

**GATEWAY CITIES COUNCIL OF GOVERNMENTS  
JOINT MEETING OF THE BOARD OF DIRECTORS and  
EXECUTIVE COMMITTEE**

*Wednesday, April 4, 2012*

*5:30 p. m. Buffet*

*6:00 p. m. Meeting*

**Gateway Cities Council of Governments**

**16401 Paramount Boulevard**

**Paramount, California**

**AGENDA**

**STAFF REPORTS AND OTHER WRITTEN DOCUMENTS ARE AVAILABLE IN THE GATEWAY CITIES COUNCIL OF GOVERNMENTS OFFICES, 16401 PARAMOUNT BOULEVARD, PARAMOUNT, CALIFORNIA. ANY PERSON HAVING QUESTIONS CONCERNING ANY AGENDA ITEM MAY CALL THE COG STAFF AT (562) 663-6850.**

**FOR YOUR INFORMATION:** The Board of Directors will hear from the public on any item on the agenda or an item of interest that is not on the agenda. The Board of Directors cannot take action on any item not scheduled on the agenda. These items may be referred for administrative action or scheduled on a future agenda. Comments are to be limited to three minutes for each speaker, unless extended by the Board of Directors, and each speaker will only have one opportunity to speak on any one topic. You have the opportunity to address the Board of Directors at the following times:

- A. AGENDA ITEM: at this time the Board of Directors considers the agenda item OR during Public Comments, and
- B. NON-AGENDA ITEMS: during Public Comments, comments will be received for a maximum 20-minute period; any additional requests will be heard following the completion of the Board of Directors agenda; and
- C. PUBLIC HEARINGS: at the time for public hearings.

**Please keep your comments brief and complete a speaker card for the President.**

- I. CALL TO ORDER**
- II. ROLL CALL – BY SELF INTRODUCTIONS**
- III. PLEDGE OF ALLEGIANCE**
- IV. AMENDMENTS TO THE AGENDA** - This is the time and place to change the order of the agenda, delete or add any agenda item(s).
- V. PUBLIC COMMENTS** - Three minutes for each speaker.

**VI. MATTERS FROM STAFF**

**VII. CONSENT CALENDAR:** All items under the Consent Calendar may be enacted by one motion. Any item may be removed from the Consent Calendar and acted upon separately by the Board of Directors.

- A. Approval of Minutes – Minutes of the Board of Directors Meeting of March 7, 2012, is presented for approval.
- B. Approval of Warrant Register - Request for Approval of Warrant Register Dated April 4, 2012
- C. February 2012 Local Agency Investment Fund Statement
- D. Status Report from Lobbyist - Edington, Peel & Associates

**CONSENT CALENDAR ACTION:**

A MOTION TO APPROVE THE RECOMMENDATIONS FOR CONSENT CALENDAR ITEMS A THROUGH D.

**VIII. REPORTS**

- A. Los Angeles County Water Quality Improvement Funding Initiative

10 Min

SUGGESTED ACTION: ADOPT RESOLUTION AND AUTHORIZE THE PRESIDENT OF THE GCCOG TO SEND A DELEGATION OF REPRESENTATIVES TO THE BOARD OF SUPERVISORS MEETING IN SUPPORT OF THE RESOLUTION; AND RECEIVE AND FILE REPORT

**IX. REPORTS FROM COMMITTEES**

- A. Report from the Conservancy Committee – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

- B. Report from the I-710 EIR/EIS Project Committee – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

C. Report from the SR-91/I-605/I-405 Corridor Cities Committee – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

D. Report from the Transportation Committee – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

E. Report from the Committee on Homelessness – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

F. California High Speed Rail – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

**X. REPORTS – COMMITTEES/ AGENCIES – ALL COMMITTEE / AGENCY REPORTS ARE LIMITED TO 3 MINUTES UNLESS ADDITIONAL TIME IS GRANTED BY THE BOARD PRESIDENT**

A. Matters from The I-5 Consortium Cities Joint Powers Authority – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

B. Matters from the League of California Cities – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

C. Matters from Southern California Association of Governments (SCAG) – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

D. Matters from the Orangeline Development Authority – Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT,  
POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

E. Matters from the South Coast Air Quality Management District (AQMD) –  
Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT,  
POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

F. Matters from the Metro Gateway Cities Service Council – Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT,  
POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

G. Conservation Corps Report – Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT,  
POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

H. Matters from the Coalition for America's Gateways & Trade Corridors –  
Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO RECEIVE AND FILE REPORT,  
POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

**XI. MATTERS FROM THE BOARD OF DIRECTORS**

**XII. MATTERS FROM THE PRESIDENT**

**XIII. ADJOURNMENT**

NOTICE: New items will not be considered after 9:00 p.m. unless the Board of Directors votes to extend the time limit. Any items on the agenda that are not completed will be forwarded to the next regular Board of Directors meeting scheduled for Wednesday, May 2, 2012, 6:00 PM.

IN COMPLIANCE WITH THE AMERICAN WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE COG OFFICE AT (562) 663-6850. NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE COUNCIL OF GOVERNMENTS TO MAKE REASONABLE ARRANGEMENT TO ENSURE ACCESSIBILITY TO THIS MEETING.

**VII. CONSENT CALENDAR**  
**Item A**  
**Approval of Minutes**

**MINUTES OF THE JOINT MEETING OF THE  
BOARD OF DIRECTORS OF THE  
GATEWAY CITIES COUNCIL OF GOVERNMENTS  
AND THE EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS  
Gateway Cities Council of Governments  
16401 Paramount Boulevard  
Paramount, California  
March 7, 2012**

President Dunton called the meeting to order at 6:01 p.m.

**PRESENT:** President Raymond Dunton, City of Bellflower  
First Vice President Gene Daniels, City of Paramount  
Second Vice President Sergio Infanzon, City of Bell Gardens  
Immediate Past President Gil Hurtado, City of South Gate  
Member Tony Lima, City of Artesia  
Member Bruce Barrows, City of Cerritos  
Member Denise Robles, City of Commerce  
Member Lillie Dobson, City of Compton  
Member Josue Barrios, City of Cudahy  
Member Luis Marquez, City of Downey  
Member Reynaldo Rodriguez, City of Hawaiian Gardens  
Member Stan Carroll, City of La Habra Heights  
Member Larry Mowles, City of La Mirada  
Member Diane DuBois, City of Lakewood  
Member Jim Morton, City of Lynwood  
Member Jack Hadjinian, City of Montebello  
Member Cheri Kelley, City of Norwalk  
Member Brent Tercero, City of Pico Rivera  
Member Joseph Serrano, City of Santa Fe Springs  
Member Edward H. J. Wilson, City of Signal Hill  
Member William Davis, City of Vernon  
Member Greg Nordbak, City of Whittier  
Member Angie Castro, Office of Supervisor Gloria Molina

**ABSENT:** Member Michael Ponce, City of Avalon  
Member Ana Maria Quintana, City of Bell  
Member Elba Guerrero, City of Huntington Park  
Member Patrick O'Donnell, City of Long Beach  
Member from the City of Long Beach  
Member Felipe Aguirre, City of Maywood  
Member Rick Velasquez, Office of Supervisor Don Knabe  
Member Vincent Harris, Office of Supervisor Mark Ridley-Thomas  
Ex Officio Member Christopher Lytle, Port of Long Beach  
**ALSO PRESENT:** Signal Hill City Manager Ken Farfsing, Chair, City Managers  
Steering Committee; Bell Gardens Assistant City Manager John Oropeza; La Mirada

Director of Public Works Steve Forster; Long Beach Director of Government/Strategic Affairs Tom Modica; South Gate Director of Public Works/City Engineer Mohammad Mostahkami; Metro Community Relations Manager David Hershensen; League of California Cities Public Affairs Manager Kristine Guerrero; SCAG Public Affairs Officer Matt Horton; SCAQMD Senior Public Affairs Specialist Derrick Alatorre; Thomas L. Mirabal, Works Project Coordinator, Conservation Corps of Long Beach; Robert L. Scott, Executive Director, San Fernando Valley Council of Governments; Margaret Arbin Madonna, Chief Development Officer, Rancho Region, American Red Cross; Leslie Blakey, Executive Director, Coalition for America's Gateways and Trade Corridors; Frank Osgood, Author, Region Aroused; GCCOG Executive Director Richard Powers; GCCOG Deputy General Counsel Ivy Tsai; Deputy Executive Director Jack Joseph; GCCOG Transportation Deputy Karen Heit; GCCOG Director of Regional Planning Nancy Pfeffer; GCCOG Engineer Jerry Wood.

Roll was taken through self-introductions.

First Vice President Daniels led the Pledge of Allegiance.

There were no amendments to the agenda.

There were no public comments.

There were no matters from staff.

It was moved by Immediate First Vice President Daniels, seconded by Member DuBois, to approve the consent calendar. The motion was approved unanimously.

Robert L. Scott, Executive Director of the San Fernando Valley Council of Governments, gave a presentation introducing the new San Fernando Valley COG. He said a series of movements to undo the annexation of the San Fernando Valley by the City of Los Angeles ultimately resulted in the formation of the COG. He said the idea of decentralization of Los Angeles is a prime motivation.

Mr. Scott said that after the 2002 ballot measure for the secession of the San Fernando Valley from the City of Los Angeles failed, a delegation from the City met with the leaders of the San Fernando Valley to work out a relationship to give greater autonomy to the Valley. As a result, they were able to have legislation passed that authorized the collection of data at the San Fernando Valley level. Last year the COG was created to be a voice of the San Fernando Valley. Six entities make up the COG: the Los Angeles City Council districts that are in the Valley; the County of Los Angeles; and the cities of San Fernando, Santa Clarita, Glendale, and Burbank. The COG has been recognized as the fifteenth subregion of SCAG. He said their aim is to collaborate with the other COGs in the subregion.

It was the consensus of the Board to receive and file the report.

