

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: July 1, 2019
Reviewed by: NA

SUBJECT: Public Hearing to Consider Collection of Delinquent Garbage Bills by Placement on the County Tax Rolls

REPORT BY: Claire Griffing, Sustainability & Resilience Manager

SUMMARY

The City's Franchise Agreement with Waste Management of Alameda County requires Council approval of a list of delinquent accounts for placement on the County tax rolls annually.

STAFF RECOMMENDATION

That the Council adopt Resolution No. 2019-59 confirming the special assessment list for delinquent residential garbage bills, and authorizing the delinquent charges be placed on the County tax rolls.

BACKGROUND

The Council approved a Franchise Agreement with Waste Management of Alameda County (WMAC) on October 17th, 2011. The Agreement establishes that WMAC is responsible for all garbage and collection services and for preparing, mailing, and collecting for services provided (see Attachment 3). WMAC issues bills for single family homes on a quarterly basis in advance of services. For health and safety reasons, WMAC is required by the Franchise Agreement to continue regular weekly collection of garbage and recycling services for residential customers even when unable to obtain payment for past due bills.

The 2011 Franchise Agreement called for the establishment of a special assessment collection process in order for WMAC to recover unpaid amounts where service has continued. On November 18, 2013, Council passed Ordinance No. 2013-02 (Attachment 4) amending Section 15-2.4 of the Albany Municipal Code to authorize collection of delinquent garbage bills by placement on the Alameda County tax rolls. In the event that standard collection methods to recover past due bills prove unsuccessful, the Ordinance authorizes the amount owed to be placed on residential properties with past due accounts. The Special Assessment process is detailed within Exhibit 7 of the City's Franchise Agreement with WMAC and provided as Attachment 5 to this staff report.

DISCUSSION

Resolution No. 2019-59 (Attachment 1) confirms the special assessment list (Attachment 2) for delinquent residential garbage bills, and authorizes the delinquent charges to be placed on the County tax rolls. The total amounts owed on the list include WMAC late fees and a City administrative fee of \$50. The County will also apply a fee. Unpaid balances under \$20 are not included in the list, and multifamily properties with five or more units and all commercial properties are exempt from the process.

WMAC is required to exercise reasonable efforts to collect payments from property owners for accounts that are past due prior to the Special Assessment process. These collection methods are described in the Franchise Agreement (see Attachment 3), and generally include issuing late payment notices, imposing late fees on past due balances after billing, placing telephone requests for payments, and utilizing services of collection agencies. If these efforts fail, WMAC is authorized to begin the special assessment process. For accounts that fall into the 90-days past due category, WMAC provides a total of four delinquency notices that explain the special assessment process. WMAC mailed letters in January, February, March, and May to each residential property owner and account holder (if different) with a delinquent garbage bill. Each letter stated that the City's ordinance holds property owners responsible for garbage service fees, provided the past due amount, and included a phone number and email address to resolve questions regarding amounts owed. All letters were approved by City staff. The purpose of the notices is to provide property owners with sufficient information and notification to correct the delinquent bill prior to WMAC requesting that the amounts owed be placed on the property tax rolls. The City sent out a final request for payment to owners of all remaining delinquent accounts on May 6th of this year before WMAC finalized the special assessment list. Public hearing notices were sent to all accounts on the final list in advance of this meeting.

Once approved, the Finance Department will send the special assessment list to the County. The City will receive payment from the County, less the County fees, collect the administrative fee and franchise fees and pay the remaining amount to WMAC. WMAC will perform a final reconciliation of all accounts involved.

FINANCIAL IMPACT

Staff estimates that the additional franchise fee revenue to the General Fund from the collection of these delinquent garbage bills will total \$2,187.50. In addition, \$2,050 will be remitted to the City in administrative fees. Through this process, the City recovered additional franchise fees from delinquent accounts that paid prior to the June 1st deadline.

