salary and Employee Benefit dollars.</p> <p data-bbox="828 904 1380 968">Annual number of District bills used to collect revenues for the District.</p> <p data-bbox="820 1010 1380 1340">The portion of each bill relating to the Agency refers to the number of entities who use meter reading data in the calculation of charges that appear on each bill. District Water, District Wastewater, and Agency may all base charges on flow data derived from meter readings. Agencies that share the benefit of billing with only District Water have a participatory share of billing of 1 of 2 entities or 50 percent.</p> <p data-bbox="820 1383 1315 1478">The Annual number of Agency bills requiring flow data from meter readings issued by the District.</p>

In summary, by adding together the share of Collection expense of \$9,000, the share of Customer Service expense of \$13,635 and the share of Meter Reading expense of \$909, the actual annual Billing and Collection share for "Agency" will be \$23,544. This figure represents the "Agency's" shared cost of the District's billing and collection operation. Actual cost varies by the nature of events during a year, and it may not necessarily reflect the above algorithm.

ATTACHMENT B

**AMENDMENT NO. 2
TO SEWER SERVICE CHARGE BILLING AND COLLECTION AGREEMENT OF
DECEMBER 12, 1997,
BY AND BETWEEN
EAST BAY MUNICIPAL UTILITY DISTRICT
AND
CITY OF OAKLAND**

THIS AMENDMENT, dated the ___th day of _____, 2010 (hereinafter the "AMENDMENT") amends the Agreement dated December 12, 1997 for billing and collection of sewer charges (hereinafter the "AGREEMENT"), by and between the EAST BAY MUNICIPAL UTILITY DISTRICT (hereinafter the "District"), a public entity, and the CITY OF OAKLAND (hereinafter "the Agency"), a municipal corporation.

WITNESSETH

WHEREAS District's Board of Directors adopted Motion 33076-97 on November 12, 1997 authorizing the AGREEMENT for billing and collection of sewer charges; and

WHEREAS on December 12, 1997, the Agency and District (collectively, the "PARTIES") entered into the AGREEMENT for billing and collection of sewer charges; and

WHEREAS on March 12, 2007, the Agency and District entered into AMENDMENT NO.1 to the AGREEMENT to extend the term of the original AGREEMENT by three years from July 1, 2007 to July 1, 2010, to delete the exclusion of the replacement of the Customer Information System and to delete the limitation to "minor" fixed assets in the reimbursable Customer Service expenses calculated in Exhibit A, and to provide for one year's written notice before implementing a new rate tier calculation for the new Customer Information System; and

WHEREAS this AMENDMENT NO. 2 is made pursuant to paragraph 3.07 - Amendments in the AGREEMENT; and

WHEREAS the PARTIES wish to amend paragraph 1.02 - Term Of Agreement in the AGREEMENT to extend the term of the AGREEMENT as amended by AMENDMENT NO. 1 by three years from July 1, 2010 to July 1, 2013; and

WHEREAS this AMENDMENT NO. 2 only relates to paragraph 1.02 - Term Of Agreement, as specified above and below; and

WHEREAS all other provisions of the AGREEMENT and AMENDMENT NO. 1 remain unchanged and in full force and effect.

NOW, THEREFORE, the PARTIES do agree as follows:

1.02 Term Of Agreement

Paragraph 1.02 of the AGREEMENT is replaced in its entirety with the following:

The District will bill and collect the Agency's sewer service charge pursuant to the terms of this Agreement until July 1, 2013 unless otherwise terminated as provided in paragraph 1.05. The District will provide twelve months written notice prior to implementing a new rate tier calculation for the District to recover from the Agency its proportionate share of the cost of the new Customer Information System.