Margaret Arbin Madonna, Chief Development Officer for the Rancho Region of the American Red Cross, gave a presentation on the Prepare SoCal program. She said Prepare SoCal is a three-year initiative to have the Los Angeles area prepared for a natural disaster. She said the Red Cross wants to work closely with cities. The goal is to reach a capacity to feed 4 million people a day. She said the need is to increase the number of volunteers from 1,521 to 4,000. The goal is to train 70,000 people in disaster preparedness.

Ms. Madonna said the Red Cross is not looking for money from cities. She said they have grants from Southern California Edison, Occidental Petroleum, and Wells Fargo Bank for over \$4 million. They want to use these funds to organize communities. The ultimate goal is to raise \$15 million. She encouraged cities to contact her for more information.

It was moved by Immediate Past President Hurtado, seconded by Second Vice President Infanzon, to receive and file the report. The motion was approved unanimously.

Leslie Blakey, Executive Director of the Coalition for America's Gateways and Corridors, gave a presentation on her organization's activities. She said the Coalition was founded in 2001 to promote investment in goods movement and infrastructure, which was not on the political radar. She said it has been an educational process for congressional representatives, for which these are oblique and obscure issues.

Ms. Blakey reported that their current efforts are focused on passing a new surface transportation authorization. The current eight extension of SAFETEA-LU expires on March 31. The Senate bill authorizes an eighteen month extension. The House has a four and a half year bill that has met with a great deal of resistance because of costs that would have to come out of the general fund. She said there is not enough money in the Transportation Trust Fund to finance the entire House bill. She said her organization's message is that investment in the transportation system is not just spending; it is needed for the economy.

It was moved by Immediate Past President Hurtado, seconded by Member Barrios, to receive and file the report. The motion was approved unanimously.

There was no report from the Conservancy Committee.

Jerry Wood presented a report from the I-710 EIR/EIS Project Committee. He said the Project Committee would be meeting on the 29<sup>th</sup> of the month. He said there is a slight delay in the release of the EIR to address some air quality issues. He said the Committee is getting ready to work with MTA to program the Measure R funds that are committed to the project.

Jerry Wood presented a report from the SR-91/I-605/I-405 Corridor Cities Committee. He said the project consultants are meeting with city staffs regarding the geometric plans for the freeway corridors.



It was the consensus of the Board to receive and file the two freeway corridor reports.

Member DuBois presented a report from the Transportation Committee. She said the I-710 central utilities study had been approved by the MTA Board. She said the Board approved a Measure R equity policy so that cities may use Measure R as a match for other funding. She reported that an additional \$1 million has been approved for the Pacific Electric West Santa Ana Branch transit oriented developments.

It was the consensus of the Board to receive and file the report from the Transportation Committee.

The Executive Director presented a report from the Committee on Homelessness. He said the RFP for the Homeless Action Plan Implementation Agency has been issued and that the proposal deadline is the end of March. He said the plan is to go to the Board for award of a contract in May.

There was no report on the California High Speed Rail project.

There was no report from the I-5 JPA.

Kristine Guerrero presented a report from the League of California Cities. She said that there is a call for nominations to the State League's Board of Directors. She reported that the Los Angeles County Division is looking to fill the position of Treasurer. It was the consensus of the Board to receive and file the report.

Matt Horton presented a report from SCAG. He said the annual SCAG General Assembly would be held on April 4-5 at the downtown Bonaventure Hotel. It was the consensus of the Board to receive and file the report.

There was no report from the Orangeline Development Authority.

There was no report from the South Coast Air Quality Management District.

There was no report from the Metro Gateway Cities Service Sector.

Thomas Mirabal presented a report from the Conservation Corps of Long Beach. He said the Corps is currently in Huntington Park putting sixteen at-risk youth to work on a park project. He referred the Board to proposals for work that he brought for distribution. It was the consensus of the Board to receive and file the report.

There were no matters from the Board of Directors.

There were no matters from the President.

**Adjournment:** The meeting was adjourned by consensus at 7:00 p.m.

Respectfully submitted,

Richard Powers, Secretary

**VII. CONSENT CALENDAR**  
**ITEM B**  
**Approval of Warrant Register**

**VII. CONSENT CALENDAR  
ITEM C**

**February 2011 Local Agency Investment  
Fund Statement**

**Local Agency Investment Fund**  
**P.O. Box 942809**  
**Sacramento, CA 94209-0001**  
**(916) 653-3001**

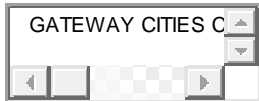
[www.treasurer.ca.gov/pmia-laif](http://www.treasurer.ca.gov/pmia-laif)

March 26, 2012

[PMIA Average Monthly Yields](#)

Account Number:

40-19-045



**Transactions**

[Tran Type Definitions](#)

February 2012 Statement

Effective Date	Transaction Date	Tran Type	Confirm Number	Authorized Caller	Amount
2/2/2012	2/2/2012	RW	1349543	JACK JOSEPH	-275,000.00

**Account Summary**

Total Deposit:	0.00	Beginning Balance:	1,552,227.21
Total Withdrawal:	-275,000.00	Ending Balance:	1,277,227.21

**VII. CONSENT CALENDAR  
ITEM D**

**Status Report from Lobbyist - Edington,  
Peel & Associates**

**Monthly Report by Jim Dykstra to Gateway Cities COG**  
**March 23, 2012**

I and the firm Edington, Peel & Associates continue to provide a range of services in support of the Gateway Cities Council of Governments. These include participation in a number of meetings, telephonic, email and fax exchanges and other communications.

I continue to closely coordinate with Gateway Cities COG staff regarding efforts on behalf of the Gateway Cities COG's priorities and interests in the second session of the 112<sup>th</sup> Congress. I have had telephonic and electronic exchanges regarding possible funding opportunities and legislation of interest. I also continued to work with the staff of the I-5 Joint Powers Authority on the I-5 widening initiative, the COG's number one priority.

I have kept the Gateway Cities COG informed of continuing, often very complicated developments regarding the Transportation Reauthorization Act. There continue to be significant developments in both the House and Senate on the legislation, and I have regularly provided updates on the status of legislative action. Major challenges to final passage remain, and, as I have reported, House Speaker John Boehner has encountered resistance within his caucus to the legislation that originally came out of the House Transportation and Infrastructure Committee. The House may have to move in the direction of the Senate's two year bill, rather than the longer extension it originally anticipated. At this point, however, with the current extension expiring on March 31, it appears at least one more short term extension will be necessary. I will continue to provide regular updates on legislative status of the measure.

I participate on Gateway Cities' behalf in conference calls and email exchanges with the Coalition for America's Gateways and Trade Corridors (CAGTC) and provide Gateway Cities with information on CAGTC activities in Washington, DC. I suggested Gateway Cities provide an article on its initiatives for the CAGTC newsletter, and I recently reviewed and provided feedback regarding the article, which will be published soon. In addition, I plan to again attend the annual CAGTC conference in May on behalf of Gateway Cities.

I have continued discussions and email exchanges with staff of Members of Congress representing Gateway Cities members, as well as other key congressional staff, regarding the COG's legislative priorities. In February, I attended events for both Rep. Grace Napolitano and Rep. Lucille Roybal-Allard and spoke with both of them and their staffs, and I attended another event with Rep. Roybal-Allard and her staff in March.

As part of my responsibilities, I closely monitor legislation, as well as seminars, hearings, meetings and publications of key interest to legislators and senior executive branch officials for articles and information of possible interest and importance to member cities of the Gateway Cities COG. I attend Senate and House committee hearings, follow Senate and House floor proceedings, and track legislative initiatives pertinent to Gateway Cities COG interests and priorities.

## **VIII. REPORTS**

### **ITEM A**

# **Los Angeles County Water Quality Improvement Funding Initiative**



**TO:** Board of Directors

**FROM:** Kenneth C. Farfsing, Chair of the City Managers Steering Committee

**SUBJECT:** Los Angeles County Water Quality Improvement Funding Initiative

**Background:**

The Los Angeles region faces critical and very costly stormwater and urban runoff water quality challenges. Often runoff containing trash, bacteria, metals and other pollutants drains into streams and waterways and ultimately to the ocean. Many water bodies in the Los Angeles region have been determined by the State and Regional Boards to not meet State and federal water quality standards and are listed as impaired under the federal Clean Water Act—nearly 100 pollutants are claimed to affect over 500 miles of rivers and streams and the region’s coastal waters and beaches.

This report discusses the Water Quality Funding Initiative (WQFI), which would, if approved by a property owner vote, provide local Cities and the County of Los Angeles on behalf of the unincorporated areas (collectively referred to as “Municipalities”) within the Los Angeles County Flood Control District ("District") with a dedicated source of funding. The funding would be used to continue the ongoing efforts of our communities to improve surface water quality.

During the past three years the Board of Directors and the City Manger’s Steering Committee have assisted the Los Angeles County in drafting of legislation amending the Flood Control District Act. The GCCOG has also been assisting the County in the drafting the implementation ordinance and in reviewing the assessment formula. The attached ordinance implementing the WQFI is moving forward to the Board of Supervisors for their consideration of, including calling for a property owner election under Proposition 218. The City Manager’s Committee is recommending that the GCCOG Board support the WQFI, the ordinance and send representatives to testify in support of the measure when scheduled before the Board of Supervisors.

The WQFI proposes a property-related fee that would be levied to assist cities in Los Angeles County in funding the removal of pollutants from local rivers, lakes, channels, beaches and coastal waters. Over 90% of the funds collected would be returned to Municipalities directly or indirectly, as outlined in the report below. The District would fund the property owner election, which is tentatively planned for the spring of 2013. The proposed fee would be calculated based upon the size of the property, impervious area as determined by the property's land use, and the total cost of the improvements to be financed by the proposed fee. Fee amounts for single family residential homes will range between \$8 and \$83 annually, with the majority of homeowners paying \$54 annually.

Commercial and industrial parcels, which typically have much more impervious area, will be assessed larger amounts. Government parcels must also be assessed, since they contribute runoff as well.

