

Staff Report City of Manhattan Beach

TO:	Honorable Mayor Powell and Members of the City Council
THROUGH:	David N. Carmany, City Manager
FROM:	Jim Arndt, Director of Public Works
DATE:	June 5, 2012
SUBJECT:	Skechers USA Inc. Water and Sewer Bill Reimbursement of \$242,866.48 for Overpayment of Water and Sewer Charges and Delegate to the City Manager Authority to Execute Settlement Agreement

RECOMMENDATION:

Staff recommends that the City Council authorize settlement of a claim and reimburse \$242,866.48 to Skechers USA Inc. for overpayment of water and sewer charges that occurred from July 2007 through April 2012 and delegate to the City Manager authority to execute a settlement agreement on behalf of the City in the form approved by the City Attorney.

FISCAL IMPLICATIONS:

Water and sewer reserves will fund the \$242,866.48 reimbursement, with \$189,431.73 coming from the water reserves and \$53,434.75 from sewer reserves.

BACKGROUND:

The meter installed for water consumption at 330 S. Sepulveda (Sketchers) is a Sensus 3" turbine meter with an eight(8) dial register, measuring water flow in units of Cubic Feet. Each of the eight dials represent a place holder in the totalized units of water flow through the meter, beginning from right to left at .10 cubic feet and going to 1 million cubic feet (see Attachment I).

In July, 2007 meter #67299307 was installed at 330 S. Sepulveda with a meter register read of:

0,000,000.0 Cubic Feet

On the dials of the most common residential and commercial water meters, a place holder for .10 cubic feet is not used and the first two dials, 1 cf and 10cf, are identified by black or red backgrounds indicating to the meter reader not to enter these as a place holder in the metered consumption (water consumption is billed in units of 100 cubic feet or HCF).

During the initial meter reading cycles following the meter installation in July, 2007 the City meter reader incorrectly dropped the first two dials to the right (as customary in most common meters because they are blacked out) and entered the remaining dials to the left as the read. This resulted in the dial representing 10cf being reported as 100cf.

EXAMPLE: In May, 2008 the meter register read **0048209.1.** The meter read was entered as **4820** when the correct read should have been **482.**

This meter reading error continued during the first four meter reading cycles (8 months) and was subsequently corrected during the re-read until the May, 2008 reading when the 4 digit read (including the 10cf dial) was inaccurately verified as the "correct" read. As a result, following meter reads were entered to include the 10cf dial. In many instances it prompted re-reads and was verified as the correct read.

Once a mistaken "high read" or "low read" is verified as accurate in the billing system, the read consumption is used as a metric for comparative analysis and inaccurate reads are accepted.

The incorrect high reads resulted in billing tenfold over what should have been billed. For example, in 2011, Skechers paid \$119,963.40 for water, when they should have paid \$3,474. This was a consistent pattern beginning in July 2007 when the meter was installed until April 2012 when staff was made aware of the meter misreads.

DISCUSSION:

Because of ongoing rereads since July 2007 and further investigation by Skechers of their water use, staff further investigated the meter and its operation and concluded that the meter had been misread. Staff met with Joe Balogh, Skechers Manager of Facilities Maintenance on Thursday May 3rd, 2012 to discuss the matter. As stated above, the misreads caused the Skechers facility at 330 Sepulveda Blvd. to be billed 10 times more than what they should have for water and sewer services.

Staff has conducted a thorough and complete review of the incident and determined and confirmed the following: (i) that the misreads occurred consistently in the same percentage for each billing cycle beginning in July 2007 through May 2012; and (ii) this misread was an isolated incident as the meter serving the Skechers facility is a "one of a kind meter" in the system.

It is important to point out that no other businesses or residential meter are impacted by the Skechers billing error. The three – inch meter in question serves only Skechers and is the only one in service in the City. To ensure that this error does not occur again, the Skechers meter has been replaced with a traditional read meter, and all future meter purchases for the water system will be consistent with the current dial – read system.

In order to check that similar problems did not exist in other large meters, staff has reread all 437 1.5 – inch meters and 389 meters 2 inches or larger. No errors were discovered.