Attachments

1. Resolution No. 2019-59
2. Final 2019 Special Assessment List for Delinquent Garbage Bills
3. Franchise Agreement Excerpt – Section 6.02.1.4
4. Ordinance No. 2013-02
5. Exhibit 7 “Special Assessment Process” of the Franchise Agreement between the City of Albany and Waste Management of Alameda County

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RESOLUTION NO. 2019-59

**A RESOLUTION OF THE ALBANY CITY COUNCIL CONFIRMING THE
REPORT AND SPECIAL ASSESSMENT LIST ASSOCIATED WITH
DELINQUENT GARBAGE BILLS**

WHEREAS, staff has rendered an itemized report in writing to this Council indicating residential property owners in the City of Albany who have incurred delinquent garbage bills, as required by Section 15-2.4 of the Municipal Code of the City of Albany and Section 6.02.2 of the Franchise Agreement with Waste Management of Alameda County; and

WHEREAS, the hour of 7:30 p.m. on Monday, July 1, 2019, in the Council Chambers, City Hall, 1000 San Pablo Avenue, Albany, California, was fixed as the time and place for this Council to receive and consider the report, and a copy of the report has been posted and published in the manner required by Section 15-2.4 of the Albany Municipal Code; and

WHEREAS, the report was presented at the time and place fixed, and the City Council has considered the report and all comments with respect thereto.

NOW, THEREFORE, BE IT RESOLVED, that the Albany City Council hereby confirms the report and attached special assessment list associated with delinquent garbage bills; and

BE IT FURTHER RESOLVED, that all unpaid assessments confirmed hereby shall be transmitted by the City of Albany Finance Department to the County Assessor for collection on the property tax roll.

ROCHELLE NASON, MAYOR

FINAL SPECIAL ASSESSMENT LIST FOR DELINQUENT GARBAGE BILLS

JULY 1, 2019

APN #	HOUSE #	STREET NAME	CITY	STATE	ZIP	TOTAL*
066 280802002	725	TALBOT AVE	ALBANY	CA	94706-1704	221.06
066 280002400	817	KAINS AVE	ALBANY	CA	94706-1609	371.97
065 240903400	1102	MASONIC AVE	ALBANY	CA	94706-2328	647.01
067 284202903	535	KEY ROUTE BLVD	ALBANY	CA	94706-1402	647.01
066 275701500	650	MADISON ST	ALBANY	CA	94706-1119	229.98
066 280800100	701	TALBOT AVE	ALBANY	CA	94706-1704	647.01
067 283405300	707	KEY ROUTE BLVD	ALBANY	CA	94706-1714	177.95
067 285303201	707	RAMONA AVE	ALBANY	CA	94706-1817	476.45
066 280700902	712	MASONIC AVE	ALBANY	CA	94706-1709	476.45
066 272902200	718	JOHNSON ST	ALBANY	CA	94706-1511	284.96
067 283500800	720	KEY ROUTE BLVD	ALBANY	CA	94706-1715	527.53
067 283401300	740	SPOKANE AVE	ALBANY	CA	94706-1711	647.01
066 273200600	760	PIERCE ST	ALBANY	CA	94706-1041	479.18
065 265901300	1034	STANNAGE AVE	ALBANY	CA	94706-2220	642.21
066 272302300	923	BUCHANAN ST	ALBANY	CA	94706-1545	651.97
067 283306100	809	KEY ROUTE BLVD	ALBANY	CA	94706-1716	527.53
066 280202800	821	CORNELL AVE	ALBANY	CA	94706-1718	188.5
066 280000900	826	STANNAGE AVE	ALBANY	CA	94706-1641	143.12
066 274801502	833	POLK ST	ALBANY	CA	94706-1527	476.47
066 272702200	921	FILLMORE ST	ALBANY	CA	94706-1523	647.01
065 266001000	928	STANNAGE AVE	ALBANY	CA	94706-2006	647.01
065 264803100	935	POMONA AVE	ALBANY	CA	94706-2125	450.92
066 272701501	948	TAYLOR ST	ALBANY	CA	94706-1535	445.79
065 265805401	1013	STANNAGE AVE	ALBANY	CA	94706-2219	182.05
065 265404400	1045	TALBOT AVE	ALBANY	CA	94706-2331	177.95
065 266201600	1046	KAINS AVE	ALBANY	CA	94706-2208	242.54
065 266202000	1056	KAINS AVE	ALBANY	CA	94706-2208	583.12
065 265103600	1059	EVELYN AVE	ALBANY	CA	94706-2313	601.73
065 241201901	1069	CURTIS ST	ALBANY	CA	94706-2418	177.95
065 240901801	1146	EVELYN AVE	ALBANY	CA	94706-2316	566.84
067 282401500	1151	GARFIELD AVE	ALBANY	CA	94706-1231	615.08
067 281801600	1249	PORTLAND AVE	ALBANY	CA	94706-1344	221.06
065 264902700	1315	MARIN AVE	ALBANY	CA	94706-2101	603.65
067 285401800	1327	WASHINGTON AVE	ALBANY	CA	94706-1838	351.29
065 263901700	1455	MARIN AVE	ALBANY	CA	94706-2136	1081.77
065 263301200	1507	POSEN AVE	ALBANY	CA	94706-2519	647.01
067 286600201	506	RAMONA AVE	ALBANY	CA	94706-1432	308.17
067 284300800	818	RAMONA AVE	ALBANY	CA	94706-1820	144.41
066 280402200	847	EVELYN AVE	ALBANY	CA	94706-1720	476.45
065 240802500	1105	CORNELL AVE	ALBANY	CA	94706-2305	399.08
					TOTAL:	\$ 18,034.25