### **Estimated Annual Local Return for GCCOG Cities**

Forty percent of the funds are required to be returned to the cities for their storm water and runoff projects and programs; fifty percent of the funds would be allocated to local Watershed Authority Group (WAG) for regional projects and programs, and the remaining 10% would be allocated to the District for administration of the Water Quality Fee, monitoring and special studies. The GCCOGs cities are located in the Lower Los Angeles River WAG or Lower San Gabriel River WAG. A number of our cities belong to both WAGs, based on their drainage areas. (Note: The City of Avalon is not part of the WQFI ordinance since they are not a member of the LA County Flood Control District.)

<b><u>City</u></b>	<b><u>Local Return</u></b>	<b><u>City</u></b>	<b><u>Local Return</u></b>
Artesia	\$185,110	Long Beach	\$4,550,334
Bell	\$298,858	Lynwood	\$533,351
Bell Gardens	\$365,029	Maywood	\$156,505
Bellflower	\$746,876	Montebello	\$848,482
Cerritos	\$990,532	Norwalk	\$985,786
Commerce	\$1,210,333	Paramount	\$665,640
Compton	\$1,276,222	Pico Rivera	\$865,860
Cudahy	\$195,729	Santa Fe Springs	\$1,534,248
Downey	\$1,245,307	Signal Hill	\$269,173
Hawaiian Gardens	\$126,807	South Gate	\$910,500
Huntington Park	\$427,571	Vernon	\$996,618
La Habra Heights	\$123,257	Whittier	\$1,043,268
La Mirada	\$811,197		
Lakewood	\$894,322		

*Source: Los Angeles County DPW*

Fifty percent of the funds are required to be returned to local Watershed Area Groups. The GCCOG's cities have been divided into two watershed areas – the Lower Los Angeles River and the Lower San Gabriel River. The estimated regional return is \$17,605,930 for the Lower Los Angeles River watershed, while the estimated return for the Lower San Gabriel River watershed is \$12,119,976. This report contains a more complete discussion of the uses and restrictions placed on these funds (see Water Quality Funding Initiative/Governance discussion below).

### **Background on the Water Quality Requirements**

The State Board, through its Regional Boards, is responsible for enforcing the requirements of the Clean Water Act. At the local level, the District and Municipalities must

obtain National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit coverage from the Regional Board. Under the respective NPDES permits, Municipalities are responsible for cleaning up polluted (impaired) waters in their jurisdictions.

In 1972, when the Clean Water Act first established the NPDES permit program, most efforts at improving water quality focused on regulating pollutant discharges from known end-of-pipe "point sources," such as factories and sanitary sewer treatment plants (i.e. pollutants easily traced to specific, discrete sources). However, the 1987 amendments to the Clean Water Act extended the NPDES program to also encompass the much more complex and difficult to control "non-point source" pollution found in stormwater and urban runoff. Since their establishment in 1990 by U.S. EPA, stormwater regulations under the NPDES permit program have been significantly revised and expanded.

As a central element of the NPDES program, the Clean Water Act requires that states develop what are known as Total Maximum Daily Loads ("TMDLs") to reduce pollutants in impaired waters. The TMDL establishes an overall allowance for each pollutant, defining the maximum amount of a pollutant (e.g. trash, bacteria, metal, etc.) that can enter a water body and still meet its water quality standard. TMDLs are developed for pollutants from all sources, including non-point sources. If the testing of a water body determines that it is not achieving water quality standards, it is listed as an impaired water body.

#### *TMDL Consent Decree for Los Angeles County*

The U.S. EPA entered into a consent decree with the environmental community in 1999 that established a 13-year schedule for EPA to complete approximately 500 TMDLs for twelve impaired water bodies in Los Angeles County. For example, the Los Angeles River watershed is listed in the Consent Decree with 10 separate water bodies, including the main river, channels and lakes. The Consent Decree requires the completion of 103 TMDLs for the Los Angeles River watershed alone. Several TMDLs have been completed, including TMDLs regulating trash, bacteria and certain metals. The Regional Board has been assisting EPA with the completion of several of the TMDLs.

Experts believe that the costs for implementing these TMDLs will be extremely high for local government. Reports commissioned by the District and other organizations places the costs of achieving compliance in the billions of dollars. Failure to comply with the terms that are developed based on the TMDLs could result in significant Clean Water fines for a non-compliant community of up to \$10,000 for each TMDL, for each day of violation, and \$3,000 per violation per day in mandatory minimum penalties assessed by the State. Violations can also result in third-party litigation, since violations of the Clean Water Act can be enforced by private-parties, such as environmental groups. The resulting Federal penalties could be assessed at \$37,500 per day.

A recent review by the City of Los Angeles of nine of these cost studies, completed between 1998 and 2005, show cost estimates for TMDL implementation in the Los Angeles

region ranging between \$1 billion to over \$70 billion, and even as high as \$200 billion when land acquisition costs are considered. In its own study, the City of Los Angeles estimates that the total cost over the next 20 to 30 years for implementation of its Water Quality Compliance Master Plan for Urban Runoff will range between \$7 billion and \$9 billion.

The first study to attempt to quantify the costs to the region of the new storm water requirements was prepared for Caltrans in 1998 by the environmental engineering firm of Brown & Caldwell. This study estimated the Los Angeles region's costs of compliance at \$53.6 billion. This study was "peer reviewed" by the Los Angeles County Sanitation Districts, which concluded that the costs were more likely in the range of \$65 billion. In 2002 the University of Southern California was tasked with estimating the costs of TMDL compliance. This study examined rainfall scenarios, based on storm size and three treatment levels for each rainfall scenario. The USC researchers concluded that the costs in the Los Angeles region would range from \$43.7 billion to \$283.9 billion, depending on the storm size and treatment level, including compliance with the California Toxics Rule.

The USC Study found that the costs of storm water controls increases exponentially with the size of the rain events that require treatment or capture. The Regional Board has currently not adopted a consistent "design storm" for engineers to use when sizing capital improvements necessary to treat storm water, despite requests by the regulated community. The Regional Board adopted the **Standard Urban Stormwater Mitigation Plan** ("SUSMP") design storm of .75 inches over 24-hours and a design storm for the Los Angeles River Trash TMDL has a 1 inch, 24-hour design storm.

The USC study examined three rainfall scenarios – the capture and treatment of 24-hour 1.25 inch storm, the capture and treatment of a 24-hour 0.50 inch storm and the capture and treatment of a 24-hour 2.25 inch storm. For example, the study also examined three treatment options for storm water (Level One – capture and removal of sediment, Level Two – disinfection and dechlorination to meet bacteria standards, and Level Three – removal of metals by reverse osmosis in order to comply with the California Toxics Rule). The estimated mid-range compliance costs to the Gateway Cities are estimated at \$3.75 billion. The individual costs to our communities are shown on the chart below.

**Estimated Compliance Costs – Gateway Cities (Millions of Dollars)**  
 24-hour 1.25 inch Storm Capture,  
 Sediment Removal and Disinfection Scenario

<u>City</u>	<u>Costs</u>	<u>City</u>	<u>Costs</u>
Artesia	\$121.4	Long Beach	\$1,412.5
Bell	\$116.1	Lynwood	\$118.7
Bellflower	\$229.1	Maywood	\$62.7
Bell Gardens	\$95.9	Montebello	\$270.0
Cerritos	\$229.1	Norwalk	\$248.9
Commerce	\$150.4	Paramount	\$125.0

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Compton	\$241.5	Pico Rivera	\$224.4
Cudahy	\$51.6	Santa Fe Springs	\$108.9
Downey	\$377.1	Signal Hill	\$64.2
Hawaiian Gardens	\$29.8	South Gate	\$223.9
Huntington Park	\$208.3	Vernon	\$61.2
La Habra Heights	\$66.2	Whittier	\$264.0
La Mirada	\$105.3		
Lakewood	\$354.6		

*Source – An Economic Impact Evaluation of Proposed Storm Water Treatment for Los Angeles County, University of Southern California, November 2002, Table A-26, Present Value of Direct Impacts*

The high costs outlined in these studies have been controversial and debated for the last decade. However, the Regional Board has also estimated the costs for the implementation of various TMDLs. For example, in 2010 the cost to implement just the Dry-Weather Bacteria TMDL on the Los Angeles River was estimated at \$1.3 billion, while the cost of implementing just the Wet-Weather Bacteria TMDL on the Los Angeles River was estimated at \$5.4 billion. The Regional Board also recently adopted the Harbors Toxics TMDL, with an estimated implementation cost of \$9 billion. An objective evaluation would show that these estimates are likely low and would in many cases still not result in compliance with the numeric limits in the TMDLs.

Despite the debated costs, it is increasingly clear that compliance with the NPDES permit and TMDL programs will be expensive for local governments, over a long period of time. There is no debating that local governments lack a stable, long-term dedicated local funding source to address this need. Local governments will be faced with either cutting existing services or finding new sources of revenues to fund the NPDES and TMDL programs. Given the overall regional costs and cost burdens that are being placed on Municipalities to achieve compliance with NPDES permits and TMDL implementation plans, a sustainable funding source for public investment in water quality improvement programs is essential.

### **Background on the Funding Approach**

Over the years, as costs for complying with stormwater regulations have continued to increase, Municipalities have pursued a concerted effort to find a sustainable funding source. Many Municipalities have relied on their General Funds, but that is increasingly at the expense of other vital public services, including police and fire. With additional TMDLs required, costs could be hundreds of millions of dollars annually for Los Angeles region Municipalities. However, a convergence of legal and regulatory constraints has severely limited the available funding options.

#### *Unfunded Mandates*

Although the Regional Board continues to impose water quality requirements, the federal and state agencies driving these regulations have not been funding these mandates. This was not always the case. When the Clean Water Act was first established in 1972, the

federal government established a major public works financing program to fund the construction of municipal sewage treatment plants. However, this federal financing plan was not repeated when the federal government expanded the NPDES permit program by requiring local governments to target water pollution created by stormwater and urban runoff. Instead, the responsibility for funding these programs shifted largely to Municipalities, which are hard pressed to find the required financial resources without jeopardizing other important public services.

