

## REPORT TO CITY COUNCIL

**DATE: MAY 9, 2012**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: GREG RAMIREZ, CITY MANAGER**

**BY: LOUIS CELAYA, DEPUTY CITY MANAGER**

**SUBJECT: COUNTY OF LOS ANGELES FLOOD CONTROL DISTRICT WATER QUALITY FUNDING INITIATIVE – SUPPORT BOARD OF SUPERVISORS ACTION TO CALL FOR PROPERTY OWNER ELECTION**

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The County Board of Supervisors (BOS) is scheduled to discuss this topic at their upcoming May 15<sup>th</sup> meeting. The Flood Control District's Water Quality Funding Initiative was developed for the purpose of protecting marine habitats, and ecosystems of surface waters Countywide from pollutants carried by storm water and urban runoff. The water quality funding initiative would provide funding for municipalities, Watershed Authority Groups (Joint Powers Authorities consisting of municipalities and other public agencies), and the Flood Control District to initiate, plan, design, construct, implement, operate, maintain, and sustain water quality projects.

Funding from the Water Quality Funding Initiative is a per capita parcel based fee whereby funds collected would be distributed to various entities and agencies. 50% would be allocated to Watershed Authority Groups, 40% to Municipalities (City and County Unincorporated Areas), and 10% to the Flood Control District. These funds could be used for water quality projects, National Pollutant Discharge Elimination System (NPDES) storm water permits, operation and maintenance activities, and capital projects (i.e., catch basin inserts, etc.) associated with water quality improvements.

The concept of a Water Quality Funding Initiative is the result of years of unfunded mandates the County and municipalities are currently required to comply with to address storm water quality improvements associated with NPDES permits and Total Maximum Daily Loads (TMDLs). For many years, municipalities have struggled to continue to meet the water quality mandates with limited or no funding to address the multi-million dollar improvements. As the cost for compliance continues to increase, funding options are limited. The Water Quality Funding Initiative concept was developed to provide the County and municipalities a set revenue source to help address the issue.

To be clear, this matter is regarding whether or not the City Council supports the BOS action to place the funding initiative on a ballot measure. At this time you are not being asked to support the fee developed as part of the funding initiative. Finally, as a matter of reference, the

Malibu/Las Virgenes COG chose to take no action, deferring to each city to take action if they chose.

Staff is recommending the City Council consider the following options regarding this request:

- 1) Consider a motion in support of the Board of Supervisors setting a Property Owner Election for the Los Angeles County Flood Control District's Water Quality Funding Initiative, and direct the City Manager to prepare a letter of support.
- 2) Oppose the Board of Supervisor setting a Property Owner Election for the Los Angeles County Flood Control District's Water Quality Funding Initiative.
- 3) Take no action.

## **RECOMMENDATION**

Staff is requesting the City Council provide direction of this request.

Attachment: Ordinance – LA Flood Control District Water Quality Improvement Program Ordinance

**ORDINANCE NO. \_\_\_\_\_(Version 4.17)**

An ordinance adding Chapter 18 to the Los Angeles County Flood Control District Code to impose, subject to voter approval, a water quality fee upon parcels located within the Los Angeles County Flood Control District to pay for projects relating to improving surface water quality within the district.

The Board of Supervisors of the Los Angeles County Flood Control District ordains as follows:

**Section 1.** Chapter 18 is hereby added to the Los Angeles County Flood Control District Code to read as follows:

**Chapter 18**

- 18.01 Short Title
- 18.02 Definitions
- 18.03 Purpose and Intent
- 18.04 Water Quality Fee Imposed
- 18.05 Allocation of Revenues from Imposition of the Water Quality Fee
- 18.06 Agreements for Transfer of Proceeds of the Water Quality Fee
- 18.07 Water Quality Project Goals
- 18.08 Required Water Quality Project Criteria
- 18.09 Implementation of this Chapter
- 18.10 Eligible Expenditures
- 18.11 Ineligible Expenditures
- 18.12 Formation of WAGs
- 18.13 Boundaries of the Watershed Areas

- 18.14 Composition of the WAGs
- 18.15 Governance of the WAGs
- 18.16 Duties of the WAGs
- 18.17 Duties of the WAG Stakeholder Advisory Panels
- 18.18 Administration of the WAGs
- 18.19 Preparation of Water Quality Improvement Plans
- 18.20 WQIP Approval Process
- 18.21 WQIP - Implementation and Reporting, Ownership of Projects
- 18.22 Duties of Municipalities
- 18.23 Development and Implementation of Municipal Projects
- 18.24 New Municipal Project Approval Process
- 18.25 Duties of the District
- 18.26 Water Quality Oversight Board
- 18.27 Term and Tenure of Members of the Oversight Board
- 18.28 Officers of the Oversight Board
- 18.29 Meetings—Quorum of the Oversight Board
- 18.30 Compensation of the Oversight Board
- 18.31 Rules and Regulations of the Oversight Board
- 18.32 Duties of the Oversight Board
- 18.33 Revenue Bonds
- 18.34 Calculation of the Water Quality Fee
- 18.35 Collection--General Procedure
- 18.36 Claims for Reimbursement and Appeals

- 18.37 Local Incentive Programs
- 18.38 Carryover of Uncommitted Municipality and WAG Water Quality Fee Revenues
- 18.39 Recordkeeping Requirements
- 18.40 Procedures for Addressing Misuse of Water Quality Fee Revenues and Failure to Comply with the Terms of this Chapter
- 18.41 District Held Harmless

**18.01 Short Title.**

This chapter shall be known as the “Los Angeles County Flood Control District Water Quality Improvement Program Ordinance.”

**18.02 Definitions.**

The following definitions apply to this Chapter 18:

“Administrative costs” means all costs related to the administration of the Fee by a WAG, Municipality, or the District including salary costs for executive officers and managers, clerical support, organizational legal support, payroll and personnel support, and accounting staff including all applicable employee benefits, overhead costs, and services and supplies. It also includes depreciation costs applicable to fixed assets and all costs associated with consulting and the performance of regular audits.

“Auditor” means the Auditor-Controller of the County of Los Angeles.

“Basin Plan” means the "Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties," adopted by the Regional Board on June 13, 1994, as amended.

“Best management practices” or “BMPs” means structural and nonstructural measures that are recognized to be effective and practical means to control pollutants in stormwater and urban runoff.

"Board of Supervisors" means the Los Angeles County Board of Supervisors acting as the governing body of the Los Angeles County Flood Control District.

“Chief Engineer” means the Chief Engineer of the District or his/her authorized deputy, agent, or representative.

“County” means the County of Los Angeles.

“District” means the Los Angeles County Flood Control District.

“Distributed BMPs” means BMPs that are distributed throughout a watershed and are generally located close to pollutant sources.

“Groundwater recharge” means the process where water from the surface makes its way into the subsurface, replenishing groundwater supplies, which can be pumped out for agricultural, industrial, irrigation, or drinking water uses.

“Impervious Area” means impermeable surfaces, such as pavement or rooftops, which prevent the infiltration of stormwater and urban runoff into the ground.

“Integrated Regional Water Management Plan” or “IRWM Plan” means a plan established through the State of California’s collaborative effort to manage all aspects of water resources within a geographic area. IRWM Plans cross jurisdictional, watershed, and political boundaries.