**Total amount includes Feburary 2018-November 2018 bills and City administrative fee.*

1147 6.01.3 If CONTRACTOR fails to perform some or all of the requirements of
1148 the public education program described in this Section and in the annual public education plan,
1149 the CONTRACTOR shall pay the CITY Liquidated Damages as described in Section 12.05.

1150 6.01.4 Public Education Budget. CITY and CONTRACTOR acknowledge
1151 CONTRACTOR'S start-up public education/outreach budget is ten thousand dollars (\$10,000)
1152 for calendar year 2012. Beginning in calendar year 2013, CONTRACTOR'S annual budget will
1153 be at least five thousand dollars (\$5,000) which beginning with calendar year 2013 will be
1154 increased by the annual average change in the Consumer Price Index as set forth in Exhibit 2
1155 and as calculated as part of the annual RRI calculation each year. At the direction of CITY, Any
1156 unexpended amounts from a given year shall accumulate for CITY'S future public education
1157 use. Beginning January 1, 2012 partial years shall be prorated. CONTRACTOR shall inform
1158 CITY of funds expended on public education by quarter.

1159 6.02 Billing.

1160 6.02.1 General. The CITY shall establish the Rates that CONTRACTOR may
1161 charge Customers for Solid Waste, Recyclable Materials, and Organic Materials Collection
1162 services. CONTRACTOR shall bill all Customers and collect billings in accordance with CITY
1163 approved rates. If a Premises includes both Multi-Family and Commercial uses, the
1164 CONTRACTOR bill the Customer at Commercial rates if the Commercial square footage of the
1165 Premises is greater than the Multi-Family Premises, and shall bill Customer at Multi-Family
1166 rates if the Multi-Family square footage of the Premises is greater than the Commercial
1167 Premises.

1168 6.02.1.1 The CONTRACTOR shall prepare, mail, and collect bills
1169 (or shall issue written receipts for cash payments) for Collection services provided by
1170 CONTRACTOR.

1171 6.02.1.2 CONTRACTOR shall make arrangements to allow its
1172 Customers to pay bills through the following means: check, cash, credit card, internet payment
1173 service, or automatic withdrawal from banking account.

1174 6.02.1.3 CONTRACTOR shall maintain copies of all billings and
1175 receipts, each in chronological order, for three (3) years for inspection and verification by CITY
1176 at any reasonable time upon request. The CONTRACTOR may, at its option, maintain those
1177 records in computer form, on microfiche, or in any other manner, provided that the records can
1178 be preserved and retrieved for inspection and verification in a timely manner.