### *Proposition 218 Applies*

Property-related fees provide a promising potential funding source. However, since its passage in 1996, Proposition 218 has required that, with certain exceptions, new or increased property-related fees must be approved by voters. See California Constitution, Article XIID.

Proposition 218 includes an exemption to the voter approval requirement for water, sewer and trash collection fees, and many Municipalities at first believed that a stormwater fee also qualified for this exemption. However, a stormwater fee imposed by the City of Salinas on property owners in that city was challenged by the Howard Jarvis Taxpayers Association, which argued this was a property-related fee that was not exempt from Proposition 218 voter approval requirements. In a 2002 decision, an appellate court agreed with this position. As a result of this ruling, municipalities considering a new or increased stormwater fee must first obtain voter approval either by property owners or registered voters.

### *Limitations of Grants*

There are some grants from the federal and state governments to fund stormwater and urban runoff clean-up programs. The most recent example, the Proposition 84 Stormwater Grant Program, provides funding for local public agencies to reduce and prevent stormwater contamination in rivers, lakes and streams. However, the amount of this Statewide competitive grant funding available is very limited and, at best, grants can only provide a small portion of the funding that will be required to comply with stormwater requirements. This bond program is insufficient to support and sustain the ongoing effort to achieve compliance with stormwater regulations. Grants are often limited to funding capital improvements and do not provide financing for ongoing costs, such as maintenance and operations.

### *American Society of Civil Engineers*

In 2005, the District, along with the American Society of Civil Engineers (ASCE) established the Los Angeles Regional Watershed Infrastructure Funding Workgroup to assess options for a regional, sustainable long-term funding source as an alternative to the use of General Funds. This collaborative, multi-stakeholder undertaking involved leaders from federal, State, and regional, Municipalities, as well as representatives from environmental groups, universities, and other stakeholders. Among the various funding

sources considered by the ASCE workgroup were a property tax, special purpose local sales tax, a surcharge on vehicle license registration, a gasoline tax surcharge, benefit assessments, service fees, grants and a parcel tax. Various criteria were applied to evaluate these alternative funding sources, including how well each funding source provided a “nexus” between those who contribute to the runoff pollution problems and how much they have to pay to correct the problem. The three most promising sources included (1) property taxes for capital coupled with parcel taxes for O&M costs (2) benefit assessments and (3) service fees. The ASCE report did not recommend a single best funding source but presented the advantages and disadvantages of each so policy makers could decide among them.

### *Role of the District and the Municipalities*

The District is a regional agency tasked with providing for the control and conservation of flood and storm waters within its jurisdiction. Its infrastructure is spread throughout 85 cities and the County unincorporated areas. The District covers more than 3,000 square miles, operating and maintaining regional flood control and water conservation facilities including dams, rivers and channels, underground storm drains, collection basins, and seawater barriers. It is therefore well positioned to help Municipalities develop a funding source to implement water quality improvement projects and programs.

The District worked extensively with Municipalities in the 2009 Legislative session to draft special legislation that would authorize the vote on the Clean Water Fee. In 2010, AB 2554 (Brownley) amended the Los Angeles County Flood Control Act to give the District the authority to levy a property-related water quality fee to be used to finance water quality improvement projects and programs undertaken by Municipalities within the District’s boundaries.

Prior to AB 2554, the Flood Control Act expressly authorized the District to raise funds by issuing bonds and levying a tax upon the assessed value of real property. AB 2554 expressly authorizes a third method of raising funds: the imposition of a fee or charge in compliance with Article XIID of the California Constitution. In addition, the legislation creates nine regional Watershed Area Groups responsible for developing and implementing plans to reduce pollutant loads in the impaired waters of their respective watersheds and specifies that fee revenues must be split between Municipalities, WAGs, and the District in specified percentages. The 26 cities in the Gateway area fall into two large watershed areas – the Lower Los Angeles River and the Lower San Gabriel River. AB 2554 requires that the District to adopt an ordinance to set forth criteria for implementing the fee.

### **Water Quality Funding Initiative**

The Water Quality Funding Initiative (WQFI, also referred to as the Clean Water, Clean Beaches Protection Measure) has been initiated by the District to provide a stable, dedicated, long-term funding source for implementation, construction, and operations and maintenance of water quality improvements through a property-related fee. The District

worked extensively with Municipalities and other stakeholders, including the environmental community, to draft the proposed implementation ordinance. The implementation ordinance would codify the governance, administration and use of the fee, but would become if and when the fee is approved by the voters. For more detailed information you can go to the website for the Los Angeles County Flood Control District Water Quality Funding Initiative.

### *Governance*

District staff is recommending that the District's Board of Supervisors (the County Board of Supervisors) approve the proposed fee measure. The Board will conceptually approve of the Ordinance for publishing with the fee measure and circulation to the voters. If the fee measure is approved by the voters, the Board would officially adopt the Ordinance.

The proposed Ordinance allocates fee revenues and establishes a governance structure in accordance with AB2554 and the requirements of Proposition 218. It divides anticipated revenues between the Municipalities, WAGs made up of Municipalities, and the District, along the following lines:

- **Municipalities:** Municipalities include cities and the County on behalf of the unincorporated areas. Municipalities will receive 40 percent of fee revenues in proportion to the fees collected from parcels within each Municipality. The proposed Ordinance requires that the Municipalities spend the funds to implement local water quality improvement projects and programs in accordance with specific criteria. The Ordinance empowers Municipalities to execute the majority of these activities with limited oversight. Municipalities determine their own activities and need only to provide the District with annual budgets and certified audits. In order to ensure accountability, Municipalities will be required to submit plans for new infrastructure projects exceeding \$2.0 million to the Oversight Board.
- **Watershed Area Groups (WAGs):** AB 2554 calls for the formation of nine joint powers authorities ("JPAs") within each of nine watershed areas within the boundaries of the District, known as Watershed Authority Groups (WAGs). WAGs will receive 50 percent of revenues collected in proportion to the fees collected from the parcels located within each respective watershed area.

The proposed Ordinance requires the WAGs to spend the regional funds in accordance with specified criteria on regional water quality projects and programs. WAGs must develop Water Quality Improvement Plans (WQIPs) which are planning documents containing a list of regional projects and programs the WAG intends to construct and implement to reduce pollutant loads in the receiving water bodies of their watershed. WQIPs have a five year horizon and must be updated every 3 years. The WQIP developed by a WAG must have input from a Stakeholder Advisory Panel, be reviewed by an Oversight Board and be approved by the Board of Supervisors.

The WAGs will be organized as JPAs whose members consist of a representative from



each of the Municipalities in that WAG's watershed area plus one public water agency and one State conservancy/other public agency representative to be appointed by the Board of Supervisors. Each member shall have one vote on items of business, except that the any Municipality member whose jurisdiction comprises more than 40 percent of the total land area within the WAG has veto authority over WAG projects and programs.

This veto situation does not exist in either the Lower Los Angeles River WAG or the Lower San Gabriel River WAG. Los Angeles County, on behalf of the unincorporated areas, has this authority in the Santa Clara River, Upper San Gabriel River, and Santa Monica Bay WAGs. The City of Los Angeles has this authority in the Upper Los Angeles River and Ballona Creek WAGs.

Although Municipalities are not required to join WAGs, in order for a WAG to receive disbursements from the Water Quality Fee, its Municipality members' combined land area within the Watershed Area must be more than 50 percent of that Watershed Area.

Similar to Municipalities, WAGs must provide the District with annual budgets and certified audits. The Gateway Water Management Authority was formed in 2007 as a joint powers authority as authorized by the GCCOG's Board of Directors. It currently comprises 18 cities and 2 water agencies. The Gateway Authority has begun an outreach effort to the remaining 7 cities to have them join the JPA.

The Gateway Water Management Authority JPA will be in best position to administer the two new WAGs, as opposed to forming two new additional JPAs. AB2554 anticipated this situation and could "grandfather" in the Gateway Authority JPA. However, this decision will have to await the passage of the fee ordinance and a vote by the member cities. The Gateway Water Management Authority JPA is currently preparing the Integrated Regional Water Management Plan, reaching out to all member and non-member cities. The regional water management plan will include individual city and sub-regional projects designed to improve storm water and urban runoff quality.

- **Flood Control District:** The District is responsible for administering the overall Fee program. This includes providing for the collection, disbursement, and auditing of Fee revenue; support activities for Municipalities and WAGs; planning, implementing, and maintaining new and existing projects and programs operated by the District; and ensuring compliance with Prop 218 and other California law. In accordance with AB 2554, the proposed Ordinance provides that the District will receive 10 percent of the fee revenues.
- **Oversight Board:** The Oversight Board will be created to conduct public hearings and make findings and recommendations to the Board of Supervisors on matters related to the WQIPs and to review and approve plans for new Municipal infrastructure projects with expenditures expected to exceed \$2.0 million. The Oversight Board will consist of 13 members appointed by the Board of Supervisors. One member shall be from the environmental community; one member shall be from the general public; and nine members shall represent the WAGs. Oversight Board Members must have demonstrated expertise in water quality and be qualified in a related field. Members serve renewable 2 year terms.

### *Eligible Expenditures*

All funds would be required to be completely dedicated to water quality improvement programs and projects. The Ordinance encourages “sustainable solutions” that provide multiple objectives such as:

- Protecting and enhancing available water supply via Rainwater Harvesting, Stormwater Harvesting, and Groundwater Replenishment
- Water Conservation/reuse
- Flood protection
- Protection of public health
- Protection of open space and natural areas that provide Water Quality Benefits
- Providing places for recreation, such as parks or ball fields
- Creating, restoring, or improving wetlands, riparian, and coastal habitats to provide Water Quality Benefits or restore resources damaged by pollution in stormwater or urban runoff
- Other public benefits

Expenditures can include:

- Planning, design, construction, implementation, operation and maintenance, and monitoring of water quality projects and programs
- Implementation of the MS4 permits
- Preparing environmental documents and obtaining permits necessary to implement projects and programs
- Studies, modeling, and monitoring related to pollutants
- Existing programs
- Maintenance of new and existing projects and programs
- Education and outreach
- Incentive programs

Funds collected through WQFI cannot be used to pay back previous water quality improvement efforts, bonds, etc. Other ineligible expenditures include non-water quality components of projects and programs, fines/violations or any expense associated with litigation, and 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.