“Los Angeles County Flood Control District Water Quality Improvement Program” means, collectively, the water quality projects planned, implemented and funded in whole or in part by revenues from the Water Quality Fee in accordance with this Chapter, which are designed to address and reduce pollution and contamination of surface waters within the District, such as rivers, lakes, creeks, streams, ponds, channels, bays, and coastal waters. Water quality projects that provide additional benefits where feasible, such as protecting and enhancing available water supply via water conservation/reuse efforts such as rainwater harvesting and groundwater recharge; providing flood protection and control; protecting public health and safety; protecting open space and natural areas; providing places for recreation, such as parks or ball fields; creating, restoring, or improving wetlands, riparian, and coastal habitats; and providing other public benefits, are desirable and to be encouraged although revenues from the water quality fee, pursuant to the Los Angeles County Flood Control Act, may only be used for water quality benefits.

“Los Angeles River Revitalization Plan” means the planning document identifying ways to revitalize the publicly-owned rights-of-way along the portions of the Los Angeles River within the City of Los Angeles. This document was adopted by the Los Angeles City Council in May 2007.

“Los Angeles River Master Plan” means the planning document identifying ways to enhance the publicly-owned rights-of-way along the entire Los Angeles River and Tujunga Wash. This document was adopted by the Board of Supervisors in June 1996.

“Low Impact Development” means the technologies and practices that are part of a sustainable stormwater management strategy that controls stormwater and urban runoff on site.

“Municipality” means a city or the unincorporated areas within the boundaries of the District.

“Municipal projects” means water quality projects implemented by individual Municipalities and financed in whole or in part with water quality fee revenue.

“MS4 Permit” means a municipal separate storm sewer system permit issued by the Regional Board.

“Neighborhood Council” means one of the City of Los Angeles citizen councils established by the neighborhood empowerment initiative in accordance with Los Angeles City Code Section 906, which engages and promotes public participation in government to improve government responsiveness to local concerns.

“Non-Governmental Organization” or “NGO” means a legally constituted organization that operates independently from any government.

“NonStructural BMPs” means those policies, prohibitions, and procedures that are integrated into site design and planning techniques that preserve natural systems and hydrologic functions as well as conserve wetlands and stream corridors on site. It also includes public education programs and practices such as street sweeping and catch basin cleaning.

“Parcel” means a parcel of real property situated within the established boundaries of the District, as shown on the latest equalized assessment roll of the County and identified by its Assessor's Parcel Number (APN).

“Pollutant” means the same as defined in Section 502(6) of the Clean Water Act. Pollutants include, but are not limited to, the following:

- A. Commercial and industrial waste (such as fuels, solvents, chemicals, detergents, plastic pellets, hazardous materials or substances, hazardous wastes, fertilizers, pesticides, soot, slag, ash, and sludge);
- B. Metals (such as cadmium, lead, zinc, copper, silver, nickel, chromium, and arsenic) and nonmetals (such as carbon, chlorine, fluorine, phosphorous, and sulfur);
- C. Petroleum hydrocarbons (such as fuels, oils, lubricants, surfactants, waste oils, solvents, coolants, and grease);
- D. Eroded soils, sediment, and particulate materials in amounts which may adversely affect surface waters, flora, or fauna of the state;
- E. Human and animal wastes (including discharges from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities);
- F. Substances having acidic or corrosive characteristics, such as a pH of less than six or greater than nine;
- G. Substances having unusual coloration or turbidity, levels of fecal coliform, fecal streptococcus, or enterococcus, which may adversely affect surface waters, flora, or fauna of the state;

H. Trash and other refuse generated in urban environments (such as expanded polystyrene foam products, plastic products, cigarettes, and various food wrapping and containers.)

“Pollutant load” or “pollutant loading” means the quantity of pollutants present in a water body.

“Rainwater harvesting” means the accumulating and storing of rainwater on site for reuse before it reaches stormwater conveyance systems such as streets, storm drains, channels, streams, creeks, and rivers.

“Regional Board” means the California Regional Water Quality Control Board for the Los Angeles Region.

“Regional projects” means water quality projects of regional significance which are financed in whole or in part with water quality fee revenue and implemented by WAGs, have a combined tributary area exceeding 100 acres of land, address pollutant loads from more than one Municipality, or are part of a plan that treats an entire reach of a river or subwatershed, such as a TMDL implementation plan. Regional projects are to be developed in collaboration with Municipalities and stakeholders, taking into account factors such as the collective impact of a variety of pollutant sources and planning for the entire watershed area rather than individual local areas.

“San Gabriel River Corridor Master Plan” means the planning document identifying ways to establish and enhance habitat, recreational and open space resources along the San Gabriel River in ways compatible with its core flood and water management functions. This document was adopted by the Board of Supervisors in June 2006.

“Stakeholder” means a person, citizens group, homeowner or other property-owner group, business group, nongovernmental organization, environmental group, academic institution, neighborhood council, town council or other similar community group, water resources agency such as groundwater pumper or manager, private or public water agency, or other interested party that has a direct or indirect stake in the Los Angeles County Flood Control District Water Quality Improvement Program because the party can affect or be affected by the actions, objectives, and policies of one or more Municipal or Regional Projects.

“Stormwater” means water that originates from atmospheric moisture (rainfall or snowmelt) and falls onto land, water, and/or other surfaces within the District.

“Structural BMP” means a facility constructed or used to control, treat, store, divert, neutralize, or dispose of runoff in order to reduce pollutants.

“Sun Valley Watershed Management Plan” means watershed management plan that addresses chronic local flooding within the Sun Valley area of the Los Angeles River. This document was adopted by the Board of Supervisors in June 2004.



“Sustainable Solutions” means balanced approaches that preserve the long term well-being of communities and the environment by investing in and promoting economically sound, socially desirable and environmentally healthy projects, programs, and services to achieve multiple benefits, as described in Section 18.07.

“Total Maximum Daily Load” or “TMDL” means the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

“Treasurer” means the Treasurer and Tax Collector of the County of Los Angeles.

“Urban Runoff” means surface water flow that is not composed entirely of stormwater, such as flow from residential, commercial, or industrial activities.

“Water conservation/reuse” means the beneficial reduction of stormwater and urban runoff loss. Water conservation/reuse is typically accomplished through rainwater harvesting and groundwater recharge. As used in this chapter, Water conservation/reuse does not include water efficiency measures implemented by end users of potable water, such as efficient landscape systems and low flow toilets.

“Water Quality Benefit” means any activity that contributes to the improvement of water quality.

“Water Quality Fee” means the fee imposed pursuant to this Chapter to provide funding for water quality projects.

“WQIP” means a water quality improvement plan prepared in compliance with Section 18.19.

“Water quality project” means projects and/or programs that include a water quality benefit.

“Watershed Authority Group” or “WAG” means a Joint Powers Authority consisting of Municipalities and other public agencies within each watershed area identified in Section 18.13 responsible for preparing a WQIP and carrying out regional projects within the watershed area.

“WAG Stakeholder Advisory Panel” means local and regional stakeholders empanelled to provide input to WAGs on proposed regional projects funded by the Water Quality Fee.

“Watershed Area” means one of the nine geographic areas defined in Section 18.13 and in Section 2 of the Los Angeles Flood Control Act, subsection 8b(C).

### **18.03 Purpose and Intent.**

This chapter is enacted pursuant to Sections 2 and 16 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) and subsequent amendments. The purpose of this chapter is to protect the surface waters within the District from pollutants carried by stormwater and urban runoff by providing funding for Municipalities, WAGs, and the District to initiate, plan, design, construct, implement, operate, maintain, and sustain water quality projects. It is also the intent of this Chapter to encourage, where feasible, the design of water

quality projects to achieve multiple benefits and incorporate sustainable solutions, as described in Section 18.07.

#### **18.04 Water Quality Fee Imposed.**

A Water Quality Fee shall be imposed upon parcels within the District in the manner set forth in this chapter. The amount of the Water Quality Fee shall be computed for each parcel as set forth in Section 18.34. The Water Quality Fee shall be levied and collected as set forth in Section 18.35 of this chapter by the Treasurer and apportioned by the Auditor. The Board of Supervisors shall make appropriations from the District in a manner that authorizes the disbursement of Water Quality Fee revenues in accordance with Section 18.05.

