COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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GAIL FARBER, Director

ADDRESS ALL CORRESPONDENCE TO:
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May 29, 2012

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

PROPOSED CLEAN WATER, CLEAN BEACHES
WATER QUALITY FUNDING INITIATIVE
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)

SUBJECT

Authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to take the necessary steps to: (1) cause a protest hearing to be set and the required mailed notice of the hearing provided for consideration of a property-related Clean Water, Clean Beaches Water Quality fee; and (2) to instruct County Counsel and the Chief Engineer of the Los Angeles County Flood Control District or her designee to prepare for your Board's consideration an Ordinance and a program implementation manual to establish the criteria and specific program elements necessary to implement the proposed fee.

IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:

1. Find that the recommended actions are not subject to the provisions of the California Environmental Quality Act.

2. Authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to take the necessary steps to cause a protest hearing to be set and the required mailed notice provided for your Board's consideration of a property-related Clean Water, Clean Beaches Water Quality fee, which will also require voter approval, pursuant to Article XIIID, Section 6, of the California Constitution.

3. Instruct County Counsel to prepare an Ordinance for your Board's consideration, adding Chapter

18 to the Los Angeles County Flood Control District Code to implement and establish criteria for the proposed Clean Water, Clean Beaches Water Quality fee to pay for projects relating to improving surface water quality within the Los Angeles County Flood Control District.

4. Instruct the Chief Engineer of the Los Angeles County Flood Control District or her designee to prepare a program implementation manual for your Board's consideration to establish specific policies, guidelines, procedures, standards, or requirements necessary to implement the Clean Water, Clean Beaches Water Quality fee.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to: (1) initiate the process for a protest hearing for a proposed property-related Clean Water, Clean Beaches Water Quality fee (water quality fee), pursuant to Article XIIID of the California Constitution (Proposition 218); (2) instruct County Counsel to prepare an Ordinance establishing criteria for the implementation of a proposed water quality fee that is similar to Enclosure A (draft Ordinance); and (3) instruct the Chief Engineer of the Los Angeles County Flood Control District (LACFCD) or her designee to prepare a program implementation manual to implement the proposed water quality fee that is consistent with Enclosure B (Program Elements), a summary of the LACFCD Water Quality Improvement Program.

The Engineer's Report, setting forth the basis for the water quality fee, will be filed with the Executive Officer of your Board prior to mailing the notice of public hearing. If no majority protest is received at the public hearing, your Board may schedule the water quality fee for an election in accordance with Proposition 218. The proposed water quality fee will not take effect unless and until the water quality fee receives the required voter approval.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs that we provide Fiscal Sustainability (Goal 2) by establishing a local funding source, which can be leveraged to secure grant funds, thereby augmenting Integrated Services Delivery (Goal 3) to our communities by enhancing the County's ability to carry out water-quality improvement projects.

BACKGROUND

The LACFCD was established by the State of California legislature in 1915 for the purposes of controlling and conserving flood waters and providing flood protection. The Federal Water Pollution Control Amendments of 1972, referred to as the Clean Water Act, introduced a permit system known as the National Pollutant Discharge Elimination System for regulating point sources of pollution. In 1987, the Clean Water Act was amended to require stormwater dischargers to obtain National Pollutant Discharge Elimination System permits as well.

In 2001, the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), established the first Total Maximum Daily Load (TMDL) regulation in the County of Los Angeles. A TMDL targets a particular pollutant and identifies the limits to which that pollutant must be controlled. Since then, approximately 40 TMDLs have been developed within the County. According to the Regional Board, the LACFCD, together with other agencies, municipalities, and industries in the County spent an estimated $340 million in Fiscal Year 2010-11 in their efforts to comply with TMDLs. Staff of the Regional Board has estimated that the cost for the LACFCD, County unincorporated area, and all the affected cities to comply with existing TMDLs and other water-quality regulations to be in the billions of dollars.