### *Basis of the Property-Related Fee*

This is a proposed property-related fee, based on the concept that if it rains on a property, that property is likely contributing to water quality issues. The fee is calculated upon the impervious surface area, since this area generates urban run-off and stormwater discharges. The typical single family residential lot in Los Angeles County ranges in size from 5,000 to 10,000 square feet. The County Engineer has determined that the average impervious percentage ranges from 21% to 42% on these lots, with an imperious area of

\$2,100. The estimated annually fee would \$54 based on this range of lot size and impervious surface.

**Application of Fee for Single-Family Residential Properties**

<u>Lot Size</u>	<u>Impervious Percentage</u>	<u>Impervious Area</u>	<u>Estimated Fee</u>
<1,000	42.00%	320	\$8.00
1,001-2,000	42.00%	630	\$16.00
2,001-3,000	42.00%	1,050	\$27.00
3,001-4,000	42.00%	1,470	\$37.00
4,001-4,999	42.00%	1,890	\$48.00
5,000-10,000	42%-21%	2,100	\$54.00
10,000-11,000	21.00%	2,210	\$56.00
11,001-12,000	21.00%	2,420	\$62.00
12,001-13,000	21.00%	2,630	\$67.00
13,001-14,000	21.00%	2,840	\$73.00
14,001-15,000	21.00%	3,050	\$78.00
15,001 >	21.00%	3,260	\$83.00

*Source: LACFCD-Water Quality Fee, November 29, 2011, Report prepared by Willdan Financial Services*

- The fee would apply to all parcels, including residential, commercial, industrial and government. Government parcels include those owned by the federal and State government, Municipal government, school districts, special districts, etc.
- Government parcels are required to pay the fee because they contribute water runoff and use the water quality services that will be funded by the fee. If government parcels were excluded, this would cause other property owners to pay for more than their proportional share of the services being funded, which would violate Proposition 218.
- The fee would be based on the size of the parcel, the percentage of its impervious area as determined by its land use, and the total cost of the improvements to be financed with the fee.
- 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 standards (LID) that lessen the pollutant loading from the parcel. Municipalities may rebate annually up to 25% of the Water Quality Fee paid by a parcel upon satisfactory implementation of sustained onsite measures. Said rebate would come from the Municipality's 40% share of the fee.

Proposition 218 offers two election choices:

- A vote of all registered voters (including both property owners and non-property owners), requiring 66.7% for passage

- A vote of all property owners (who might or might not be registered voters), requiring 50%+1 for passage

The District has decided to conduct a property-owner election (funded by the District) in compliance with Proposition 218, which will allow those who will pay the fee to decide whether to approve it. The election would be a return-by-mail ballot sent to all property owners of record. There is one vote per parcel, regardless of size. Passage requires 50%+1 of all *returned* ballots.

The Flood Control District, working with the research firm of Fairbank, Maslin, Maullin, Metz & Associates, conducted focus groups and several public opinion surveys in the past few years. This research suggests that despite the challenging economy, voters in the Los Angeles region support clean water funding initiatives. For example, the most recent surveys have determined that property owner support is at about 60%, which is higher than what is needed for passage.

### **Next Steps**

District staff has developed the following tentative schedule:

Note: All items are subject to Approval by the Board of Supervisors

- May 15, 2012: Board of Supervisors consideration of Water Quality Funding Initiative Implementation Ordinance and Engineers Report.
- Fall 2012: Proposition 218 mandated public hearing for the Clean Water Fee
- March – May 2013: Property owner mail-ballot election for the Clean Water Fee (should a finding of “no majority protest” be made at the conclusion of the public hearing).

Attachments: Resolution  
Water Quality Funding Initiative Ordinance

### **Recommended Action**

- 1) Waive further reading and adopt:

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GATEWAY CITIES COUNCIL OF GOVERNMENTS ENDORSING THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT'S WATER QUALITY FUNDING INITIATIVE AND SUPPORTING THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT BOARD OF SUPERVISORS IN THEIR SETTING A PROPERTY OWNER ELECTION ON "THE LOS ANGELES COUNTY CLEAN WATER, CLEAN BEACHES PROTECTION MEASURE."

- 2) Authorize the President of the GGCOG to send a delegation of representatives to the Board of Supervisor's meeting in support of the resolution.

**RESOLUTION NO. 2012-01**

**A RESOLUTION OF THE GATEWAY CITIES COUNCIL OF GOVERNMENTS  
ENDORING THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT'S  
WATER QUALITY FUNDING INITIATIVE AND SUPPORTING THE LOS ANGELES  
COUNTY FLOOD CONTROL DISTRICT BOARD OF SUPERVISORS IN SETTING A  
PROPERTY OWNER ELECTION ON "THE LOS ANGELES COUNTY CLEAN  
WATER, CLEAN BEACHES PROTECTION MEASURE**

WHEREAS, the Gateway Cities Council of Governments (GCCOG) is as an environmental steward, supporting local and regional efforts to improve the environment, including programs to improve the quality of storm water and urban runoff; and

WHEREAS, twenty-six of the GCCOG cities are members of the Los Angeles County Flood Control District ("District") and significant portions of the GCCOG territory is included in unincorporated Los Angeles County; and

WHEREAS, since the advent of the Clean Water Act in 1972 significant progress has been made in cleaning up rivers, streams, lakes, and other water bodies by removing pollutants traced to specific, discrete sources, nevertheless, every city within the GCCOG and the Flood Control District ("District") and the County of Los Angeles ("County") on behalf of the unincorporated areas (collectively referred to as "Municipalities") still faces critical and costly challenges created by contaminated stormwater and urban runoff; and

WHEREAS, water bodies within the District containing pollutants at levels above established public health standards are listed as impaired under Section 303(d) of the Clean Water Act, and

WHEREAS, the State Water Resources Control Board, through its Regional Water Quality Control Boards ("Regional Board"), is responsible for enforcing the Clean Water Act; and

WHEREAS, Municipalities and the District each must obtain a National Pollutant Discharge Elimination System ("NPDES") stormwater discharge permit from the Los Angeles Regional Board; and

WHEREAS, Municipalities are regulated pursuant to what are known as Total Maximum Daily Loads("TMDLs") which are to be developed under the Clean Water Act; and

WHEREAS, the costs to Municipalities of developing, constructing, operating and maintaining projects and programs needed to achieve compliance with the Clean Water Act, NPDES Permits and the TMDL Program is projected to total over \$43.7 to \$283.9 billion by the University of Southern California over the next twenty years or hundreds of millions of dollars annually; and it is estimated that the twenty-six Gateway Cities will need to invest over \$3.57 billion in the next twenty-years in implementing the TMDL program requirements; and

WHEREAS, Municipalities currently do not have sufficient funding available to implement necessary and desirable water quality improvement projects and programs without taking funds away from other vital public services such as public safety, street maintenance, parks and libraries; and

WHEREAS, Municipalities do not have access to a stable, long-term dedicated funding source that can provide a revenue stream to fund public investment in various desired water quality improvements for the duration that the need for these services is expected to exist; and

WHEREAS, the District, Municipalities, and other stakeholders collaborated with the American Society of Civil Engineers in the Los Angeles County Regional Watershed Infrastructure Funding Workgroup to identify options for a regional, sustainable long-term funding source to decrease Municipalities' reliance on General Funds to comply with the NPDES Permit and TMDL Programs; and

WHEREAS, the District, the GCCOG and other stakeholders worked extensively in the 2009 Legislative Session on AB 2554 (Brownley), special legislation that amended the Los Angeles County Flood Control Act to authorize the District to impose a property-related fee to provide a regional, sustainable long-term funding source for storm water and urban runoff clean-up programs, subject to the voter approval and other requirements of California Constitution, Article XIID (also known as Proposition 218); and

WHEREAS, the District has worked collaboratively with the GCCOG, and other stakeholders to draft an enabling ordinance, known as the Water Quality Funding Initiative, which would govern the administration of the fees, including the return and use of forty (40) percent of fees collected in our community for local programs, fifty (50) percent of the fees collected in our community for regional, watershed-based programs, with the remaining ten (10) percent of the fees allocated to the District for administration, monitoring, public education and other programs, which ordinance would become effective if and when the fee is approved by the voters; and

WHEREAS, the Clean Water fee imposed on each parcel will be calculated based upon the size of the parcel, the impervious area as determined by the parcel's land use, and the total cost of the improvements to be financed with the fee, and the fee imposed upon the average single-family home is estimated at \$54 annually; and

WHEREAS, an affirmative vote of the District's Board of Supervisors ("Board of Supervisors") will be required to set the election for a property owner's vote on the "Clean Water, Clean Beaches Protection Measure," which if subsequently approved by the voters would provide sustained funding for water quality projects and programs;

NOW, THEREFORE, BE IT RESOLVED that the Gateway City Council of Governments by adoption of this Resolution, endorses the Water Quality Funding Initiative, a District-wide collaborative effort to develop a stable, dedicated, long-term funding source through a

property owner vote on a proposed water quality fee that would be imposed upon parcels located within the District to assist in paying for water quality improvement projects and programs.

BE IT FURTHER RESOLVED that the Gateway Cities Council of Governments supports the Board of Supervisors in authorizing the District to conduct a property owner vote on a proposed Clean Water Fee to fund the Los Angeles County Clean Water, Clean Beaches Protection Measure.

BE IT FUTHER RESOLVED that the Gateway Cities Council of Governments supports the proposed Implementation Ordinance developed through an extensive, collaborative effort of the District, Municipalities, the environmental community, and other stakeholders to codify the governance, administration and use of the Clean Water Fee, if approved by voters.