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

EAST BAY MUNICIPAL UTILITY DISTRICT

By: _____
Rebecca F. Lamoreaux
Manager of Customer and Community Services

Date: _____

Approved As To Form

By: _____
For the Office of the General Counsel

CITY OF _____

By: _____
Name: _____
Title: _____

Date: _____

ATTACHMENT C

ORIGINAL

AMENDMENT NO. 1
TO SEWER SERVICE CHARGE BILLING AND COLLECTION AGREEMENT OF
DECEMBER 12, 1997,
BY AND BETWEEN
EAST BAY MUNICIPAL UTILITY DISTRICT
AND
CITY OF OAKLAND

THIS AMENDMENT, dated the 12th day of March, 2007 (hereinafter the "AMENDMENT") amends the Agreement dated December 12, 1997 for billing and collection of sewer charges (hereinafter the "AGREEMENT"), by and between the EAST BAY MUNICIPAL UTILITY DISTRICT (hereinafter the "District"), a public entity, and the CITY OF OAKLAND (hereinafter "the Agency"), a municipal corporation.

WITNESSETH

WHEREAS District's Board of Directors adopted Motion 33076-97 on November 12, 1997 authorizing the AGREEMENT for billing and collection of sewer charges; and

WHEREAS on December 12, 1997, the Agency and District (collectively, the "PARTIES") entered into the AGREEMENT for billing and collection of sewer charges; and

WHEREAS this AMENDMENT NO. 1 is made pursuant to paragraph 3.07 - Amendments in the AGREEMENT; and

WHEREAS the PARTIES wish to amend EXHIBIT A - Agency Shared-Cost Calculations for Billing and Collection of Sewer Service Charges to delete the reference to "excluding replacement of Customer Information System" and omit the designations "minor" relating to fixed assets; and

WHEREAS the PARTIES wish to amend paragraph 1.02 - Term Of Agreement in the AGREEMENT to extend the term of the original AGREEMENT by three years from July 1, 2007 to July 1, 2010, and to provide for one year's written notice before implementing a new rate tier calculation for the new Customer Information System; and

WHEREAS this AMENDMENT NO. 1 only relates to EXHIBIT A - Agency Shared-Cost Calculations for Billing and Collection of Sewer Service Charges and paragraph 1.02 - Term Of Agreement of the AGREEMENT, as specified above and below; and

WHEREAS all other provisions of the AGREEMENT remain unchanged and in full force and effect.

NOW, THEREFORE, the PARTIES do agree as follows:

EXHIBIT A - Agency Shared-Cost Calculations for Billing and Collection of Sewer Service Charges.

EXHIBIT A – Agency Shared-Cost Calculations for Billing and Collection of Sewer Service Charges of the AGREEMENT is replaced in its entirety with EXHIBIT A, Amendment No. 1 Agency Shared-Cost Calculations for Billing and Collection of Sewer Service Charges attached.

1.02 Term Of Agreement

Paragraph 1.02 of the AGREEMENT is replaced in its entirety with the following:

The District will bill and collect the Agency's sewer service charge pursuant to the terms of this Agreement until July 1, 2010 unless otherwise terminated as provided in paragraph 1.05. The District will provide twelve months written notice prior to implementing a new rate tier calculation for the District to recover from the Agency its proportionate share of the cost of the new Customer Information System.

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

EAST BAY MUNICIPAL UTILITY DISTRICT

By: Rebecca F. Lamoreaux
Rebecca F. Lamoreaux
Manager of Customer and Community Services

Date: 6/22/07

Approved As To Form

By: Joel Fried
For the Office of the General Counsel

CITY OF OAKLAND

By: Deborah A. Edgery
Name: Deborah A. Edgery
Title: City Administrator

Date: 6/12/07

COPY

EXHIBIT A - Agency Shared-Cost Calculations for Billing and Collection of Sewer Service Charges of the AGREEMENT is replaced in its entirety with EXHIBIT A, Amendment No. 1 Agency Shared-Cost Calculations for Billing and Collection of Sewer Service Charges attached. 1.02 Term Of Agreement

Paragraph 1.05 of the AGREEMENT is replaced in its entirety with the following:

The District will bill and collect the Agency's sewer service charge pursuant to the terms of this Agreement until July 1, 2010 unless otherwise terminated as provided in paragraph 1.05. The District will provide twelve months written notice prior to implementing a new rate tier calculation for the District to recover from the Agency its proportionate share of the cost of the new Customer Information System.