In 2008, the LACFCD began pursuing the establishment of a regional, sustained funding source that would provide for the construction and maintenance of infrastructure designed to remove pollutants from storm runoff and improve water quality within the boundaries of the LACFCD. On September 30, 2010, the Governor approved Assembly Bill (AB) 2554 (Brownley), sponsored by your Board, which amended the Los Angeles County Flood Control Act, authorizing the LACFCD to impose a fee or charge to pay the costs of carrying out projects and providing services to improve water quality and reduce stormwater and urban runoff pollution in the LACFCD, subject to applicable provisions of Proposition 218. AB 2554 provides the foundation for the proposed water quality fee and requires the adoption of an implementation Ordinance.

SETTING A PUBLIC HEARING

Pursuant to Proposition 218, the LACFCD is required to hold a noticed protest hearing prior to imposing a property-related fee. If written protests are presented by a majority of the property owners, your Board may not impose the fee. If there is no majority protest, your Board may schedule an election on the fee, which will not be imposed unless and until it is first submitted to and approved by a majority vote of the owners of the property subject to the fee. Therefore, this Board letter recommends that your Board authorize the Chief Engineer of the LACFCD or her designee to take all necessary steps to initiate that process, including requesting the Executive Officer of your Board to set the hearing date and causing the required notice of the hearing to be mailed.

ENGINEER'S REPORT AND METHODOLOGY

The Engineer's Report, which will be filed with the Executive Officer of your Board prior to mailing the notice for public hearing, will provide the methodology for calculating the fee and the estimated fee revenue. If approved, the fee would be imposed upon more than 2 million parcels within the fee service area of the LACFCD, including parcels owned by Federal, State, County, and city governments, as well as the LACFCD, school districts, and other special districts.

Basis of Water Quality Fee: Proposition 218 requires, among other things, that revenues derived from the fee not exceed the funds required to provide the property-related service and that the amount of fee imposed upon any property owner not exceed the proportional cost of the service attributable to the parcel. This means that the fee charged to each property owner must represent the parcel's proportionate share of the costs of the LACFCD Water Quality Improvement Program and the projects that are carried out to implement the program. Calculation of the fee for each parcel is measured by the amount of runoff proportionally attributable to the parcel. The Engineer's Report establishes a calculation methodology that assigns parcels to groups based on parcel size and land use. Typical water quality fee amounts for sample parcel types are included in Enclosure C.

KEY PROGRAM ELEMENTS AND IMPLEMENTATION ORDINANCE

Staff of the LACFCD worked with the cities in its jurisdiction, Councils of Governments, stakeholders from the environmental community, and other stakeholders to obtain input on the proposed Program Elements (Enclosure B) establishing a structure for the water quality fee program (LACFCD Water Quality Improvement Program). The draft Ordinance (Enclosure A) is consistent with the Program Elements and is designed to implement the authority granted by AB 2554 and establish criteria for the use of the proposed water quality fee.

Collection of Revenue: The proposed fee would be added to the tax bill for parcel owners that receive a consolidated property tax bill from the County. The fee would be collected through direct

invoicing property owners that do not receive a consolidated property tax bill, such as government entities. Prior to distribution of the revenue to the eligible parties, all collected fee revenues would be held in the County treasury to the credit of the LACFCD in separate interest-bearing accounts and not combined with other funds.

Allocation of Revenue: As required by AB 2554, the LACFCD would apportion the revenues collected to the eligible parties. Approximately $276 million in fee revenue estimated to be collected in Fiscal Year 2013-14 would be allocated as follows: (1) 10 percent, approximately $28 million, would be allocated to the LACFCD for implementation and administration of water quality projects and for paying the costs of levying and collecting the fee and distributing the funds; (2) 40 percent, approximately $110 million, would be allocated to the cities and County unincorporated areas (which are referred to collectively as municipalities) within the fee service area of the LACFCD, in proportion to the fees collected from within the respective municipalities, for local water-quality improvement projects within the municipalities' jurisdiction; and (3) 50 percent, approximately $138 million, would be allocated to nine Watershed Authority Groups (WAGs), in proportion to the fees collected from within the watershed area of each WAG, for collaborative water-quality improvement plans in the watershed areas.