BE IT FURTHER RESOLVED that the Gateway Cities Council of Governments affirms that the intent of the Water Quality Funding Initiative is to provide funding for Municipalities, Watershed Authority Groups, and the District to initiate, plan, design, construct, implement, operate, maintain, and sustain water quality improvement projects and programs based on effective best management practices.

BE IT FURTHER RESOLVED that if the District's property owners approve of the Clean Water and Clean Beaches Protection Measure, the Gateway Cities Council of Governments supports the formation of Watershed Area Groups (WAGs) consisting of all the Municipalities within each of the nine watersheds—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 of which will be responsible for developing Water Quality Improvement Plans and carrying out regional projects and programs to reduce pollution loads to the impaired waters in each of the nine watersheds.

Adopted on the 4th day of April, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Raymond Dunton, President





# **ATTACHMENT**

**ORDINANCE NO. \_\_\_\_\_(Version 3.20)**

An ordinance adding Chapter 18 to the Los Angeles County Flood Control District Code relating to a water quality fee imposed upon parcels located within the Los Angeles County Flood Control District to pay for projects and programs and project and program elements relating to improving water quality.

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 Fee Imposed

18.05 Allocation of Revenues Received from Imposition of the Water Quality Fee

18.06 Revenue Bonds

18.07 Agreements for Transfer of Proceeds of the Water Quality Fee

18.08 Project and Program Selection Criteria

18.09 Eligible Expenditures

18.10 Ineligible Expenditures

18.11 Formation of WAGs

- 18.12 Composition of the WAGs
- 18.13 Governance of the WAGs
- 18.14 Duties of the WAGs
- 18.15 Duties of the WAG Stakeholder Advisory Panels
- 18.16 Administration of the WAGs
- 18.17 Development of Water Quality Improvement Plans.
- 18.18 WQIP - Implementation and Reporting, Ownership of Projects
- 18.19 Compensation of a WAG's Governing Board Members
- 18.20 Boundaries of the Watershed Areas
- 18.21 Duties of the Municipalities
- 18.22 Duties of the District
- 18.23 Water Quality Oversight Board
- 18.24 Term and Tenure of Members of the Oversight Board
- 18.25 Officers of the Oversight Board
- 18.26 Meetings—Quorum of the Oversight Board
- 18.27 Compensation of the Oversight Board
- 18.28 Rules and Regulations of the Oversight Board
- 18.29 Duties of the Oversight Board
- 18.30 Calculation of the Fee
- 18.31 Collection--General Procedure
- 18.32 Claims for Reimbursement and Appeals
- 18.33 Incentive Programs
- 18.34 Carryover of Uncommitted Municipality and WAG Funds

18.35 Recordkeeping Requirements and Audits

18.36 Procedures for Addressing Misuse of Water Quality Fee Funds and Failure to Comply with the Terms of this Chapter

18.37 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.” (Ord. 2012)

### **18.02 Definitions.**

The following definitions apply to this Chapter 18:

“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.

“Beneficial uses” means existing or potential uses of receiving waters within the District's boundaries as designated by the Regional Board in the Basin Plan.

“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 pollution sources.

“Groundwater recharge” means the process where water from the surface makes its way into the subsurface, replenishing groundwater (aquifer) supplies, which can be pumped out for agriculture, 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 the plans 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 projects and programs and project and program elements planned and implemented in accordance with this Chapter, which are designed to manage Stormwater and Urban Runoff to reduce and address pollution and contamination of receiving waters within the District, such as rivers, lakes, creeks, streams, ponds, channels, bays, beaches and coastal waters, while wherever feasible protecting and enhancing available water supply via water conservation/reuse efforts such as rainwater harvesting and groundwater recharge; providing flood protection; protecting public health; 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.

“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 city or the unincorporated areas within the boundaries of the District.

“Municipal Projects and Programs and project and program elements” means projects and programs and project and program elements implemented by individual Municipalities in accordance with Section 18.08.

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

“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 the beneficial uses of the receiving 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 the beneficial uses of the receiving 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.)

“Program administrative costs” means all costs related to the operations of the Watershed Authority Group (WAG) 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. It may include other costs that would be necessary for the proper administration of the WAG.

“Project and Program Selection Criteria” means established standards set forth in Section 18.08 to evaluate the merit of a project or program that is being proposed to be funded pursuant to this Chapter. It also includes future criteria as may be established by the District.

“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.

“Receiving waters” means all surface water bodies, such as rivers, lakes, creeks, streams, ponds, channels, bays, beaches, and coastal waters, within the boundaries of the District that are identified in the Basin Plan.

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

“Regional Projects and Programs and project and program elements” means projects and programs and project and program elements implemented by WAGs of regional significance, which have a combined tributary area exceeding 200 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 and programs and project and program elements are to be developed in collaboration between local municipalities and stakeholders, taking into account factors such as the collective impact of a variety of pollutant sources, developing multi-benefit BMPs, 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 projects or programs implemented by a Municipality or WAG or the District.

“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 18.08.

“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 which 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 and programs and project and program elements.

“WQIP” means a water quality improvement plan developed in compliance with Section 18.17.

“Watershed Authority Group” or “WAG” means a Joint Powers Authority consisting of Municipalities and other public agencies within each Watershed Area identified in Section 18.11 responsible for developing a WQIP and carrying out regional projects and programs and project and program elements within the Watershed Area.

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

“Watershed Area” means one of the nine geographic areas defined in Section 18.20 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 beneficial uses, marine habitats, and ecosystems of receiving 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 improvement projects and programs and project and program elements. It is also the intent of this Chapter that, wherever feasible, water quality improvement projects and programs and project and program elements shall be designed to achieve multiple benefits and incorporate sustainable solutions, as described in Section 18.08.

### **18.04 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 18.30. The Water Quality Fee shall be levied and collected as set forth in Section 18.31 of this Chapter by the Treasurer and apportioned by the Auditor. The Board of Supervisors shall make appropriations from the District in a manner which authorizes the disbursement of funds as set forth in Section 18.05 of this Chapter.

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

The revenues received by the District from the Water Quality Fee shall be allocated and used as follows:

- A. Ten percent shall be allocated to the District to be used to implement and administer water quality projects and programs and project and program elements, as determined by the District, including activities such as regional water quality planning, regional water quality monitoring consistent with MS4 permits, preparation of technical, financial, and administrative reports, costs incurred in connection with the County's charges for administering the levy and collection of the Water Quality Fee, distribution of the funds, accounting, and auditing of the use of 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 for eligible Municipal projects and programs and project and program elements and Program Administrative Costs.
- C. Fifty percent shall be allocated to nine WAGs established in accordance with Sections 18.11 and 18.12, 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 develop and implement WQIPs and Regional Projects and Programs and project and program elements through a



process that includes input from community members within their Watershed Areas and for Program Administrative Costs. 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 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. This section authorizing the issuance of such revenue bonds shall not become effective until 30 days after its adoption by the Board of Supervisors.

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.

#### **18.07 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 funds as provided in this Chapter. A uniform agreement shall be developed by the District cooperatively with Municipalities and WAGs and shall include:

- A. Requirement for compliance with the terms of this chapter.
- B. WQIP preparation guidelines and project and program selection criteria, including additional guidelines and criteria as developed by the District in collaboration with WAGs, Municipalities, and Stakeholders.
- C. For agreements with WAGs, provisions for establishing WAG Stakeholder Advisory Panels.
- D. Provisions describing a standard process for additional Stakeholder engagement in planning efforts by WAGs and Municipalities, as applicable.
- E. Guidelines for monitoring, reporting, and auditing projects and programs and project and program elements 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.
- H. Provisions for other matters necessary to provide transparency and accountability in the use of Water Quality Fee funds.

The transfer agreement is designed to effectuate the requirements of this chapter and other laws governing the Fee. If a Municipality fails or refuses to execute the transfer agreement by the time that funds are to be disbursed, then the Municipality's share of the fee revenues will be reallocated to the WAG or WAGs in which the municipality is located in proportion to the revenues collected in each WAG for the WAG's use in planning, implementing, and maintaining regional projects and programs and project and program elements pursuant to this Chapter, as determined by the WAG.

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 planning, implementing, and maintaining regional projects and programs and project and program elements pursuant to this Chapter.

#### **18.08 Project and Program Selection Criteria.**

All projects and programs and project and program elements implemented by Municipalities and WAGs and funded by the Water Quality Fee established by this Chapter shall have as their primary purpose the reduction of pollutants to receiving waters within the District. Wherever feasible, projects and programs and project and program elements should use sustainable solutions to achieve water quality benefits and should 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
- Protection of public health
- 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

In addition to the above, WAGs shall be required and Municipalities are strongly encouraged to follow these project and program selection criteria:

- A. That the project or program demonstrates the ability to provide and sustain long-term water quality benefits, and where feasible, reduce the sources of degradation.
- B. That the project or program is designed and located to maximize the water quality benefits, such as through the use of distributed BMPs.

- C. That the project or program, to the extent possible, integrates with the Basin Plan, applicable MS4 Permit, Total Maximum Daily Load requirements, and other related regulatory programs, and coordinates with and is incorporated into a State approved Integrated Regional Water Management Plan, and other regional water quality-focused and related planning efforts for the watershed area.
- D. That the project or program, to the extent possible, contributes to achievement of the water quality elements of plans to restore or revitalize rivers, lakes, creeks, streams, ponds, channels, bays, beaches, 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 project or program, to the extent possible, maximizes the effective use of funds by leveraging other private, local, State, and federal funds for water quality and other project or program elements.
- F. That the project or program is based on sound science and the best available information.
- G. That the project or program complies with additional project and program selection criteria as developed by the District in collaboration with WAGs, Municipalities, and stakeholders.
- H. That the project or program undergoes a costs/benefit analysis which includes the relative socioeconomic, environmental and other costs against the extent of Water Quality Benefit.

### **18.09 Eligible Expenditures.**

Eligible expenditures include, but are not limited to, planning, design, construction, implementation, operation and maintenance, and monitoring of projects and programs and project and program elements carried out in accordance with this Chapter. Expenditures for components of a project or program providing multiple benefits such as those described in Section 18.08 are eligible insofar as those components are incidental to or provide a co-benefit to a water quality improvement project or program.