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

EAST BAY MUNICIPAL UTILITY DISTRICT

By: _____
Rebecca F. Lamoreaux
Manager of Customer and Community Services

Date: _____

Approved As To Form

By: _____
For the Office of the General Counsel

CITY OF OAKLAND

By: _____
Name: _____
Title: _____

Date: _____

Approved As To Form

S. Jordan 5/11/07
City Attorney's Office

Agency Shared-Cost Calculations for Billing and Collection of Sewer Service Charges.

The following outline is a numerical and narrative description of the shared-cost calculations for Billing and Collection of sewer service charges for any agency. It is for illustrative purposes only and does not represent any particular agency charges. The schedule summarizing the share of Billing and Collection expenses for the "Agency" follows the narrative.

The Billing and Collection expenses come from Collection, Customer Service and Meter Reading Activities, and they are allocated based on each agency's share of revenues collected, share of bills issued, and share of meters read by the District.

Calculation	Definition
<p>Share of Collections</p> <p>Annual Agency Revenue collected for "Agency" of \$600,000 is</p> <p>divided by the</p> <p>Annual District Revenue collected of \$200,000,000 to equal .003.</p> <p>This factor is multiplied by</p> <p>Annual District Collection expenses of \$3,000,000 to equal "Agency's" share of Collection expenses totaling \$9,000.</p>	<p>Annual Agency Revenue collected is the yearly amount of sewage revenue invoiced on each bill relating to the agency.</p> <p>Annual District Revenue collected is the yearly amount of District water and District sewage treatment and agency revenue invoiced on each District water bill.</p> <p>Annual District Collection expenses are defined as Salaries and Employee Benefits, Services and Supplies, and Fixed Assets directly charged to Collections during the Year. In addition to the direct charges, an overhead amount is charged based on Total Collection Salary and Employee Benefit dollars.</p>

Calculation	Definition
<p>Share of Customer Services</p> <p>Sixty percent of Annual District Customer Service expenses of \$5,000,000, or \$3,000,000, is</p> <p>divided by the</p> <p>Annual number of District bills rendered to customers of 2,200,000 to equal the Cost per Bill of \$1.3636.</p> <p>The Cost per Bill is multiplied by</p> <p>"Agency's" participatory share of billing entities, 1 of 3 on each bill, or 33.33 percent. The Cost per Bill for the agency charge is \$.4545. This amount is</p> <p>multiplied by</p> <p>the Annual number of "Agency" bills, issued by the District of 30,000 to equal "Agency's" share of Customer Service expenses of \$13,635.</p>	<p>Annual District Customer Service expenses are defined as Salaries and Employee Benefits, Services and Supplies, and Fixed Assets directly charged to Business Office Administration, Repair Business Office Bldgs., and Equipment, Grounds Keeping B.O.'s, Customer Records and Billings, Customer Information Systems, and Administrative and General during the Year. In addition to the direct charges, an overhead amount is charged based on Total Customer Services Salary and Employee Benefit dollars. At the present time, forty percent of the total Customer Services expenses relate only to Water System business and are not shared by agencies, and sixty percent relates to total combined District water, District sewage treatment, and agency business.</p> <p>Annual number of District bills used to collect revenues for the District.</p> <p>The portion of each bill relating to the Agency refers to the number of entities who share the benefit of billing. District Water, District Wastewater, and Agency are the three current entities who may share billing and collection. However, all three may not be present on all bills. Agencies that share the benefit of billing with only District Water have a participatory share of billing of 1 of 2 entities or 50 percent.</p> <p>The Annual number of Agency bills issued by the District may include charges for District Water, District Wastewater, and Agency. One, two or three entities may be listed on each bill depending on the location of the service.</p>