#### **18.05 Allocation of Revenues from Imposition of the Water Quality Fee.**

The revenues from the Water Quality Fee shall be allocated and used, subject to the terms of this chapter, as follows:

- A. Ten percent shall be allocated to the District to be used for implementation and administration of water quality projects, as determined by the District, including activities such as planning, water quality monitoring, and any other related activities, and for payment of the costs incurred in connection with the levy and collection of the Water Quality Fee and distribution of the funds generated by imposition of the Water Quality Fee, and any other related activities associated with administering the Los Angeles County Flood Control District Water Quality Improvement Program Ordinance.
- B. Forty percent shall be allocated to the Municipalities, in the same proportion as the amount of the Water Quality Fee collected within each Municipality, to be expended by the Municipalities within the municipalities' respective jurisdictions for eligible Municipal projects.
- C. Fifty percent shall be allocated to nine WAGs established in accordance with Sections 18.12 and 18.14, in the same proportion as the amount of the Water Quality Fee collected within the Watershed Area of each WAG, to be expended by the WAGs to prepare and implement WQIPs and regional projects within that watershed area through a collaborative process that includes input from stakeholders within their Watershed Areas. The implementation of a WQIP by a WAG shall require the consent of any WAG Municipality Member whose jurisdiction comprises more than 40 percent of the total land area in that WAG.

#### **18.06 Agreements for Transfer of Proceeds of the Water Quality Fee.**

Each Municipality and WAG shall enter into an agreement with the Board of Supervisors to provide for the transfer and use of Water Quality Fee revenues as provided in this Chapter. The transfer of proceeds agreement is designed to carry out the requirements of this chapter and other laws governing the Water Quality Fee. A form agreement shall be prepared by the District in collaboration with Municipalities and WAGs and shall include:

- A. Requirement for compliance with the terms of this chapter.
- B. Provisions as necessary to provide transparency and accountability in the use of Water Quality Fee revenues.
- C. For agreements with WAGs, provisions for WAG Stakeholder Advisory Panels.
- D. For agreements with Municipalities, provisions to ensure a balanced variety of stakeholder engagement in the project selection process.
- E. Guidelines for monitoring, reporting, and auditing water quality projects planned and implemented in accordance with this Chapter.
- F. Provisions for management of interest funds, debt, liability and obligations.
- G. Provision for indemnification of the District.

If a Municipality does not execute the transfer of proceeds agreement by the end of the fiscal year in which the Water Quality Fee revenues are collected, then the Municipality's share of the revenues for that fiscal year shall be reallocated to the WAG(s) in which the municipality is located, in proportion to the revenues collected in each WAG's watershed area, for the WAG's use in funding WQIP projects located within the jurisdiction of the municipality.

If a WAG does not execute the transfer of proceeds agreement by the end of the fiscal year in which the Water Quality Fee revenues are collected, then the WAG's share of the revenues for that fiscal year, at the discretion of the District, shall either be transferred to the District for its use in implementing water quality projects in the same watershed area from which the revenues were collected or be returned to the parcel owners, except that revenues collected in the first year will not be reallocated or returned until the end of the following fiscal year.

A Municipality may elect to transfer some or all of its allocation of Water Quality Fees to the WAG for any watershed area(s) in which it is located for the WAG's use in funding WQIP projects located within the jurisdiction of the municipality pursuant to this Chapter.

### **18.07 Water Quality Project Goals**

In determining the water quality projects to be funded under this chapter, Municipalities, WAGs, and the District shall consider, where applicable, the following water quality project goals:

- A. That the water quality project is designed and located to maximize the water quality benefits, such as through the use of distributed BMPs.
- B. That the water quality project integrates with the Basin Plan, applicable MS4 Permit and other related regulatory programs, and coordinates with and is incorporated into a State

approved IRWM Plan, and other regional water quality-focused and related planning efforts for the watershed area.

- C. That the water quality project be coordinated with other water quality projects implemented pursuant to this chapter.
- D. That the water quality project contributes to achievement of the water quality elements of plans to restore or revitalize rivers, lakes, creeks, streams, ponds, channels, bays, and coastal waters within the District, such as the Los Angeles River Revitalization Plan, the Los Angeles River Master Plan, the Sun Valley Watershed Management Plan, and the San Gabriel River Master Plan.
- E. That the water quality project maximizes the effective use of Water Quality Fee revenues by leveraging other private, local, State, and federal funds for water quality and other project elements.
- F. That the water quality project is designed to directly contribute to or support through public education, monitoring and other programs, management of stormwater and urban runoff to achieve multiple benefits and sustainable solutions and allow for maximum beneficial use of water resources including:
  - Protecting and enhancing available water supply via water conservation/reuse efforts such as rainwater harvesting and groundwater recharge
  - Flood protection and control
  - Protection of public health and safety
  - Protection of open space and natural areas
  - Providing places for recreation, such as parks or ball fields
  - Creating, restoring, or improving wetlands, riparian, and coastal habitats
  - Other public benefits

### **18.08 Required Water Quality Project Criteria**

All water quality projects funded under this chapter are required to comply with the following criteria:

- A. That the water quality project demonstrates the ability to provide and sustain long-term water quality benefits.
- B. That the water quality project is based on generally accepted scientific and engineering principles and the best available information.
- C. That the water quality project is planned and selected giving consideration to the water quality project goals listed in section 18.07.
- D. That a regional project is included in an approved WQIP.

## **18.09 Implementation of this Chapter.**

The Chief Engineer is authorized to develop, any policies, guidelines, procedures, standards, or requirements to implement this chapter, subject to approval by the Board of Supervisors. Evaluation procedures for selection of water quality projects by WAGs will be developed in collaboration with WAGs, Municipalities, and stakeholders, consistent with the provisions of this chapter..

## **18.10 Eligible Expenditures.**

Pursuant to the Los Angeles County Flood Control Act, water quality fee revenues may only be used for the cost of the water quality benefit(s) provided by a water quality project. Other project costs, including the cost of a project's multiple benefits as described in section 18.07, are eligible for funding with water quality fee revenue only insofar as those components are incidental to the water quality benefits provided by a water quality project

Expenditures eligible for use with water quality fee revenues include, but are not limited to, planning, design, construction, implementation, operation and maintenance, and monitoring of water quality projects.

Eligible water quality benefit expenditures also include expenditures for:

- A. Planning and implementing water quality projects in accordance with this chapter by WAGs, Municipalities, and the District and their contractors such as consultants, government agencies, NGOs, and others.
- B. Research and data development, planning, design, construction, monitoring of water quality project performance, and outreach.
- C. Studies, investigations, computer modeling, and monitoring related to pollutants and pollutant loading in water bodies.
- D. The cost of adding a water quality element to a project built for another purpose.
- E. Preparing environmental documents and obtaining permits necessary to implement eligible water quality projects.
- F. Regulatory permits issued by the Regional Board or State Water Resources Control Board, including MS4 permits.
- G. Joint water quality projects with adjoining WAGs, Municipalities, or the District with recognized mutual benefit.
- H. Investigation, defense, litigation, settlement and payment of any judgments for claims and liability associated with obligations for the design and implementation of eligible water quality projects.