Eligible expenditures also include expenditures for:

- A. Consultants, governmental agencies, NGOs, contractors, WAGs, Municipalities, and District staff planning and implementing projects and programs and project and program elements in accordance with this Chapter.
- B. Research and data development, planning, design, construction, monitoring, 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 projects and programs and project and program elements.
- F. Regulatory permits such as MS4 Permits and permits issued by the State Water Resources Control Board.
- G. Joint projects and programs and project and program elements with adjoining WAGs, Municipalities, or the District with recognized mutual benefit.
- H. Investigation, defense, settlement and payment of any judgments for claims and liability associated with obligations for the design and implementation of eligible projects and programs and project and program elements.
- I. Operation, maintenance, and where applicable upgrade and replacement of existing regional projects and programs and project and program elements and municipal projects and programs and project and program elements that meet the requirements of this Chapter.
- J. Debt service and debt issuance costs should the District, a Municipality, or a WAG determine that bonds are prudent and necessary to implement the programs.
- K. Development of WQIPs by WAGs.
- L. Program administrative costs of Municipalities and WAGs not to exceed 10 percent of the annual water quality fee revenue allocated to that Municipality or WAG in a fiscal year.
- M. Educational and outreach programs designed to enlist the public in reducing pollution in Stormwater and Urban Runoff.
- N. Real property acquisition, leases, and easements necessary to carry out water quality projects.
- O. Incentive Programs as described in Section 18.33 of this Chapter.

#### **18.10 Ineligible Expenditures.**

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

- A. Non-water quality components of projects and programs and project and program elements except insofar as these components are incidental to or provide a co-benefit to a water quality improvement project, project element, or program.
- B. Expenditures incurred prior to the effective date of this chapter.
- C. Payment of fines imposed by the Regional Board or other regulatory agency.

- D. 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.
- E. Expenditures by a Municipality or WAG for the investigation or litigation of any claim or action against the District or County 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.

### **18.11 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. The District will provide administrative and technical assistance, if requested, relating to the formation and operation of the WAGs. An existing Joint Powers Authority that qualifies under this Chapter may act as a WAG, but no more than one WAG may be formed for each Watershed Area.

### **18.12 Composition of the WAGs.**

All Municipalities that are located within the boundaries of a Watershed Area, as established by Section 18.20, 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.

In addition, each WAG shall include one member that is a public water supply, wastewater, or replenishment agency with experience in Stormwater capture and/or water reuse for water supply augmentation and one member that is 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 18.08, in that Watershed Area. The Board of Supervisors shall select the agencies for the public water supply, wastewater, or replenishment agency member and state conservancy or other public agency member,

A WAG may not 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 Governance of the WAGs.**

- A. The governing board of each WAG shall consist of representatives with demonstrated expertise in water quality from each of its members. The governing body of each member shall appoint one 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 regardless of the land area, population, Water Quality Fee amount contributed, or other measure of the Municipality, except that the implementation of a 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 the representatives or alternate representatives 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 implementation of a 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.

#### **18.14 Duties of the WAGs.**

WAGs shall have the following duties:

- A. Plan, implement, and maintain regional projects and programs and project and program elements.
- B. Develop a WQIP and submit every three years, or sooner if necessary, to the District for review by the Oversight Board as described in Section 18.23 and approval by the Board of Supervisors.

- C. Create and convene a Stakeholder Advisory Panel pursuant to the procedure established in the agreement described in Section 18.07, including a minimum of three members and a maximum of nine members. Representatives may be chosen from a variety of interests, including community groups, academia, environmental groups, and other interested stakeholders.
- 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. Provide the District additional financial and other information, as required by the District.
- I. Help identify project partners and additional sources of funding to augment Water Quality Fee funds for projects and programs and project and program elements.

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

Each WAG Stakeholder Advisory Panel shall have the following duties:

- A. Identify and recommend projects and programs and project and program elements for inclusion in the WQIP.
- B. Review draft WQIP and provide input to the WAG.
- C. Serve as liaison between WAG and other Stakeholders, community and interest groups.
- D. Help identify project partners and additional sources of funding to augment projects and programs and project and program elements funded by the Water Quality Fee.
- E. 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.

### **18.16 Administration of 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.

### **18.17 Development of Water Quality Improvement Plans.**

Each WAG shall develop a WQIP for the watershed area it represents that identifies, prioritizes, budgets, and schedules regional watershed-based projects and programs and project and program elements to be implemented in the watershed within the next five years using proceeds of the water quality fee allocated to the WAG pursuant to section 18.05. To the extent possible, the WQIP should also include reference to Municipalities' projects and programs and project and program elements within the Watershed Area funded with the Municipal share of the Water Quality Fee. All regional projects and programs and project and program elements included within a WQIP must include plans and budgets for operation and maintenance for the useful life of the projects and programs and project and program elements. A WAG may contract with businesses, non-governmental agencies, its members, the County, or the District to perform any work related to the business of the WAG such as studies, development and implementation of programs, planning, design, construction, and operation and maintenance of projects.

Projects and programs and project and program elements developed by a WAG shall be regional and utilize proven, sustainable strategies and techniques, successful regional BMPs, tools, and methodologies. Projects and programs and project and program elements shall be designed, evaluated, and carried out using the best available scientific information and analysis so as to maximize Water Quality Benefits and be economically efficient, cost-effective, and consider relative socioeconomic, environmental, and other impacts and benefits. Each WAG shall consult with Stakeholders and receive input and recommendations from its Stakeholder Advisory Panel pursuant to Section 18.15 regarding the development of the WQIP.

WQIPs must be consistent with the Basin Plan, applicable MS4 Permits, Total Maximum Daily Load requirements, and other related regulatory programs, State-approved Integrated Regional Water Management Plans, and other regional water quality-focused and related planning efforts. WQIPs shall be updated every three years, or sooner if deemed necessary by a WAG.

WQIPs should include:

- A. Identification of Pollutants of concern, their source(s), quantifiable improvement targets, and a timeline for accomplishing the targets.



- B. Description of projects, programs, operations/maintenance, and related activities to achieve the improvement targets.
- C. Description of the Water Quality Benefits expected to be achieved through implementing the projects and programs and project and program elements.
- D. Costs/benefit analysis of the project or program which includes the relative socioeconomic, environmental and other costs against the extent of Water Quality Benefit.
- E. Schedule for implementing the projects and programs and project and program elements.
- F. Description of the process for prioritizing those projects and programs and project and program elements.
- G. Preparation of a budget identifying the projects and programs and project and program elements expenditures and revenues, and the components financed with revenue from the Water Quality Fee.
- H. Identification of the entities responsible for planning, design, construction, operations and maintenance, and monitoring of the projects and programs and project and program elements.
- I. Description of performance measurements to ensure intended performance of the projects and programs and project and program elements after they are constructed or implemented.
- J. Description of the Stakeholder Advisory Panel and Stakeholder involvement process.
- K. Description of other benefits associated with the projects and programs and project and program elements to water supply, Water Conservation/reuse, flood protection, protection of public health, protection of open space and natural areas, and habitat improvement.
- L. Additional WQIP preparation guidelines and project and program selection criteria developed by the District in collaboration with WAGs, Municipalities, and Stakeholders, as provided in Section 18.08.

A WQIP must be updated by the WAG and approved every three years by the Board of Supervisors. An approved WQIP is required in order for annual funding to be disbursed to a WAG. A WAG must submit its proposed WQIP to the District on dates to be determined by the Chief Engineer pursuant to Section 18.22. Within 45 days of receipt of a plan from a WAG, the Chief Engineer will submit the WQIP to the Oversight Board with draft findings and recommendations. The Oversight Board will then have 45 days to review the WQIP pursuant to Section 18.29, consider testimony from Stakeholders, and make its independent recommendations to the Board of Supervisors for their action. The Board of Supervisors may approve the WQIP or return it to the Oversight Board for further work or investigation.

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

Each WAG shall implement its respective WQIP following and in accordance with approval by the Board of Supervisors and shall provide the District with an annual budget, annual audit report, and annual WQIP Implementation Progress Report.

Projects implemented or constructed by a WAG shall be owned, operated, and maintained in perpetuity by the WAG or, by agreement, a WAG may transfer ownership of a project to a member of the WAG or to a governmental agency for perpetual ownership and maintenance.

### **18.19 Compensation of a WAG's Governing Board Members.**

Members of the governing board of a WAG shall not receive compensation for their service to the WAG governing board.

### **18.20 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, 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 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.

### **18.21 Duties of the Municipalities.**

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

- A. Plan, implement, and maintain projects and programs and project and program elements. Projects and project elements implemented or constructed by a Municipality shall be owned, operated, and maintained by the Municipality.

- B. Expend Water Quality Fee funds in the Watershed Area from which they were collected.
- C. Prepare and provide annually to the WAG in which it is located, no later than the last day of that Municipality's fiscal year, a list for the coming fiscal year of projects and programs and project and program elements to be financed with Water Quality Fee revenue, including their projected expenditures. Municipalities may modify, update, or cancel projects and programs and project and program elements and administrative costs throughout the year if proven to be ineffective in reducing pollution in Stormwater and Urban Runoff.

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.

- D. Provide the District additional financial and other information, as required by the District.
- E. 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.
- J. Submit to the District for the Oversight Board, plans for new Municipal infrastructure projects with expenditures expected to exceed \$2.0 million in Water Quality Fees. 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 District may provide provisional approval, but approval by the Oversight Board is required prior to commencement of construction.

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.

## **18.22 Duties of the District.**

The District shall have the following duties:

- A. Administer the Los Angeles County Flood Control District Water Quality Improvement Program Ordinance.
- B. Provide for the levy and collection of the Water Quality Fee, the 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.
- C. Plan, implement, and maintain new and existing projects and programs and project and program elements operated by the District.