1179 6.02.1.4 CONTRACTOR shall be responsible for collection of
1180 payment from Customers with past due accounts ("bad debt"). CONTRACTOR shall make
1181 reasonable efforts to obtain payment from delinquent accounts through issuance of late
1182 payment notices, telephone requests for payments, and assistance from collection agencies. If
1183 the average monthly bad debt ratio for a six (6) month period exceeds one and one-half (1.5)
1184 percent, the CITY and CONTRACTOR shall meet and confer on measures that can be taken to
1185 collect the bad debt and/or reduce the level of Collection service provided to the Customer. The
1186 bad debt shall be calculated as the balance of accounts receivables that are past due ninety
1187 (90) days as a percentage of the balance of total accounts receivable.

1188 6.02.2 Special Assessment Process. CONTRACTOR shall have the right to
1189 utilize the special assessment process set forth in Exhibit 7 for all accounts that are delinquent
1190 for ninety (90) or more days. CITY will cooperate with CONTRACTOR in the implementation of
1191 the special assessment process and the collection of the special assessment. All funds



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ORDINANCE NO. 2013-02

AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING CHAPTER 15 OF THE CODE OF THE CITY OF ALBANY ENTITLED "SEWERS AND SANITATION."

WHEREAS, the City Council finds that the maintenance of public health and welfare requires the periodic collection of solid waste, recyclables and organic materials from all properties in the City where such materials are produced or accumulated; and

WHEREAS, the provision of those collection services by the City directly benefits all such properties, as well as their owners and occupants, and those owners and occupants are therefore made liable for the charges established by the Council for the collection, removal and disposal of solid waste, recyclables, and organic materials; and

WHEREAS, particular sections within Chapter 15 of the City's Municipal Code require amendment to specify charges and procedures for collection of delinquent charges as well as provisions for proper storage of trash containers following service days.

NOW, THEREFORE, THE ALBANY CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:

1. Section 15-2.4 within Chapter 15 of the City of Albany Municipal Code shall be amended, to read as follows:

15.2-4 Fee for Provision of Service by City's Franchisee; Collection of Delinquent Charges.

1 a. Every person who uses the collection services of the City's franchisee shall pay a
2 fee for the services, as established in a resolution adopted by the City Council pursuant to the
3 franchise agreement.
4

5 b. The City's franchisee shall bill customers directly for service.

6 c. The City's franchisee shall reconcile payments by customers against amounts
7 billed to verify any delinquency in payment by customers.
8

9 d. If a customer fails to pay a bill in full within ninety (90) days from the due date,
10 the franchisee shall undertake collection of the bill. The franchisee shall provide delinquency
11 notices to customers but may not discontinue service to their properties. Franchisee shall make
12 reasonable efforts to obtain payment through such measures as late payment notices, telephone
13 requests for payment, and assistance from collection agencies.
14

15 e. If a residential bill for a single family account remains unpaid after ninety (90) days from
16 the original due date, the franchisee shall send a 90-day notice. The 90-day notice shall include a
17 notice informing the owner of the delinquent status of the charges, of the potential for assessment
18 upon the property tax roll and of the imposition of administrative charges in connection with
19 such assessment.
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21 e. The delinquent charges which remain unpaid by the residential customer shall
22 constitute an assessment against the property to which service was rendered and shall be
23 collected at such time as established by the County Assessor for inclusion in the next property
24 tax assessment. The City may enforce payment of such delinquent charges in the following
25 manner:

26 (a) Upon receipt of verified information from the franchisee detailing delinquent charges
27 and establishing that franchisee has made reasonable efforts to collect the delinquent charges,
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1 including provision of delinquent charge notices to the property owners, the Finance Director
2 shall transmit to the City Council a report of delinquent charges. Once said report has been
3 confirmed, the delinquent charges and the added costs shall be assessed upon the property and
4 shall constitute a special assessment against the same.
5

6 (b) The Finance Director shall turn over to the County Assessor for inclusion in the next
7 property tax assessment the total sum of unpaid delinquent charges consisting of the delinquent
8 garbage collection service charges and administrative charges.
9