- I. Operation, maintenance, and where applicable upgrade and replacement of existing regional projects and municipal projects that meet the requirements of this Chapter.
- J. Debt service and debt issuance costs should the District, a Municipality, or a WAG determines that bonds are prudent and necessary to implement the Los Angeles County Flood Control District Water Quality Improvement Program.
- K. Preparation of WQIPs by WAGs.
- L. Cost/benefit analyses and other evaluation of the relative beneficial and adverse aspects and costs of the water quality benefit.
- M. Administrative costs. WAG and Municipality administrative costs are limited to 10 percent of the annual water quality fee revenue allocated to that entity in a fiscal year, except that project management costs of individual regional and municipal projects are not subject to this limitation.
- N. Educational and outreach programs designed to enlist the public in reducing pollution in stormwater and urban runoff.
- O. Water quality projects at public schools including infrastructure improvements and curriculum.
- P. Real property acquisition, leases, and easements necessary to carry out water quality projects.
- Q. Local incentive programs as described in Section 18.37.
- R. Municipalities' participation in a WAG.

### **18.11 Ineligible Expenditures.**

Below are examples of ineligible expenditures or uses of the Water Quality Fee:

- A. Non-water quality components of water quality projects except insofar as these components are incidental to the water quality benefit.
- B. Expenditures incurred prior to the effective date of this chapter
- D. Payment of fines imposed by the Regional Board or other regulatory agency unrelated to eligible water quality projects.
- E. Expenditures related to the investigation, defense, litigation, or judgment associated with any regulatory permit violation, notices of violations, or noncompliance regulations

brought forth by any federal, State, or local regulatory agency, or a third party unrelated to eligible water quality projects.

- E. Expenditures by a Municipality or WAG for the investigation or litigation of any claim or action against the District, County, or their officers, employees or agents alleging improper allocation, withholding or reassignment of Water Quality Fee revenues.
- F. Payment of the Water Quality Fee on behalf of any parcel owner, including parcels owned by Municipalities that are subject to the Water Quality Fee.

### **18.12 Formation of WAGs.**

A WAG shall be established for each of the following nine watershed areas within the boundaries of the District: Ballona Creek, Dominguez Channel, Upper Los Angeles River, Lower Los Angeles River, Rio Hondo, Upper San Gabriel River, Lower San Gabriel River, Santa Clara River, and Santa Monica Bay. Each WAG shall be formed as a Joint Powers Authority in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code and must be approved by the District and conform to the requirements of this chapter. JPAs must be approved by the District as the watershed area's WAG in order to be eligible to enter into the transfer agreement in accordance with Section 18.05. The District will provide administrative and technical assistance relating to the formation of the WAGs including the development a model Joint Powers Authority Agreement.

An existing Joint Powers Authority that qualifies under this Chapter may act as a WAG. The District will develop procedures In the event there is more than one JPA seeking to be the WAG for a Watershed Area.

At the discretion of the District, a WAG may be ineligible to receive disbursements from the Water Quality Fee in accordance with Section 18.05 unless Municipalities with more than 50 percent, collectively, of the combined land area within the Watershed Area of the WAG are members of the WAG.

### **18.13 Boundaries of Watershed Areas.**

Descriptions of the Watershed Areas are included below. Detailed maps of the Watershed Areas shall be retained by the Chief Engineer.

- A. Ballona Creek Watershed: The Ballona Creek Watershed includes the Cities of Beverly Hills, Culver City, West Hollywood, the northerly side of the City of Inglewood, various portions of the City of Los Angeles, and various portions of the unincorporated areas of the County, as depicted on maps in the Office of the Chief Engineer. The jurisdiction of the City of Los Angeles is over 40% of the total land area in the Ballona Creek Watershed.
- B. Dominguez Channel Watershed: The Dominguez Channel Watershed includes the Cities of Carson, Gardena, Hawthorne, Lawndale, Lomita, easterly portion of Rancho

Palos Verdes, Rolling Hills Estates, westerly portion of Compton, easterly portion of El Segundo, southerly portion of Inglewood, northerly portions of Redondo Beach, westerly portion of Long Beach, Rolling Hills, various portions of the City of Los Angeles, easterly portion of Torrance, and portions of unincorporated areas of the County, as depicted on maps in the Office of the Chief Engineer.

- C. Upper Los Angeles River Watershed: The Upper Los Angeles River Watershed includes the Cities of Burbank, Glendale, La Canada Flintridge, Hidden Hills, San Fernando, South Pasadena, the westerly portions of Alhambra, easterly portion of Calabasas, Monterey Park, Pasadena, northerly portion of Vernon, various portions of the City of Los Angeles, and various portions of the unincorporated areas of the County, as depicted on maps in the Office of the Chief Engineer. The jurisdiction of the City of Los Angeles is over 40% of the total land area in the Upper Los Angeles River Watershed.
- D. Lower Los Angeles River Watershed: The Lower Los Angeles River Watershed includes the Cities of Bell, Bell Gardens, Commerce, Compton, Cudahy, Huntington Park, Lynwood, Maywood, South Gate, portions of Carson, the westerly portions of Downey, westerly portion of Lakewood, Long Beach, Paramount, Pico Rivera, Signal Hill, southerly portions of Montebello, southern portion of Monterey Park, Vernon, portions of the City of Los Angeles, and portions of the unincorporated areas of the County, as depicted on maps in the Office of the Chief Engineer.
- E. Rio Hondo Watershed: The Rio Hondo River Watershed includes the Cities of Arcadia, Monrovia, San Gabriel, San Marino, Sierra Madre, Temple City, El Monte, South El Monte, Industry, Pico Rivera, Montebello, Rosemead, South Pasadena, Whittier, northerly portion of Monterey Park, easterly portions of Alhambra, Pasadena, and various unincorporated areas of the County, as depicted on maps in the Office of the Chief Engineer.
- F. Upper San Gabriel River Watershed: The Upper San Gabriel River Watershed includes the Cities of Azusa, Baldwin Park, Claremont, Covina, Glendora, Industry, La Puente, La Verne, Pomona, San Dimas, Arcadia, Bradbury, La Habra Heights, Pico Rivera, Whittier, Walnut, West Covina, easterly portions of Duarte, El Monte, Irwindale, westerly portion of Diamond Bar, and various unincorporated areas of the County, as depicted on maps in the Office of the Chief Engineer. The jurisdiction of the County is over 40% of the total land area in the Upper San Gabriel River Watershed.
- G. Lower San Gabriel River Watershed: The Lower San Gabriel River Watershed includes the Cities of Artesia, Bellflower, Cerritos, Hawaiian Gardens, La Mirada, Lakewood, Norwalk, Santa Fe Springs, Whittier, southern portions of Diamond Bar, easterly portions of Downey, Long Beach, Paramount, Industry, La Habra Heights, Pico Rivera, Signal Hill, and unincorporated areas of the County, as depicted on maps in the Office of the Chief Engineer.



- H. Santa Clara River Watershed: The Santa Clara River Watershed includes the City of Santa Clarita, and various portions of unincorporated areas of the County and the City of Palmdale, as depicted on maps in the Office of the Chief Engineer. No parcels in the City of Palmdale are subject to the fee. The jurisdiction of the County is over 40% of the total land area in the Santa Clara River Watershed.
- I. Santa Monica Bay Watershed: The Santa Monica Bay Watershed includes the Cities of Agoura Hills, Hermosa Beach, Malibu, Santa Monica, Westlake Village, westerly portions of Palos Verdes Estates, central and south-westerly portions of Redondo Beach, southerly portion of Rancho Palos Verdes, westerly portions of Calabasas, El Segundo, Manhattan Beach, southerly portion of the city of Rolling Hills, Rolling Hills Estates, Torrance, portions of the City of Los Angeles, and various portions of unincorporated areas of the County, as depicted on maps in the Office of the Chief Engineer. The jurisdiction of the County is over 40% of the total land area in the Santa Monica Bay Watershed.

