



CITY OF OAKLAND
Office of the City Auditor

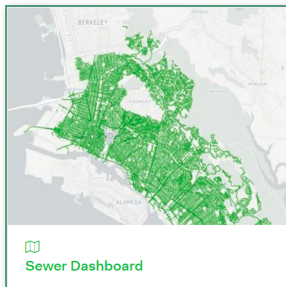
INVESTIGATIONS RELEASED

Independent City Auditor. Serving Oakland With Integrity.

Whistleblower Investigations Released February 10, 2022

Today my Office released two whistleblower investigation reports. The subjects of the investigations were the franchise fee for the City of Oakland's Sewer Service Charge and the Telecommunications Facilities Permits Sinking Fund. The investigations had several characteristics in common. First, the City is not following its own prescribed process, and second, there is a lack of transparency and accountability with these City of Oakland's enterprise funds. Read the report summaries below or visit our [website](#) directly to read the full reports.

Lack of Documentation Leads to Questions About the Sewer Franchise Fee Origins, Rationale, and Reasonableness



In 2020, a resident inquired about the legitimacy of the franchise fee for the City of Oakland's Sewer Service Charge.

Our investigation confirmed the City's General Purpose Fund collects an approximately 10-percent Sewer Franchise Fee (franchise fee or fee) from the City's Sewer Service Fund. Over the last nine years, annual franchise fee revenue has ranged from \$4.4 million in FY 2012-13 to \$6.6 million in FY 2020-21.

However, we found no evidence this fee was properly authorized by City Council. My team contacted employees in the City Clerk's Office, Finance Department, City Attorney's Office, and the Department of Public Works in search of records

authorizing a franchise agreement between the City's General Purpose Fund and the City's Sewer Service Fund. None of these Departments were able to produce a copy of a franchise agreement. While this type of franchise fee is not unusual in municipal governments, the lack of documentation makes it impossible to determine whether the fee is appropriate and reasonable without an agreement defining the terms for the franchise fee.

We are recommending the City Administration, 1) analyze the City's Sewer Service Charge to ensure it remains compliant with the Oakland Municipal Code. This analysis should be formally documented and completed on a regular basis, 2) in consultation with the City Attorney's Office, research and document, retrospectively and prospectively, the functional and legal merits of the Sewer Franchise Fee, 3) present the analysis and findings produced in recommendation 1 to the City Council and the public, and 4) in consultation with the City Attorney's Office, develop and present to the City Council, for its consideration, a franchise agreement between the Sewer Service Fund and the City of Oakland's general government.

These recommendations will help provide assurance the Sewer Service Charge and franchise fee are appropriate, and provide transparency and accountability to the public.

[Read the Full Whistleblower Report Investigation](#)

City Telecommunications Sinking Fund Practice Not in Compliance with Policy



A whistleblower submitted a complaint alleging the City is not requiring applicants for telecommunication facilities, (such as fixed, mobile, or transportable structures providing telecommunication services), to establish a sinking fund as required by Oakland Municipal Code 17.128.030. The sinking fund, a special purpose savings account, was established to collect monies from telecommunication applicants to cover the cost of removing telecommunication structures if they are abandoned within a prescribed period.

The investigation determined the City never implemented the Municipal Code requirement specifically for telecommunication applicants, but instead created an internal sinking fund referred to as Fiduciary Fund 7460. The City collected telecommunication applicants' deposits in Fund 7460 for several years, until the City Attorney's Office advised the City's Planning and Building Department to cease collecting the deposits in 2012 because the City was not collecting deposits for any other types of applicants. Therefore, since 2012, Fund 7460's only activity has been interest earnings. It currently contains \$4.1 million.

My Office is recommending the City Administration, in consultation with the City Attorney's Office, develop and present to the City Council, an Amendment to the Municipal Code, eliminating the need for telecommunication facility applicants to establish a sinking fund, and update the code to reflect the City's current practices. Additionally, we recommend the Administration direct the Finance Department to review Fund 7460's deposits and determine what should be done with the \$4.1 million currently within the Fund.

[Read the Full Whistleblower Report Investigation](#)

Reminder: Are You the PEC Commissioner We Want?



Public Ethics | CITY OF OAKLAND Commission

If you would like to be considered for the PEC Commissioner appointment for the 2022-2025 term, please email your applications (or any questions you may have about the application process) to [Dena Shupe](#) by **close of business Tuesday, February 15, 2022**. Click [here](#) to learn more about the role of Commission Members and to fill out an application.

[Learn More About the PEC](#)

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Available 24/7.

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COURTNEY RUBY, CPA, CFE
CITY AUDITOR



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