- D. Undertake activities such as regional water quality planning, and regional water quality monitoring consistent with the applicable MS4 Permit.
- E. Provide specific directives and guidance to WAGs and Municipalities for preparation of budgets, audit reports, and WQIP Implementation Progress Report.
- F. Develop and enter into agreements with Municipalities and WAGs pursuant to Section 18.07.
- G. Review WQIPs submitted by WAGs and make findings and recommendations to the Oversight Board as to their compliance with this Chapter within 45 days of submittal by the WAG.
- H. Review new Municipal infrastructure projects with expenditures expected to exceed \$2.0 million in Water Quality Fees for compliance with this Chapter and make findings and recommendations to the Oversight Board within 15 days of submittal by the Municipality.
- I. Review and determine whether to approve new Municipal infrastructure projects with expenditures expected to exceed \$2.0 million in Water Quality Fees within 15 days of submittal by the Municipality where grant funds are contemplated.
- J. Act as secretary and serve as staff to the Oversight Board.
- K. Take actions, as necessary, to comply with Article XIII D of the California Constitution and this Chapter.
- L. Develop and implement Stormwater and Urban Runoff quality monitoring programs to align with existing and emerging water quality monitoring programs and efforts throughout the District.
- M. Provide regional water quality planning and assistance to Municipalities and WAGs, such as analysis of Pollutant Loading, scientific research, BMPs, and computer modeling.
- N. 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.
- O. Develop additional WQIP preparation guidelines and project and program selection criteria in collaboration with WAGs, Municipalities, and Stakeholders, as provided in Section 18.08 and Section 18.17.
- P. 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.

- Q. Withhold, at its discretion and pending compliance, future disbursements of Water Quality Fee funds for Municipalities or WAGs that fail to comply with the terms of this chapter.

### **18.23 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 members from the general public; and nine members to represent each of the WAGs. The Board of Supervisors shall appoint each member representing a WAG with input from the corresponding WAG’s governing board. Oversight Board members shall be District ratepayers. The environmental community, District, and general public members may be selected without regard to watershed area. Members representing the WAGs must either own a parcel or have professional experience, to the satisfaction of the Board of Supervisors, 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 submitted by the individual WAGs and new Municipal infrastructure projects with expenditures expected to exceed \$2.0 million in Water Quality Fees.

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.

### **18.24 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.

### **18.25 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.

### **18.26 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 Municipality infrastructure 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.

### **18.27 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 funds allocated to the District.

### **18.28 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.

### **18.29 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 within 45 days of receiving the District's findings and recommendations.
- B. Review for compliance with this Chapter and determine whether to approve new Municipal infrastructure projects with expenditures expected to exceed \$2.0 million in Water Quality Fee revenue within 30 days of receiving the District's findings and recommendations. In cases where grant funds are contemplated, the District shall determine whether to approve the project on behalf of the Oversight Board.

- C. Consider testimony from Stakeholders on WQIPs and new Municipal infrastructure projects with expenditures expected to exceed \$2.0 million in Water Quality Fee revenue.

### **18.30 Calculation of the Fee.**

Each Parcel's proportional allocation of the improvements and the cost of service is best reflected by the overall Stormwater and Urban Runoff associated with such Parcels, which can be equitably represented by each Parcel's proportional Impervious Area. In order to establish an appropriate fee for each Parcel within the District, the total Impervious Area for each Parcel within the District 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, zoning and Parcel lot sizes. 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 Fee, divided by the total impervious area for Parcels within the District. The Fee for each parcel shall 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 development changes, the annual fee amount(s) shall be adjusted for the fiscal year next succeeding the change in impervious area. The method for calculating the fee for each Parcel shall be 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 18.32 of this Chapter, the Board of Supervisors, in its discretion, on a recommendation from the Chief Engineer, may adjustment the Water Quality Fee imposed on any Parcel in circumstances where the Fee has been calculated correctly based upon the parcel size, land use and zoning, but the calculation grossly overestimates the actual impervious area of the Parcel and the Board finds that the adjustment is necessary to prevent an injustice. The Board of Supervisors shall also reaffirm every five (5) years that revenues derived from the Water Quality Fee shall not exceed the cost of providing the service and shall reduce the Water Quality Fee in the event that revenues are found to exceed the cost to provide the service.

### **18.31 Collection—General Procedure.**

The Water Quality Fee shall 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 shall 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 shall 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 Water Quality Fee.



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

An appeals process shall be established as follows:

A. **Contesting the Water Quality Fee:** Any Parcel owner aggrieved by a Fee imposed pursuant to this Chapter 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 Fee.

In order to be entitled to review of the 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 Fee is imposed.

The Chief Engineer shall review the claim and make any adjustments to the 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 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 Engineers shall also submit any adjustments in the Fee to the Auditor.

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 18.32. 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 Fee, the Parcel owner will receive a refund of any overpayment.

### **18.33 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 25% of the Water Quality Fee paid by a parcel owner upon satisfactory implementation of sustained on-site measures. Said rebate must be paid from funds allocated to the Municipality from the Water Quality Fee or from other funds of the Municipality.

### **18.34 Carryover of Uncommitted Municipality and WAG Funds.**

Municipalities may carry over uncommitted funds for up to five years after funds 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 18.07, provided that sufficient details on future projects and programs and project and program elements are included in the annual audit report.

A WAG may carry over uncommitted funds for up to five years after funds 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 18.07, provided that a WQIP has been developed and approved by the Board of Supervisors and that sufficient details on future projects and programs and project and program elements are included in the annual audit report.

Funds that are carried over for more than five years will revert back to the District. The District shall have two years to spend the funds on qualified water quality projects or programs in the same watershed from which the funds were collected.

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

### **18.35 Recordkeeping Requirements and Audits**

The following recordkeeping and audit requirements are established:

- A. Water Quality Fee funds 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 funds shall be reallocated for use in water quality projects and programs and project and program elements 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 board, the annual audit reports required in Section 18.14 and Section 18.21. Municipalities and WAGs, upon demand by authorized representatives of the District,

including the Auditor, shall make those reports available for inspection and audit by the District or its authorized representative.

- C. Municipalities, WAGs, and the District shall retain, for a period of ten years after project completion, all records necessary to determine the amounts expended, and eligibility of water quality projects and programs and project and program elements. Municipalities and WAGs, upon demand by authorized representatives of the District, including the Auditor, shall make such records available for inspection and 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 projects and programs and project and program elements 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, audit, and transcribe any and all audit reports, other reports, books, accounts, papers, maps, and other records that relate to projects and programs and project and program elements implemented pursuant to this chapter.

**18.36 Procedures for Addressing Misuse of Water Quality Fee Funds and Failure to Comply with the Terms of this Chapter.**

- A. If a Municipality or WAG fails to comply with the terms of this chapter, the District, at its discretion, may withhold future disbursements of Water Quality Fee funds 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 funds on qualified water quality projects or programs in the same watershed from which the funds were collected.
- B. If a Municipality or WAG is found by the Auditor to have misused Water Quality Fee funds, it shall, upon official notification by the Auditor, refund those funds, including associated interest, to the Auditor within 30 days of notification. The funds shall then be reassigned and used to plan, implement, and maintain projects and programs and project and program elements pursuant to this Chapter as follows:
  - a. Funds misused by a Municipality will be reassigned to the corresponding WAG.
  - b. Funds misused by a WAG will be reassigned to the District.

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

- C. Municipalities and WAGs may appeal the decision of the Auditor and request an administrative hearing. Any such appeal must be in writing, must be made within thirty (30) days of the date the Auditor's official decision was mailed, and must contain a statement as to why the Auditor's decision is being disputed. After receiving a timely appeal, the Chief Engineer shall schedule an administrative hearing before a hearing

officer designated by the Auditor. 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 Auditor must designate a hearing officer who was not involved in the Auditor's prior decision. The decision of the hearing officer shall be final.

- D. 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.

### **18.37 District Held Harmless.**

Nothing in this chapter requires the District to accept ownership or responsibility for any project or program 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, the District will not be liable in connection with errors, defects, injuries, property damage caused by or attributed to any project or program 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 and hold it harmless for claims, liability, and expenses, including attorneys fees, incurred by the District as a result of any project or program developed, implemented, or constructed by the Municipality or WAG pursuant to this chapter.

#### **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 **xxxxxxxxxx**, to vote on the measure.

**IX. REPORTS FROM COMMITTEES**  
**ITEM A**  
**Conservancy Committee**

**TO:** Board of Directors

**FROM:** Councilmember Patrick O'Donnell  
Councilmember Edward Wilson

**SUBJECT:** San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy Update

### **Background**

The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) was established by State Legislation in which the COG was an active participant. The Gateway Cities are represented on the RMC Board by two members listed above.

### **Issue**

The RMC Board met on Monday, March 26<sup>th</sup>, 2012, in Bellflower. The Board received a presentation on the I-710 Corridor Project EIR/EIS. Specific mention was made of the I-710 Corridor Project's potential impact on the planned 8-acre Parque Dos Rios near the City of South Gate. If a build alternative is chosen, part or all of this park property might be taken. Potential replacement properties have been identified that are about the same acreage, but do not border the LA River as does the current property.

The Board approved a resolution adopting an open end programmatic fund structure in lieu of the competitive grant programs previously used to allocate RMC funds. The new process would be used to move projects forward that have previously been conceptually approved, but not yet approved for funding. The staff recommended this approach, which has also been used by the Santa Monica Mountains Conservancy and the Coastal Conservancy, as the most effective and efficient way to allocate the relatively small amount of funding now remaining to the RMC.

The Board approved a grant to the Friends of Colorado Lagoon for restoration and re-vegetation of the Colorado Lagoon in Long Beach.

Elections of officers were held. Frank Colonna was elected Chair and Dan Arrighi was elected Vice-Chair. Mr. Colonna is a governor's appointee and Mr. Arrighi represents the Central Basin Water Association.

### **Recommended Action**

Receive and file this report.

**X. REPORTS FROM  
COMMITTEES/AGENCIES  
ITEM E**

**Matters from the South Coast Air Quality  
Management District (AQMD)**