#### **18.14 Composition of the WAGs.**

All Municipalities that are located within the boundaries of a Watershed Area and contain parcels that are subject to the Water Quality Fee, as established by Section 18.13, are eligible to become members of the WAG for that watershed area. A Municipality that is located in more than one Watershed Area is eligible for membership in the WAGs for all watershed areas in which it is located. A Municipality may join a WAG at any time.

For each WAG except the Santa Clara River WAG, the Board of Supervisors will select two public agencies to serve as non-Municipality members of the WAG. One public agency will be a public water supply, wastewater, or replenishment agency with experience in stormwater capture and/or water reuse for water supply augmentation and the other public agency will be a state conservancy or other public agency with experience identifying and bringing together funding from multiple sources and implementing projects with multiple benefits, as described in Section 18.07, in the Watershed Area for the WAG for which the agency is selected. For the Santa Clara River WAG, the Board of Supervisors will select only one public agency meeting the requirements of one of the types of public agencies described above, and this agency will be eligible to serve as a member of the Santa Clara River WAG.

#### **18.15 Governance of the WAGs.**

- A. The governing board of each WAG shall consist of one representative with demonstrated expertise in water quality from each of its members. The governing body of each member shall appoint its representative and one alternate to serve in the absence of the representative.
- B. Each member Municipality shall have one seat on the WAG Board and one vote on items of business, except that the adoption of a WQIP or funding of projects identified in the WQIP by a WAG shall require the consent of any member Municipality whose

jurisdiction comprises more than 40 percent of the total land area within such WAG as stipulated in Section 18.05.

- C. The representatives of the public water supply, wastewater, or replenishment agency and state conservancy or other public agency shall each have one seat on the WAG Board and one vote on items of business.
- D. At its first meeting and annually thereafter, the WAG governing board shall choose from among its members a chair and vice-chair to serve for one year.
- E. A quorum is required for the governing board of a WAG to take action on any item of business. A quorum shall consist of a simple majority of the members. If a quorum is present, approval of any item of business requires a simple majority vote of those in attendance; except that the adoption of a WQIP or funding of projects identified in the WQIP by a WAG shall require the consent of any member Municipality whose jurisdiction comprises more than 40 percent of the total land area within such WAG.
- F. The governing board of each WAG shall determine the frequency, location, and schedule for regular meetings. Meetings shall be held quarterly at a minimum. Subject to the requirement of quarterly meetings, a regular meeting may be cancelled if the chair determines that there is no business to be transacted and so notifies the members.
- G. The WAG is a public body and shall comply with open public meeting requirements of the Ralph M. Brown Act (Government Code Sections 54950-54963), the Public Records Act (Government Code Section 6200), the Political Reform Act (Government Code Section 87100), and all other laws applicable to such bodies.

#### **18.16 Duties of the WAGs.**

WAGs shall have the following duties:

- A. Prepare and adopt a WQIP every three years, or sooner if necessary
- B. Plan, implement, and maintain regional projects.
- C. Create and convene a Stakeholder Advisory Panel pursuant to the procedure established in the agreement described in Section 18.06, including a minimum of three members and a maximum of nine members. Representatives must reflect a balanced variety of stakeholder interests. WAG members may not be Stakeholder Advisory Panel members.
- D. Establish that the WAG's fiscal year shall begin on July 1 and end on June 30.
- E. Prepare and adopt annually, no later than June 30th, an annual budget for the coming fiscal year. The District will provide specific directives and guidance for preparation of the budget.

- F. Prepare annually, within 12 months after the end of each fiscal year, an audit report for the prior fiscal year prepared by a certified public accountant. The District will provide specific directives and guidance for preparation of audit reports. WAG governing boards must certify the audit report and confirm that all expenditures met the requirements of this chapter.
- G. Submit to the District annually, within 30 days of the annual anniversary of the adoption of its WQIP, a WQIP implementation progress report summarizing the progress made over the preceding 12 month period. The District will provide specific directives and guidance for preparation of the report.
- H. Prepare and maintain a 5 year schedule for regional projects selected for funding including a budget of each regional project's estimated capital and operating costs, by year, by funding source.
- I. Provide the District additional financial and other information, as required by the District.
- J. Help identify project partners and additional sources of funding to augment Water Quality Fee revenues for water quality projects.

#### **18.17 Duties of the WAG Stakeholder Advisory Panels.**

Each WAG Stakeholder Advisory Panel shall have the following duties:

- A. Identify and recommend regional projects for inclusion in the WQIP.
- B. Review draft WQIPs and provide input to the WAG.
- C. Recommend regional projects from approved WQIPs for implementation.
- D. Serve as liaison between WAG and other Stakeholders, community and interest groups.
- E. Help identify project partners and additional sources of funding to augment regional projects funded by the Water Quality Fee.
- F. Provide input on other matters affecting the WAG and implementation of the Los Angeles County Flood Control District Water Quality Improvement Program, including input on recommendation of Oversight Board appointees.

#### **18.18 Administration of the WAGs.**

Each WAG is strictly accountable for all funds, receipts, and disbursements of the WAG. The Treasurer will act as the treasurer of the WAG and will be the depository and have custody of all funds of the WAG. The Auditor will perform the functions of the controller of the WAG. The Treasurer and Auditor, at their discretion, can delegate their functions to a treasurer or controller designed by the WAG. The WAG shall reimburse the Treasurer and the Auditor for

costs incurred in connection with the performance of their duties. Members of the governing board of a WAG shall not receive compensation for their service to the WAG governing board.

A WAG may contract with businesses, NGOs, its members, or the District to perform any work related to the business of the WAG such as studies; preparation of the WQIP; and implementation of WQIP projects which includes activities such as planning, design, construction, and operation and maintenance.

### **18.19 Preparation of Water Quality Improvement Plans.**

Each WAG shall prepare a WQIP for the watershed area it represents that identifies pollutants, establishes targets for improvement, and identifies and prioritizes regional projects for planning, design and implementation within the next five years using proceeds of the water quality fee allocated to the WAG pursuant to section 18.05. WAGs shall consult and receive input and recommendations from its Stakeholder Advisory Panel regarding the preparation of the WQIP.

WQIPs shall be prepared and include sections as follows:

- A. Identification of pollutants affecting the watershed area and as appropriate their source(s).
- B. Selection of improvement targets, and a timeline for accomplishing the targets.
- C. Identification of potential water quality project concepts for planning and further development funding consistent with the goals and eligibility criteria pursuant to Sections 18.07 and 18.08, respectively.
- D. Identification and description of water quality projects, as evaluated and prioritized pursuant to Section 18.09. Projects to be evaluated must meet the following conditions:
  - 1. Be fully fundable by the Water Quality Fee or other committed source of funds.
  - 2. List estimated expenditures and revenues, and the components to be financed with revenue from the Water Quality Fee.
  - 3. Provide a description of any multiple benefits, as defined in Section 18.07.
  - 4. Undergo a cost/benefit analysis that includes the relative socioeconomic, environmental and other impacts against the Water Quality Benefit.
  - 5. Include plans and annual provisions for funding operation and maintenance.

- E. Description of the Stakeholder Advisory Panel and Stakeholder involvement process.
- F. Description of performance measurements to ensure intended performance of their regional projects after they are constructed or implemented.

## **18.20 WQIP Approval Process**

The following approval process shall apply to WQIPs

- A. WAGs shall prepare, adopt and submit a WQIP to the District.
- B. The District shall have 60 days to review WQIPs submitted by WAGs and make findings. During its review, the District may request WAGs to submit additional information or to make changes to the WQIP. WAGs may elect to not follow the District's request and direct for the WQIP to be advanced to the Oversight Board.
- C. The Oversight Board shall have 45 days to review WQIPs submitted by WAGs, along with the findings and recommendations submitted by the District and testimony received from stakeholders, and make findings and recommendations to the Board of Supervisors as to their compliance with this Chapter. During its review, the Oversight Board may request WAGs to submit additional information or to make changes to the WQIP. WAGs may elect to not follow the Oversight Board's request and direct for the WQIP to be advanced to the Board of Supervisors.
- D. The Board of Supervisors shall approve the WQIP or return it to the Oversight Board for further work.
- E. A Board of Supervisors approved WQIP is required in order for annual funding to be disbursed to a WAG, except as provided in Section 18.25L. The WQIP will be valid for a period of three years after that approval.