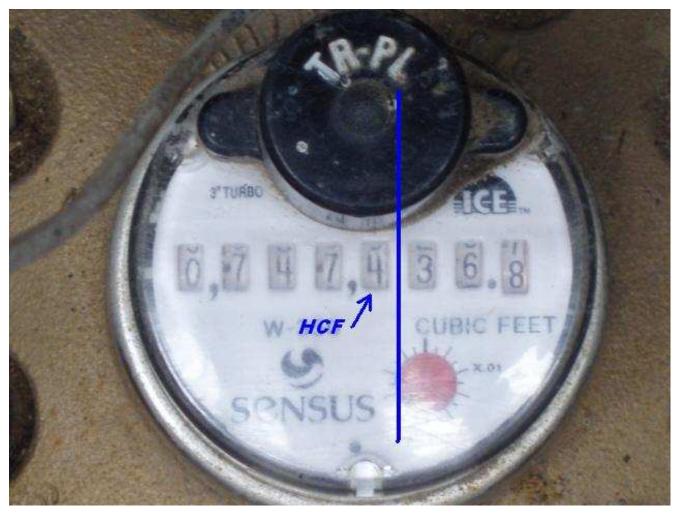
To protect against future reading errors, all Public Works water personnel will be given retraining regarding reading of various meter types and sizes. Public Works and Finance are working on instituting a system that "flags" any meter that has two consecutive meter re-read requests. Once notified, a supervisor would be required to review and approve the reread results and investigate any possible systemic issues surrounding the meter read accuracy.

The City has worked proactively with Skechers to address the problem and is recommending approval to reimburse Skechers in the amount of \$242,866.48. There are sufficient funds available to reimburse the overbilling.

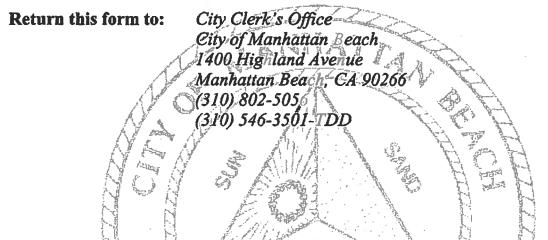
Attachment I: Image of Water Meter Attachment II: Skechers claim

cc: Bruce Moe, Director of Finance Raul Saenz, Utilities Manager Agenda Item #: ___

ATTACHMENT I



CITY OF MANHATTAN BEACH CLAIM FOR DAMAGES TO PERSON OR PROPERTY



INSTRUCTIONS:

- 1. Claims for death, injury to person, or injury to personal property must be filed not later than six months after the occurrence. [Govt. Code § 911.2]
- 2. Claims for damages to real property must be filed not later than one year after the occurrence. [Govt. Code § 911.2]
- 3. The contents of this claim must comply with the provisions of Government Code §§ 910 and 910.2 or it will be deemed insufficient and rejected and will not stop the claims limitations period from running.
- 4. Attach and sequentially number each additional supporting sheet.
- 5. Read the entire claim before filing.
- 6. YOU MUST SIGN AND DATE THIS CLAIM FORM BEFORE SUBMITTING. If you do not, the form will be returned to you and the claims limitations period will continue to run.

PLEASE NOTE: If you wish to receive a conformed copy, YOU MUST provide an extra copy of the Claim and a self-addressed, stamped envelope.

CLAIMANT INFORMATION JOE BALOGH Name: SKECHERS, USA, INC Aliases: 1. la. 2. DL#: DOB: 2a. Business Telephone: 310.318.3100 × 4227 3. Home Telephone: 3a. SS# (Optional): 4. Home Address (including city) state & zip): 5. Sag. Business Address (including city, state & zip: 5a. 1.65 32 S. Mail notices to (please circle one): Other 5b. Home Busine If you circled "other" in line 5b above, please provide address: 5c.

	DAMAGE OR INJURY INFORMATION JULY 2007 - MARCH, 2012
	When did damage or injury occur? Date:Time:
	If claim is for equitable indemnity, please give the date the claimant was served with the complaint:
p	Where did damage or injury occur?: (Describe fully and locate on the attached diagram, propriate.): WATER METER WAS MIS-READ : METER # 67299307
	I have been showing the second
2	Give a detailed description of how the damage or injury occurred: WATER METER S MIS-READ RESULTING IN BILLING IN AND AMOUNT TIMES GREATER THAN WHAT IT SHOULD HAVE BEE HICH ALS RESULTED IN A HIGH WAS LEWATER BILL
-1	If the basis of liability is alleged to be an act or omission of a City officer or employee, lete the following:
P -	a. Name of such officer or employee, if known: <u>STATH MEMBERS</u> b. Claimant's statement of the basis for such liability. <u>THE RE-READ</u> <u>RECORD HOUSES IN FINANCE DENTIFIES MUNIC</u> <u>WORKS STATE INVOLVEMENT.</u> SEE ATTACHMENT 1
.1	If the basis of liability is alleged to be a dangerous condition of public property, complete
21	a. Public property alleged to be dangerous:
	b. Claimant's statement of the basis for such liability: N/A
	The set of
1	Give a description of the injury, property damage or loss, so far as is known at the time of aim. (If there were no injuries, state "No injuries."): WATER METER
	DING AND BILLING ERRORS RESULTED IN