10 (c) The assessment may be collected at the same time and in the manner as ordinary
11 municipal taxes are collected and shall be subject to the same penalties and the same procedure
12 of sale as provided for delinquent, ordinary, municipal taxes. The assessment shall be
13 subordinate to all existing liens previously imposed upon the property and paramount to all other
14 liens except for those of state, county and municipal taxes with which it shall be upon parity. The
15 lien shall continue until the assessment and all interest and charges due and payable thereon are
16 paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be
17 applicable to the special assessments.
18

19 f. Any notice required to be given pursuant to this chapter shall be deemed served as
20 of the date of personal service upon the Owner or five days after deposit of said notice, postage
21 prepaid in the United States Mail addressed to the Owner at the address listed on the most recent
22 County Assessor's tax roll.
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25 2. Section 15-2.8 within Chapter 15 of the City of Albany Municipal Code shall be
26 amended, to read as follows:

27 **Section 15-2.8 Collection of Solid Waste and Recyclables Required.**
28

1 a. *Failure to Subscribe Presumed to Create Nuisance.* If any person shall fail to subscribe
2 for collection and disposal services of garbage as required by this section, it shall be
3 presumed that a nuisance exists upon the premises which have not been provided with
4 such collection and disposal service.
5

6 b. *Notice of Required Collection.* If the City finds that any person has failed to
7 subscribe for the collection and disposal of garbage as required by this section, it shall serve
8 written notice upon the person, informing the person of the requirements of this section and that
9 because of the failure to comply with such requirements, a nuisance is presumed to exist upon
10 the premises owned, managed or controlled by such person which have not been provided with
11 such collection and disposal service. The notice shall direct the person to subscribe with the
12 contractor for the collection and disposal of garbage within ten (10) days after service of the
13 notice.
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15 The notice shall further state that if the person shall fail to comply with its directions
16 within the ten-day period, the City will abate the nuisance existing upon the premises by ordering
17 the contractor to provide collection and disposal services for the premises, and that the charges of
18 the contractor therefor, together with the administrative costs incurred by the City in the
19 abatement of the nuisance, will be assessed and become a lien against the real property upon
20 which the premises serviced are located.
21

22 The notice specified herein shall be deemed served when it is deposited in the United
23 States Post Office at Albany, California, with postage prepaid and addressed to the person
24 entitled to notice at his last known place of address as shown on the assessment roll of the
25 County, and if no such address is there shown or known, then to General Delivery, Albany,
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1 California. On the date and at the same time as a notice is mailed pursuant to this subsection, a
2 copy of such notice shall be mailed to the contractor.
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5 If the notice specified herein is required to be served upon any person other than the
6 owner of record of any leased or rented premises, a copy of the notice shall, at the same time and
7 in the same manner, be served upon the owner of record of such leased or rented premises.
8

9 c. *Exemption if Premises Unoccupied.* The City Administrator may exempt from the
10 requirements of this subsection any person who shows, and only so long as such person can
11 continue to show, that the premises are unoccupied.
12

13 d. *Abatement of Nuisance.* If the City finds that any person upon whom notice was
14 served pursuant to paragraph c. of this subsection has failed within the time specified therein to
15 subscribe for the collection and disposal of garbage, the City is authorized to order the City's
16 designated solid waste collector to provide such collection and disposal services and to remove
17 any accumulated garbage. The contractor shall, during the period it provides services ordered by
18 the City, charge the City therefor at the applicable rate specified in the contract with the City,
19 and may charge the city any additional amount which may be necessary for the removal and
20 disposal of accumulated garbage found upon the premises at the time service is ordered by the
21 City. The City shall become liable to pay such charges only when they have, pursuant to
22 paragraph f. of this subsection, become a lien upon the real property upon which the premises are
23 located.
24

25 e. *Lien for Charges and Cost of Abatement.* The City shall, with respect to each
26 parcel of real property provided with the collection and disposal of garbage pursuant to its order,
27 keep an account of the charges presented to the City therefor by the contractor, together with the
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1 administrative costs incurred by the city in the abatement of the nuisance pursuant to this
2 subsection. The City shall present the accumulated charges and administrative costs to the City
3 Council in a proposed resolution. Such resolution shall be filed with the City Clerk for adoption
4 by the City Council. Such charges and costs shall, pursuant to such resolution, be assessed and
5 become a lien against the real property served pursuant to the City's order; provided, however,
6 that such charges and costs may be paid at any time before they become a lien as herein
7 provided.