## **18.21 WQIP- Implementation and Reporting, Ownership of Projects.**

Each WAG shall select regional projects from their WQIP for implementation and funding following approval of their WQIP by the Board of Supervisors. Selection of projects for implementation shall require the consent of any member Municipality whose jurisdiction comprises more than 40 percent of the total land area within the watershed area.

A WAG shall also consult and receive input and recommendations from its Stakeholder Advisory Panel pursuant to Section 18.16 regarding selection and funding of regional projects.

WAGs shall create and maintain a five year schedule for regional projects selected for implementation including a budget of each regional project's estimated costs, by year, by funding source. Additionally, WAGs shall provide the District with an annual WQIP Implementation Progress Report pursuant to section 18.16.

Regional projects implemented or constructed by a WAG shall be owned, operated, and maintained by the WAG or, by agreement, a WAG may transfer ownership of a regional project to a member of the WAG or to another governmental agency for ownership and maintenance.

## **18.22 Duties of Municipalities.**

Each Municipality receiving funding from the Water Quality Fee shall have the following duties:

- A. Plan, implement, and maintain municipal projects.
- B. Expend Water Quality Fee revenues in the Watershed Area from which they were collected.
- C. Be strictly accountable for all funds, receipts, and disbursements by the Municipality.
- D. Prepare and maintain a list of its proposed municipal projects to be financed with Water Quality Fee revenue, including their projected expenditures, and annually, inform the WAG(s) in which it is located of the municipal projects it intends to implement, with updates as necessary.
- E. Prepare, within 6 months after the end of that Municipality's fiscal year, an audit report for the prior fiscal year prepared by a certified public accountant. The District will provide specific directives and guidance for preparation of audit reports. The governing board of each Municipality must certify the audit report and that all expenditures comply with the requirements of this Chapter.
- F. Provide the District additional financial and other information, as required by the District.
- G. Engage stakeholders in the planning process for their municipal projects.
- H. A Municipality may, at the discretion of its governing board, enter into a binding agreement with another Municipality, the County, the District, a consultant, or other entity to carry out the Municipality's duties pursuant to this Chapter.
- I. Submit to the District, plans for new Municipal projects with expenditures expected to exceed \$2.0 million in Water Quality Fees.

The \$2.0 million threshold will be adjusted annually according to the Consumer Price Index (CPI) by the increase, if any, in the CPI for all urban consumers in the Anaheim, Los Angeles, and Riverside areas, as published by the United States Government Bureau of Labor Statistics from March of the previous calendar year to March of the current calendar year.

## **18.23 Development and Implementation of Municipal Projects**

Municipalities shall develop and implement their municipal projects in accordance with the following requirements:

- A. Municipal projects must meet required water quality project criteria as stated in Section 18.08
- B. Municipal projects must be planned and selected giving consideration to the water quality project goals listed in section 18.07 and the evaluation procedures used by WAGs for selection of projects.
- C. A balanced variety of stakeholders must be engaged in the project selection process as Stated in section in 18.06.
- D. New municipal projects with expenditures expected to exceed \$2.0 million in Water Quality Fees must be submitted for review and approval as stated in Section 18.22.
- E. Municipal projects implemented or constructed by a Municipality shall be owned, operated, and maintained by the Municipality.

#### **18.24 New Municipal Projects Approval Process.**

The following approval process shall apply to new Municipal projects:

- (1) Municipalities shall submit to the District, plans for new Municipal projects with expenditures expected to exceed \$2.0 million in Water Quality Fees.
- (2) The District shall have 15 days to review each new Municipal project with expenditures expected to exceed \$2.0 million in Water Quality Fees and make findings and recommendations to the Oversight Board as to their compliance with this Chapter. During its review, the District may request the Municipality to submit additional information or make changes to the new Municipal project. Municipalities may elect to not follow the District's request and direct for the new Municipal project to be advanced to the Oversight Board.
- (3) The Oversight Board shall have 45 days to review the new Municipal project with expenditures expected to exceed \$2.0 million in Water Quality Fees, along with the finding and recommendations submitted by the District and testimony received from stakeholders, and determine whether to approve the new Municipal project or return it to the District for further work.

In the event that a Municipality needs approval prior to the next meeting of the Oversight Board in order to apply for or receive grant funds, the Municipality may submit the new Municipal project with expenditures expected to exceed \$2.0 million in Water Quality Fees to the District for approval, rather than the Oversight Board. The District, on behalf of the Oversight Board, shall have 10 days to review the new Municipal

project and determine whether to approve it or return it to the Municipality for further work.

### **18.25 Duties of the District.**

The District shall have the following duties:

- A. Administer the Los Angeles County Flood Control District Water Quality Improvement Program.
- B. Provide for the levy and collection of the Water Quality Fee, the distribution of the Water Quality Fee revenues generated by imposition of the Water Quality Fee, and any other related activities associated with administering the Los Angeles County Flood Control District Water Quality Improvement Program Ordinance.
- C. Provide specific directives and guidance to WAGs and Municipalities for preparation of budgets, audit reports, and WQIP Implementation Progress Report.
- D. Develop and enter into agreements with Municipalities and WAGs pursuant to Section 18.06.
- E. Review WQIPs submitted by WAGs and make findings and recommendations to the Oversight Board as to their compliance with this Chapter.
- F. Review new Municipal projects with expenditures expected to exceed \$2.0 million in Water Quality Fees for compliance with this Chapter.
- G. Review and determine whether to approve new Municipal projects with expenditures expected to exceed \$2.0 million in Water Quality Fees where grant funds are contemplated.
- H. Act as secretary and serve as staff to the Oversight Board.
- I. Take actions, as necessary, to comply with Article XIII D of the California Constitution and this Chapter.
- J. Develop a model Joint Powers Authority Agreement to be used as a basis for WAGs, with input from a working group consisting of counsel for Municipalities and the District.
- K. Develop policies, guidelines, procedures, standards, or requirements to implement this chapter, subject to approval by the Board of Supervisors, including evaluation procedures for selection of water quality projects by WAGs and administrative adjustments to WQIPs.



- L. Upon request by a WAG, authorize a one-time advance of up to 20% of its first year's allocation of the Water Quality Fee collected to be used for development of the first WQIP.
- M. Withhold, at its discretion and pending compliance, future disbursements of Water Quality Fee revenues for Municipalities or WAGs that fail to comply with the terms of this chapter.

### **18.26 Water Quality Oversight Board.**

A Water Quality Oversight Board is established and will be referred to hereinafter in this Chapter as the "Oversight Board." The Oversight Board will consist of 13 members appointed by the Board of Supervisors as follows: one member from the environmental community; one member from the District; two at large members from the general public; and nine members to represent each of the watershed areas. The Board of Supervisors shall appoint each member representing a watershed area with input from the corresponding WAG's governing board. The environmental community, District, and general public members may be selected without regard to watershed area. Members representing the watershed areas must either live or have qualifying water quality experience within the watershed area they represent. Oversight Board members, except for the two general public members, shall have a minimum of five years expertise in water quality and be qualified in one or more of the following areas: science, engineering, water supply, flood control, biology, chemistry, law, fiscal analysis, and environmental science. Individuals with these qualifications may be selected from academia, professional societies, nongovernmental organizations, and private and public sector employees.