13. Name and address of any other person injured: N/Λ

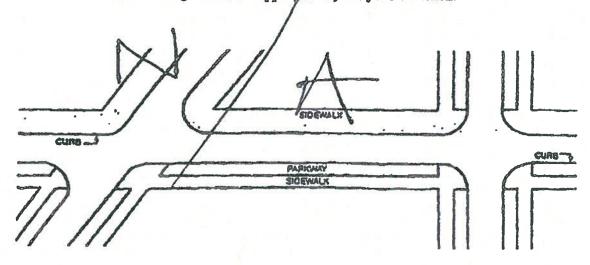
14.	Name and address of the owner of any damaged	property: SKECHERS USA INC.
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15.	Amount claimed as of this date:	\$ 242,866.48
16.	Estimated amount of future costs:	<u>s</u>
17.	Total amount claimed:	\$ <u>242,866</u> .48
18. etc.):	Basis for computation of amount claimed (include NATER BILLING PECORDS CALCULATION OF THE DIFFE BILLINGS DAID ADD WITH BILLED AND PATE	ATTACHMENT 2
19.	Jurisdiction You must represent whether the cl	aim is (check one):
<u> </u>	19a: a "limited civil case" (amount \$10,000 but does not exceed \$25, 19b. an "unlimited civil case" (amount	doesenot exceed \$10,000 or exceeds 000) [see Government Code 910(f)]. exceeds \$25,000).
20.	Damaged vehicle (if applicable): 20a Year 20b Make: 20c Model 20d. VIN #:	
21.	20e. Mileage: Names and addresses of witnesses doctors, and	iospitals:
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READ CAREFULLY

For all accident claims, place on the following diagram the names of streets, including North, South, East and West; indicate the place of the accident by an "X" and by showing house numbers or distances to street corners.

If a City vehicle was involved, designate by the letter "A" the location of the City vehicle when you first saw it, and "B" as the location of yourself or your vehicle when you first saw the City vehicle. Designate "A-1" as the location of the City vehicle at the time of the accident and "B-1" as the location of your vehicle at the time of the accident. Designate the point of impact as "X."

NOTE: If the diagram below does not fit the situation, sign and date this page, and attach a diagram which appropriately fits your situation.



WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM (Penal Code 72; Insurance Code 1871.1)