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11 f. *Removal by Persons Owning, Managing or Controlling Property.* No provision in
12 this subsection shall be construed to prevent any persons from removing materials from premises
13 owned, managed or controlled by them, for the purposes of disposal, recycling, or composting
14 such materials. Such removal shall not constitute an exemption from the requirements of this
15 section.

16 (Ord. # 04-01, §1)

17 g. *Accessibility and Location of Garbage Cans.* Garbage containers shall be easily
18 accessible to the garbage collector. Garbage cans shall not be kept within the public right of way
19 except on collection day.

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21 Publication and Effective Date

22 This ordinance shall be posted at three public places within the City of Albany, and shall take
23 effect ninety days after the date of its adoption.
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26 _____
27 Peggy Thomsen, Mayor
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Exhibit 7 Special Assessment Process

City of Albany

Pre-Special Assessment Process Activities

- A. **Prior to the January 15** start of the Special Assessment process Waste Management of Alameda County (WMAC) billing department will obtain the most current Parcel Data information for the City.

- B. Using the current parcel data, WMAC billing department will reconcile parcel data with WMAC's MAS customer service database to update and match parcel owner and address information. Once this reconciliation process is complete, WMAC will start the Special Assessment Process.

Special Assessment Letter to Owners

- 1. **On or before January 15** WMAC will send a letter to all property owners advising owners of their obligation to pay for Solid Waste and Recycling services for properties they own. The letter will clearly state that the owner is ultimately responsible for payment regardless if the tenant has agreed to make the payment for solid waste and recycling services as part of the rental agreement for the property. Applicable Sections of the Municipal Code will be included in this letter.

- 2. **Prior to March 1**, WMAC's billing department will identify all customers that are delinquent **over 90-days** and subject to the Special Assessment.

- 3. **On or before March 1**, WMAC will send out the first "Delinquency Subject to Special Assessment" letters to all owners and tenants.

- 4. **On or before April 1**, WMAC will send out the second "Delinquency Subject to Special Assessment" letter to all owners and tenants.

- 5. **On or before May 1**, WMAC will send out the third "Delinquency Subject to Special Assessment" letter to all owners and tenants.

- 6. **On or before May 15**, WMAC will send out the fourth "Delinquency Subject to Special Assessment" letter to all owners and tenants.

- 7. **On or before June 1**, WMAC will apply all payments received to the respective delinquent accounts and will remove the accounts from the Special Assessment List.

- 8. After all delinquent accounts are credited and removed from the Special Assessment list, WMAC sends the updated list to the Jurisdiction. **(June 1)**

9. **On or before June 5**, the jurisdiction sends out a Final Request for Payment to owners of all remaining delinquent accounts **as of June 1**, advising the owner that payment is **due by June 30**, or a special assessment will be placed on the property.
10. WMAC and/or the Jurisdiction will apply all payments received **on or before June 30** to the respective delinquent accounts. Remaining delinquent accounts are placed on the final Special Assessment list, which is given to WMAC and the City Council. The City Council reviews each account on the final list and either approves or denies placement of the Special Assessment on the property.
11. After the City Council completes their review and renders their decisions on placement of the Special Assessments on the properties listed, the Special Assessment list will be updated and provided to WMAC. **(July)**
12. On all accounts that the Jurisdiction approves the Special Assessment, WMAC will apply credit to the specific accounts and create One (1) general Special Assessment Account for each Jurisdiction. On all accounts that the Jurisdiction denies the Special Assessment, WMAC will review and determine if the account will be pursued for Special Assessment in the following year, or will take other necessary actions to resolve the status of the account. **(July)**
13. City receives payment from the County on all Special Assessments collected, which is then paid to WMAC, in turn WMAC pays the corresponding franchise fees back to the City. **(August)**
14. Monies received by WMAC from the City are applied to the General Special Assessment account previously created for the City, and WMAC performs a final reconciliation of all accounts involved. **(August)**