The purpose of the Oversight Board will be to conduct public hearings and make findings and recommendations to the Board of Supervisors on matters related to the WQIPs. The Oversight shall also review new Municipal project with expenditures expected to exceed \$2.0 million in Water Quality Fees and determine whether to approve or return them to the District for further work.

The District is responsible for providing administrative and technical support to the Oversight Board and for keeping a record of all proceedings and notifying all interested parties of the findings and decisions of the Oversight Board.

### **18.27 Term and Tenure of Members of the Oversight Board.**

Members of the Oversight Board shall serve for a renewable term of two years, subject to removal by the Board of Supervisors at any time for any reason. If a member is removed, a replacement shall be appointed within 60 days of such removal. Any member whose term has expired hereunder, may continue to discharge the duties as a member until a successor has been appointed. Terms shall be staggered to ensure continuity.

### **18.28 Officers of the Oversight Board.**

At its first meeting and annually thereafter, the Oversight Board shall choose from among its members a chair and vice-chair to serve for one year. The District shall serve as staff for the Oversight Board and act as secretary.

### **18.29 Meetings—Quorum of the Oversight Board.**

The Oversight Board shall determine the frequency and schedule for regular meetings, except that meetings shall be held as necessary to process the review of WAG WQIPs and new Municipal projects with expenditures expected to exceed \$2.0 million in Water Quality Fees in a timely manner. Regular meetings may be cancelled if the chair determines that there is no business to be transacted and so notifies the members.

A quorum is required for the Oversight Board to take action on any item of business. A quorum shall consist of seven members of the Oversight Board. If a quorum is present, approval of any item of business requires a simple majority vote of those in attendance.

### **18.30 Compensation of the Oversight Board.**

The Members of the Oversight Board, unless prohibited by their employer, shall be compensated in the amount of \$50 per meeting attended. If a member is required to travel in the performance of their official duties of the Oversight Board, that member shall be reimbursed for their necessary travel expenses, including transportation, meals, and lodging. Said compensation to be paid by Water Quality Fee revenues allocated to the District.

### **18.31 Rules and Regulations of the Oversight Board.**

The Oversight Board shall recommend rules and regulations governing its own procedures for adoption by the Board of Supervisors. Prior to consideration by the Board of Supervisors, any such rules and regulations shall be submitted to the WAGs and they shall have 90 days to provide written comment thereon. Copies of these rules and regulations shall be made available to the public.

The Oversight Board is a public body and shall comply with open public meeting requirements of the Ralph M. Brown Act (Government Code Sections 54950-54963), the Public Records Act (Government Code Section 6200), the Political Reform Act (Government Code Section 87100), and all other laws applicable to such bodies.

### **18.32 Duties of Oversight Board.**

The Oversight Board will have the following duties:

- A. Review WQIPs submitted by WAGs and make findings and recommendations to the Board of Supervisors as to their compliance with this Chapter.

- B. Review for compliance with this Chapter and determine whether to approve new Municipal projects with expenditures expected to exceed \$2.0 million in Water Quality Fee revenue.
- C. Consider testimony from Stakeholders on WQIPs and new Municipal projects with expenditures expected to exceed \$2.0 million in Water Quality Fee revenue.

### **18.33 Revenue Bonds.**

The governing boards for the District, WAG Joint Powers Authorities (JPAs) as defined by Government Code 6540 – 6579.5, and the respective Municipalities within the District's boundaries, including the County, are authorized to issue and sell revenue bonds.

Bonds issued hereunder may be secured by revenues derived from the Water Quality Fee as set forth in this Chapter. Only those amounts specifically allocated to the District, a Municipality, or a WAG may be used as security for its respective bonds.

Revenue bonds issued pursuant to this Chapter shall not constitute any indebtedness of the District or the County, except and only when the District or County issues revenue bonds pursuant to this Chapter, but shall be payable, principal and interest, only from revenues received from the Water Quality Fee.

### **18.34 Calculation of the Water Quality Fee.**

The Los Angeles County Flood Control District Water Quality Improvement Program will be funded, at least in part, out of the revenues received from the Water Quality Fee. The parcels within the District on which the fee is imposed contribute stormwater or urban runoff. Each parcel's proportional allocation of the cost of service is best reflected by the amount of stormwater and urban runoff associated with such parcels, which can be equitably represented by the parcel's impervious area. In order to establish an appropriate water quality fee for each parcel subject to the Water Quality Fee, the total impervious area of each parcel shall be estimated based upon the square footage of the parcel multiplied by the estimated percentage of impervious area of the parcel based on land use, and parcel lot size. The resulting number will be multiplied by the per square foot impervious surface rate ("Rate"). The Rate will be determined based upon the yearly cost of the water quality improvement program to be funded with the Water Quality Fee, divided by the total impervious area for all parcels subject to the Water Quality Fee. The Water Quality Fee for each parcel will remain the same from year to year, unless an increase is approved in accordance with Article XIID of the California Constitution, except that when the impervious area of a parcel is increased or decreased due to changes in land use, or development of the parcel, the annual fee amount(s) will be adjusted for the fiscal year next succeeding the change in impervious area. The method for calculating the fee for each parcel is supported by, and set forth in, an engineer's report prepared at the direction of the Chief Engineer and adopted by the Board of Supervisors. The Chief Engineer will make this report available to any person upon request at no charge.

Notwithstanding Section 18.37 of this Chapter, the Board of Supervisors, at its discretion, on a recommendation from the Chief Engineer, may adjustment the Water Quality Fee imposed on any parcel in circumstances where the Water Quality Fee has been calculated correctly based upon the parcel size, land use, but the calculation grossly overestimates the actual impervious area of the parcel and the Board of Supervisors finds that the adjustment is necessary to prevent an injustice.

The Board of Supervisors will determine every five (5) years that the revenues derived from the Water Quality Fee do not exceed the cost of providing the service. The Board of Supervisors will reduce the Water Quality Fee in the event that revenues are found to exceed the cost of providing the service.

### **18.35 Collection—General Procedure.**

The Water Quality Fee will be collected for each fiscal year on the tax roll in the same manner, by the same persons, and at the same time as, together with and separately from, the general taxes of the County of Los Angeles or through direct invoicing to parcel owners that do not receive a consolidated property tax bill. The Auditor will provide each WAG with an annual accounting of the total of the Water Quality Fees collected in the watershed, including the Water Quality Fees collected in each Municipality. The Auditor will also provide an annual statement of the Water Quality Fees collected to each Municipality.

Insofar as feasible and not inconsistent with this chapter, the times and procedures regarding exemptions, due dates, installment payments, corrections, cancellations, refunds, late payments, penalties, liens, and collections for secured roll ad valorem property taxes shall be applicable to the collection of the Water Quality Fee.

### **18.36 Claims for Reimbursement and Appeals.**

A claim and appeal process is established as follows:

- A. Contesting the Water Quality Fee: Any parcel owner aggrieved by the Water Quality Fee may seek review of the fee on one or more of the following grounds:
  - 1. Change in the ownership of a parcel;
  - 2. Subdivision of an existing parcel;
  - 3. Error in the ownership, land use designation, or area of a parcel;
  - 4. Mathematical error in the calculation of the Water Quality Fee.

In order to be entitled to review of the Water Quality Fee, the parcel owner must submit a claim to the Chief Engineer on a form provided by the Chief Engineer, including all of the information required by the form. All claims must be submitted within one year from the close of the fiscal year in which the Water Quality Fee is imposed.