Signature BALDGHF

Date

Rev. 06/05

ATTACHMENT 1

AcctListing 04/19/2012 16:55

Account Listing CITY OF MANHATTAN BEACH

0.00 **Balance Due** 0.0 0.00 0.0 0.00 0.00 22,066.94 17,471.02 0.00 0.00 20,016.32 26,241.87 SW 1/24/11 SPOKE WIMONICA GARCIA @ 318-3100X4323 REGARDING HIGH USAGE, SHE SAID John DWYER (BUILDING MGR @ SKECHERS FOUND OUT THE PROBLEM OF HIGH USAGE) TOLD MONICA ANOTHER HIGH BILL GOING OUT THIS WEEK. SHE WILL CALL IF NEEDS TO 21,382.47 20,795.07 33,375.22 On Acct Running Balance 34,474.37 SW 3/28/11 REREAD @ 42062/42637, APPEARS TO HAVE LEAK, LEFT MSG ON VOICE MAIL TO MONICA REGARDING HIGH USAGE LEAK. SW 4/9/12 MTR CHK LEAK @ 0736953.6, DIAL MOVING-REPORT CONDITION TO JOE PER MIKE SW 3/12/12 JOE @ FACILITY DEPT REGARDING HIGH USAGE, NO LANDSCAPE MTR. ONLY SHOW 1 ACCT ACTIVE, TOLD HIM TO CALL BRIAN WRIGHT 0.00 Deposits 0.0 8 0.0 <u>8</u>.8 0.0 0.00 0.00 0.0 0.00 0.00 0.0 0.00 0.0 0.0 0.0 0.00 On Account Customer 22,066.94 Auto generated billing for document d 33,375.22 Auto generated billing for document d 17,471.02 Auto generated billing for document d 21,382.47 Auto generated billing for document d 34,474.37 Auto generated billing for document d 26,241.87 Auto generated billing for document d 20,795.07 Auto generated billing for document d 20,016.32 Auto generated billing for document d SW 1/26/12 READ @ 685662 PER PATRICK, CHNG READ TO 68566 Status CF 03/13/12 READ@7241704, CHNG READ TO 72417 Ø SW 9/15/11 REREAD @ 602897/60780 PER SHAWN 04/06/2012 Amount Description Payment 22,066.94 rec040612 17,471.02 rec020912 21,382.47 nec121611 34,474.37 rec100611 20,795.07 rec060611 33,375.22 rec041111 26,241.87 rec080811 20,016.32 rec020711 Last CF 11/15/11 READ@65527, PER MATT. SW 5/13/11 READ @ 47252 PER DALE Transactions 03/27/2012 Billed Last MANHATTAN BEACH, CA 90266-6825 MANHATTAN BEACH, CA 90266 01482093 01471068 01453503 01455179 01420475 01423031 01390060 01391074 01374190 01375198 01467355 01435168 01438992 01404862 01406804 01486857 330 S SEPULVEDA BLVD 225 S SEPULVEDA BLVD Doc. No SKECHERS USA INC. Name & Address Receipt Receipt Receipt Receipt Receipt Receipt Receipt Receipt Memo Memo Memo Memo Memo Memo Memo Memo Memo Service location tenant Role 04/10/2012 03/27/2012 03/15/2012 03/12/2012 02/09/2012 01/27/2012 01/26/2012 0/06/2011 06/06/2011 05/25/2011 03/28/2011 02/07/2011 01/24/2011 04/06/2012 12/16/2011 1/29/2011 1/16/2011 09/28/2011 09/26/2011 08/08/2011 07/28/2011 05/13/2011 04/11/2011 01/27/2011 03/29/2011 Date 89-0019010-07 Account #

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CHECK READ AGAIN. CF 01/18/11 READ@ 35195, PER MATT