EXHIBIT A
Amendment No. 1

Calculation	Definition
<p>Share of Meter Reading</p> <p>Annual District Meter Reading expenses of \$2,000,000 is</p> <p>divided by the</p> <p>Annual number of District bills rendered to customers of 2,200,000 to equal the Cost per Bill of \$.9091.</p> <p>The Cost per Bill is multiplied by</p> <p>"Agency's" participatory share of each billing, entities 1 of 3 on each bill, or 33.33 percent. The Cost per Bill for the agency charge is \$.303. This amount is</p> <p>multiplied by</p> <p>the annual number of "Agency" bills requiring flow data from meter readings of 3,000 to equal "Agency's" share of Meter Reading Costs of \$909.</p>	<p>Total annual District Meter Reading expenses are defined as Salaries and Employee Benefits, Services and Supplies, and Fixed Assets directly charged to - Read Meters during the Year. In addition to the direct charges, an overhead amount is charged based on Total Meter Reading Salary and Employee Benefit dollars.</p> <p>Annual number of District bills used to collect revenues for the District.</p> <p>The portion of each bill relating to the Agency refers to the number of entities who use meter reading data in the calculation of charges that appear on each bill. District Water, District Wastewater, and Agency may all base charges on flow data derived from meter readings. Agencies that share the benefit of billing with only District Water have a participatory share of billing of 1 of 2 entities or 50 percent.</p> <p>The Annual number of Agency bills requiring flow data from meter readings issued by the District.</p>

In summary, by adding together the share of Collection expense of \$9,000, the share of Customer Service expense of \$13,635 and the share of Meter Reading expense of \$909, the actual annual Billing and Collection share for "Agency" will be \$23,544. This figure represents the "Agency's" shared cost of the District's billing and collection operation. Actual cost varies by the nature of events during a year, and it may not necessarily reflect the above algorithm.

Approved as to Form and Legality

FILE *Katherine Helen Boyd*
OFFICE OF THE CITY CLERK Deputy City Attorney
OAKLAND

OAKLAND CITY COUNCIL *2010 MAY 13 PM 3:26*

Resolution No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AMENDMENT NO. 2 TO THE SEWER SERVICE CHARGES, BILLING AND COLLECTION AGREEMENT OF DECEMBER 12, 1997, BY AND BETWEEN EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD) AND THE CITY OF OAKLAND FOR A TERM OF THREE YEARS FROM JULY 1, 2010 TO JULY 1, 2013

WHEREAS, on December 12, 1997, both the City and the District collectively entered into an Agreement for billing and collection of sewer charges; and

WHEREAS, on March 12, 2007, the City and District entered into Amendment No. 1 to extend the term of the original Agreement by three years from July 1, 2007 to July 1, 2010; and

WHEREAS, the Amendment No. 1 extended the term of the original agreement by three years from July 1, 2007 to July 1, 2010.

WHEREAS, the Amendment No. 2 will extend the term of the Agreement by three years from July 1, 2010 to July 1, 2013; and

WHEREAS, the average projected annual revenue will be \$44,105,000 with the new proposed sewer fee increase; and

WHEREAS, the new Agreement is estimated to cost the City an average of \$1 million annually in service charges under the current rate tier calculation methodology and this cost is budgeted within the Fund 3100 – Sewer Service Fund and;

WHEREAS, this Agreement would require EBMUD to provide the City twelve months prior notice to establish a new tier calculation for Sewer Service Charges, Billing and Collections; and

WHEREAS, should the City wish to terminate the agreement, the City is required to give a 90 day notice to EBMUD; now, therefore, be it

RESOLVED, that the City Administrator is hereby authorized to execute Amendment No. 2 to Sewer Service Charges, Billing and Collection Agreement of December 12, 1997, by and between East May Municipal Utility District (EBMUD) and the City of Oakland for a term of three years from July 1, 2010 to July 1, 2013.

IN COUNCIL, OAKLAND, CALIFORNIA,
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID AND
PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California