The Chief Engineer shall review the claim and make any adjustments to the Water Quality Fee that are appropriate based upon the criteria set forth above, and shall send the parcel owner written notice of his or her decision. If the Chief Engineer determines that the Water Quality Fee billed to the parcel owner exceeds the fee that should have been charged, he or she shall refund any amounts that were overpaid. The Chief Engineer shall also submit any adjustments in the Water Quality Fee to the Auditor, Municipality, and WAG.

- B. Appeals: Any parcel owner who disagrees with the decision of the Chief Engineer may appeal the decision and request an administrative hearing. Any such appeal must be submitted in writing within thirty (30) days of the date the notice of decision was mailed, and must contain a statement as to why the parcel owner contests the decision. After receiving a timely appeal, the Chief Engineer shall schedule an administrative hearing before a hearing officer designated by the Chief Engineer. The parcel owner shall be given not less than ten (10) calendar day's prior written notice by first class mail, postage prepaid, of the date, time, and place of the hearing and the name of the hearing officer who will conduct the administrative hearing. The Chief Engineer must designate a hearing officer who was not involved in the decision on the claim pursuant to this section. The decision of the hearing officer shall be final.
- C. The submission of a claim or appeal does not relieve any parcel owner of the obligation to pay amounts on the tax bill that are due. If an adjustment is subsequently made which reduces the amount of the Water Quality Fee, the parcel owner will receive a refund of any overpayment.

### **18.37 Local Incentive Programs.**

Municipalities may adopt local incentive programs for parcel owners to receive credit for implementing significant on-site measures to reduce impervious areas or other low impact development (LID) standards, as determined by the Municipality. Municipalities may rebate annually up to 60 percent of the municipalities' share of the Water Quality Fee paid by a parcel owner upon satisfactory implementation of sustained on-site measures. Said rebate must be paid from Water Quality Fee revenues allocated to the Municipality or from other funds of the Municipality.

### **18.38 Carryover of Uncommitted Municipality and WAG Water Quality Fee Revenues.**

Municipalities may carry over uncommitted Water Quality Fee revenues for up to five years from the end of the fiscal year in which those revenues are transferred from the District to the Municipality's account, with additional requirements as may be included in the transfer of proceeds agreement set forth in Section 18.06, provided that sufficient details on future water quality projects are included in the annual audit report.

A WAG may carry over uncommitted Water Quality Fee revenues for up to five years from the end of the fiscal year in which those revenues are transferred from the District to the WAG's

account, with additional requirements as may be included in the transfer of proceeds agreement set forth in Section 18.06, provided that a WQIP has been approved by the Board of Supervisors and that sufficient details on future water quality projects are included in the annual audit report.

Uncommitted Water Quality Fee revenues that are carried over for more than five years will revert back to the District. The District shall have two years to spend reverted revenue from Municipalities on District water quality projects within that municipality's jurisdiction. The District shall also have two years to spend reverted revenue from WAGs on District water quality projects in the same watershed area from which the revenues were collected or be return it to the parcel owners.

Water Quality Fee revenues not spent within seven years from the end of the fiscal year in which they were collected shall be refunded to the parcel owners.

### **18.39 Recordkeeping Requirements**

The following recordkeeping and audit requirements are established:

- A. Water Quality Fee revenues received by the District, Municipalities, and WAGs shall be held in separate interest-bearing accounts and not combined with other funds. Interest earned on Water Quality Fee revenues shall be used for water quality projects in the WAG or Municipality in which it was earned, consistent with the requirements of this Chapter.
- B. Municipalities and WAGs shall retain, for a period of ten years after certification by their governing boards, the annual audit reports required in Section 18.16 and Section 18.22. Municipalities and WAGs, upon demand by authorized representatives of the District, including the Auditor, shall make those reports available for examination and review or audit by the District or its authorized representative.
- C. Municipalities, WAGs, and the District shall retain, for a period of ten years after water quality project completion, all records necessary to determine the amounts expended, and eligibility of water quality projects. Municipalities and WAGs, upon demand by authorized representatives of the District, including the Auditor, shall make such records available for examination and review or audit by the District or its authorized representative.
- D. At all reasonable times, Municipalities and WAGs shall permit the Chief Engineer, or his or her authorized representative, to examine all water quality projects that were erected, constructed, implemented, operated, or maintained using Water Quality Fees pursuant to this chapter. Municipalities and WAGs shall permit the authorized representative, including the Auditor, to examine, review or audit, and transcribe any and all audit reports, other reports, books, accounts, papers, maps, and other records that relate to water quality projects implemented pursuant to this chapter.

#### **18.40 Procedures for Addressing Misuse of Water Quality Fee Revenues and Failure to Comply with the Terms of this Chapter.**

- A. If a Municipality or WAG is found by the District to have misused Water Quality Fee revenues, it shall, upon official notification by the District, refund those revenues, including associated interest, to the District within 30 days of notification. The revenues shall then, at the District's discretion, either be returned to the Municipality or WAG they came from or be reassigned and used to plan, implement, and maintain water quality projects pursuant to this Chapter as follows:
- a. Water Quality Fee revenues misused by a Municipality will be reassigned to the corresponding WAG for the WAG's use in funding WQIP projects located within the jurisdiction of the municipality.
  - b. Water Quality Fee revenues misused by a WAG will be reassigned to the District for its use in implementing water quality projects in the same watershed area from which the revenues were collected or be returned to the parcel owners,.

Failure to repay misused Water Quality Fee revenues by the required date will result in immediate suspension of Water Quality Fee revenue disbursement to that entity.

- B. If a Municipality or WAG fails to comply with applicable terms of this chapter, the District, at its discretion, may withhold future disbursements of Water Quality Fee revenues pending compliance. Withheld disbursements shall be retained by the District for a period of five years after which, if the offending issue has not been resolved, they will revert back to the District. The District shall have two years to spend the reverted revenues on qualified water quality projects in the same watershed from which they were collected.
- C. Municipalities and WAGs may appeal the decision of the District and request an administrative hearing. Any such appeal must be in writing, must be made within thirty (30) days of the date the District's official decision was mailed, and must contain a statement as to why the District's decision is being disputed. After receiving a timely appeal, the Chief Engineer shall schedule an administrative hearing and designate a hearing officer. The Municipality or WAG shall be given not less than ten (10) calendar day's prior written notice by first class mail, of the date, time, and place of the hearing and the name of the hearing officer who will conduct the administrative hearing. The Chief Engineer must designate a hearing officer who was not involved in the District's prior decision. The decision of the hearing officer shall be final.

The submission of a claim or appeal does not relieve the Municipality or WAG of the obligation to refund the Water Quality Fees in dispute. If the Hearing Officer determines an adjustment is required, that adjustment will be reflected in the next disbursement of Water Quality Fees.

## **18.41 District Held Harmless.**

Nothing in this chapter requires the District to accept ownership or responsibility for any water quality project developed, implemented or constructed by a Municipality or a WAG with the proceeds of the water quality fee. Unless the District enters into an express agreement with a WAG or Municipality to the contrary, neither the District, its officers, employees, agents or volunteers ("District Indemnitees") will be liable in connection with errors, defects, injuries, property damage caused by or attributed to any water quality project that is funded in whole or in part with the water quality fee, and each Municipality and WAG will be required to indemnify the District Indemnitees and hold them harmless for claims, liability, and expenses, including attorneys fees, incurred by any District Indemnitees as a result of any water quality project developed, implemented, or constructed by the Municipality or WAG pursuant to this chapter, except for claims, liability, and expenses, including attorneys fees, resulting from the sole negligence or willful misconduct of District Indemnitees.

## **Section 2**

This ordinance is hereby adopted by the Board of Supervisors and shall take effect upon authorization of the electors voting in favor at the special election called for Tuesday, May 7, 2013, to vote on the measure, but no sooner than 30 days after adoption of this ordinance by the Board of Supervisors.