Memo

01/19/2011

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			I had Shawn go out and investigate the meter read at Sketchers (330 S. Sepulveda). He indicated the meter is turning non-stop at a relatively quick pace. He reported a current read of 30755. We have been noticing large volumes of water being pumped out through the rear of the property throughout the day. Our Wastewater and Sewer Supervisor. Itstin made a visit to see what was	nd investigat an-stop at a r g large volun bur Wastewa	e the meter re elatively quick nes of water b ter and Sewer	ad at Sketche c pace. He rej eing pumped	ers (330 S. Se ported a currel out through th	pulveda). nt read of le rear of t	He indicated 30755. he property	
			going on, and was informed that they have a sump pump in their basement level garage for pumping out water used in their cooling system. This still seems like an extraordinary amount of water usage. I don't have a contact number for them, but Justin may know the phone number of their maintenance	ormed that th r cooling syst number for th	ey have a sun em. This still hem, but Justi	np pump in th seems like ar in may know t	eir basement l extraordinary he phone num	level garaç / amount c	ge for pumping of water usage ir maintenance	
	11/24/2010	Bill	staff. I will see if he can get in touch with them. As of right now, the bill is correct and Shawn verified the read. 01359242 17,758.72 Auto generated billing for d	an get in touc Il is correct a 17,758.72	In get in touch with them. Is correct and Shawn verified the read. 17,758.72 Auto generated billing for document d	ified the read. If billing for d	ocument d	0.00	17,758.72	72
	44/02/02/40		WILL CONTACT CUSTOMER	TOMER	0/00, MIK K	UNNING VEH	(Y FAST PER	SHAWN	BRIAN WRIGI	Ţ
	0102/82/11	Werno	SW 11/23/10 NOTE FRM BRIAN EMAIL 11/19/10 had Shawn go out and investigate the meter read at Sketchers (330 S. Sepulveda). He indicated the meter is turning non-stop at a relatively quick pace. He reported a current read of 30755.	RM BRIAN E d investigate top at a relati	MAIL 11/19/1 the meter rea ively quick pa	0 id at Sketcher ce. He report	s (330 S. Sepi ed a current re	ulveda). H ead of 307	He indicated th	Đ
			We have been noticing large volumes of water being pumped out through the rear of the property throughout the day. Our Wastewater and Sewer Supervisor, Justin, made a visit to see what was going on, and was informed that they have a sump pump in their basement level garage for pumping out water used in their cooling system. This still seems like an extraordinary amount of water usage.	g large volun Jur Wastewa Drmed that th Cooling syst	nes of water b ter and Sewer ey have a sun em. This still	eing pumped Supervisor, J np pump in th seems like ar	out through th Justin, made a eir basement l textraordinary	le rear of th visit to se level garag	he property e what was ge for pumping if water usage	
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	10/14/2009	Receipt	01253120	3,998.66 rec101409	sc101409		00.00		0.00
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	08/17/2009	Receipt	01239196		rec081709				0.00
	07/31/2009	Bill	01233699		uto generate	Auto generated billing for document d		3,13	.19
	07/30/2009	Memo	9 READ @	16,353,8 PE	R PATRICK.	116,353,8 PER PATRICK. CHNG READ TO 11635			
	06/12/2009	Receipt		2,604.91 re	rec061209		00.00		0.00
	05/28/2009	Bill	000001007354	2,604.91			00.00	2,60	1.91
	05/22/2009	Memo	EAD @	10342 PER QUENTIN	UENTIN				
	04/10/2009	Receipt	000001007840	1,884.62			00.00		0.00
	03/30/2009	Bill	000001007350	1,884.62			00.00	1.884.62	1.62
	03/23/2009	Memo	EAD @	9285 PER QUENTIN	JENTIN				
	02/13/2009	Receipt	000001007762	1,465.38			0.00		0.00
	01/29/2009	Bill	00000100771C	1,465.38			00.00	1,46	5.38
	12/12/2008	Receipt	000001006427	2,988.47			0.00		0.00
	11/25/2008	Bill	000001012658	2,988.47			0.00	2,96	3.47
	10/14/2008	Receipt	000001006902	1,980.51			0.00		0.00
	09/29/2008	Bill	000001007635	1,980.51			00.00	1,96	.51
	08/18/2008	Receipt	000001007568	2,465.86			00.0		0.00
	07/29/2008	Bill		2,465.86			00.00	2,465.86	5.86
	07/22/2008	Memo	READ	B 5992/0059	@ 5992/0059996.5 PER JOE	OE			
	06/13/2008	Receipt		1,218.44			00.0		0.00
	05/28/2008	Bill	000001007148	1,218.44			00.0	1,218.44	3.44
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	05/27/2008	Memo	SW 5/27/08 REREAD @ 0048209.1 PER KEN ON 5/23/08 & 0048399.9 PER JIM 5/27/08. CHNG	0048209.1	PER KEN O	N 5/23/08 & 0048399	9 PER JIM	5/27/08. CHNG	
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	100711171	receipt	00000100/4/2	355.14			00.0		0.00

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÷	Date 11/29/2007 11/28/2007 10/24/2007 09/27/2007 09/27/2007 09/27/2007	<u>Type</u> Bill Memo Receipt Memo Bill Memo	Doc. No Amount Description On A 000001007201 355.14 355.14 SW 11/28/07 READ @ 35608 PER KEN 35608 PER KEN 00000100747C 766.42 Next Time Billing - Meter Exchange: OLD METER #09063363 000001007491 766.42 SW 9/27/07 BOB/MIKE READ @ 0028406.8, BILL ONLY @ 284 PER BOB	Amount 355.14 35508 PEF 766.42 leter Exchange 766.42 KE READ @ (Description 3 KEN e: OLD METEI 028406.8, BII		On Acct 0.00 3 284 PER BOB	Running Batance 355.14 0.00 766.42	<u>atance</u> 355.14 0.00 766.42
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AcctListing 04/19/2012 16:55

CITY OF MANHATTAN BEACH Account Listing

Role	Nam	Name & Address	Last Billed	Last Payment	Status	Customer On Account	Deposits	Balance Due
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Summary Importation								
Accounts with balances owing	0							
Accounts with deposit balances	0							
Accounts with zero balances								

Page: 5

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Attachment 2 Financial Implications 2-May-12

		SEWER SERVICE UNG	00.07					SEWER Service Chg	2008	28.86			SEWER Service Che	2009	\$ 33.20						SEWER Service Chg FFF 01/01/2010	34.98						SEWER Service Chg	rr 01/01/	\$ 43./2						SEWER RATE EFF 01/01/2012	\$ 48.10				
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	FIXED RATE	RATE HEE @ 1 50						FIXED KAIE	2008	WHE HEL & TOS			FIXED RATE	2009	RATE HCF @ 1.83						NEW TIER RATE EFF 01/01/2010	RATE HCF @ 2.53						NEW TIER RATE	CLT UL/UL/2011	INTERIC 6 3.43					41514/ TICO 0 4 TC	EFF 01/01/2012	RATE HCF @ 4.56				
a 748 Gallons	Adj Amount Sewer		c	. 0		00			11.85		02.02	128-10		21.60	29.20	42.00	51.60	67.20	35.20	246.80	456.00	34.40	77.60	168.00	166.40	420.00	1,322.40	00 888	744.00	00'44'	00.104	00.000	00°00/	2 474 00	nn-+ (* *	333.30	423.50	756 80	20.00	5,928.10	53,434,75
1 HCf = 100 Cubic Feet = 748 Gallons	Amount Paid Sewer . Ad		00.00	25.20	11 05	13.65		20.001	130.35	271 05	430.15	1,289.05 \$	2	218.40	293.60	422.80	517.20	672.80	- 1	2,477.20 \$	4,560.80	351.20	780.80	1,680.80	1,665.60	4,206.40	13,245.60 \$	4 440 00		4615.00	5 830 00	7 680 00	00.500,1	3 00 CLL VE		3,342.90	4,236.10	7 679 00 \$		59,362.85 \$	ŝ
	Adj Amount H20 A		0	0	c	0		10 CU	19.65	122.43	193.98	594.66 \$		98.82	133.59	192.15	236.07	307.44	- F	5 11:6211	1,442.10	108.79	245.41	531.30	526.24	1,328.25	4,182.09 \$	1 531 BD	2 566 BD	1.590.45	2 011 35	2 649 60	1 635 20	11 985 30		1,381.68	1,755.60	3.137.28 <		21,028.44 \$	189,431,73
7 ON SEPULVDA IN V	Amount Paid H20 A		451.56	114.48	58.83	62.01		en cca	944.40 1.844.40	1.235.43	1.954.11	5,855.97 \$		999.18	1,343.22	1,934.31	2,366.19	3,078.06		11,333.19 \$	14,423.53	1,110.67	2,469.28	5,315.53	5,267.46	13,302.74	41,889.21 \$	15.318.00	25.674 90	15.921.75	20.144.55	26,527,05	16.377.15	119 963 40 5		13,857.84	17,560.56	31.418.40 5		210,460.17 \$	\$
METER SIZE ; 3 INCH METER INSTALLED DATE: 7/12/2007 METER LOCATION: N P/L-IN SDWLK ON SEPULVDA IN VAULT METER BRAND: Sensus	TOTAL HCF CONSUMPTION AI	0	284	72	37	39	0	517	1160	111	1229	\$		546	734	1057 [Finaled]	1293	1682 [Moved/in]	- 198	^	5701	439	976	2101	2082	5258	S	4440	7442	4615	5839	7689	4747	~	•	3039	3851	\$	•	Sub Totals 👘 🗧	Adj. Due Water/Sewer
	READ	0	284	356	393	432	4322	4839	5999	6776	8005			8551	5226	10342	55011	1331/	OCTAT		19899	20338	21314	23415	25497	30/55		35195	42637	47252	53091	60780	65527			68566	72417				
SKECHERS USA INC. 330 S. SEPULVEDA BLVD METER # 67299307 ACCT # 89-0019010-07	READ DATE	7/12/2007	9/21/2007	11/19/2007	1/18/2008	3/18/2008	5/19/2008	5/19/2008	7/17/2008	9/17/2008	11/17/2008		coord and a	6007/77/T	6007/11/c	Enn7/ct/c	6007/17/J				1/13/2010	3/16/2010	5/18/2010	0102/21/2	0102//1/6	0102/21/11		1/13/2011	3/15/2011	5/11/2011	7/13/2011	9/12/2011	11/10/2011			1/12/2012	3/12/2012				

\$ 242,866.48

Total Adj Due Water/Sewer