Use of Funds: As described in the Program Elements, eligible expenses include planning, design, construction, implementation, operation, maintenance, and monitoring of water quality projects. Ineligible expenses include any nonwater quality components of projects, including expenditures related to litigation and judgments, payment of the fee on behalf of any property owner, and nonproject-related fines imposed by the Regional Board. Municipalities and WAGs are limited to 10 percent of their annual fee revenues for administrative and overhead functions. In addition, the program implementation manual will include goals and policies for the planning and selection of water quality projects by municipalities, WAGs, and the LACFCD, including policies and guidance to encourage and facilitate the design of water quality projects to achieve multiple benefits and incorporate sustainable solutions where feasible and appropriate.

Municipalities: The Program Elements provide that municipalities will be responsible for constructing, implementing, and maintaining local water quality projects subject to consideration of water quality goals and project selection criteria. Further, municipalities have the authority to spend their revenues on local water quality projects; however, certain municipal projects that are funded in whole or in part with revenues from the water quality fee will require approval by an Oversight Board, including projects or related projects in which the total cost of the water quality benefits excluding operation and maintenance exceeds $2 million.

WAGs: AB 2554 requires the Ordinance to authorize nine WAGs for the following nine watershed areas: Ballona Creek, Dominguez Channel, Lower Los Angeles River, Lower San Gabriel River, Rio Hondo River, Santa Clara River, Santa Monica Bay, Upper Los Angeles River, and Upper San Gabriel River. Each WAG will be formed in accordance with the Joint Exercise of Powers Act, pursuant to California Government Code, Section 6500, et seq. Enclosure D is a map that depicts the boundaries of the nine WAGs.

As described in the Program Elements, all municipalities in a watershed area are eligible, but not required, to become a member of the WAG for that watershed area. In addition, the Program Elements propose that each WAG will have two additional members selected by your Board: a public water supply, wastewater, or replenishment agency and a State conservancy or other public agency, except that the Santa Clara River WAG will have only one additional member. The governing Board of each WAG will consist of one representative from each of the members of the WAG, as appointed by their governing bodies. Each member of the WAG will have one seat on the

WAG's governing Board and one vote on items before it, except that the consent of any municipality member whose jurisdiction comprises more than 40 percent of the total land area within the watershed area is required for WAG projects. The County, on behalf of the unincorporated areas, has this authority in the Santa Clara River, Santa Monica Bay, and Upper San Gabriel River Watersheds. The City of Los Angeles has this authority in the Ballona Creek and Upper Los Angeles River Watersheds.

Pursuant to AB 2554, WAGs are responsible for implementing collaborative regional water quality projects. The Program Elements provide that each WAG would work with stakeholders and municipalities to develop a Water Quality Improvement Plan (WQIP), which is a planning document of watershed area-based water quality projects that are eligible to be funded from the WAG's share of the water quality fee. WQIPs have a five-year horizon and would be updated every three years. WQIPs and their updates would be reviewed by an Oversight Board before being submitted to your Board for approval. Your Board's approval of the WQIP would be required in order for a WAG to receive its allocation of the fee revenues.

LACFCD: In accordance with AB 2554, the LACFCD is responsible to levy and collect the water quality fee and distribute the funds generated by imposition of the water quality fee and any other related activities associated with administering the LACFCD Water Quality Improvement Program. The LACFCD's allocation of the water quality fee revenues may be used for these activities as well as for planning, implementing, and maintaining new and existing projects operated by the LACFCD.

Stakeholder Participation: The Program Elements provide that each WAG will empanel a Stakeholder Advisory Panel representing a balanced variety of interests and tasked with providing input from their perspectives as property owners, business groups, environmental groups, or other interested parties.

Oversight Board: The Program Elements call for a 13-member Oversight Board, appointed by your Board, to conduct public hearings and make findings and recommendations to your Board on matters related to the WQIPs and to approve municipal projects or related municipal projects in which the total cost of the water quality benefits excluding operation and maintenance exceeds $2 million. The Oversight Board would include: one member from the environmental community, one member from the LACFCD, two at-large members from the general public, and nine members representing each of the nine watershed areas. Oversight Board members would be required to have demonstrated expertise in water quality and be qualified in a related field. Members would serve renewable two-year terms.

Board of Supervisors: Acting as the governing body of the LACFCD, your Board would assume a number of responsibilities under the LACFCD Water Quality Improvement Program, including the following:

1. Approving Agreements between the LACFCD and each of the WAGs and the 87 municipalities eligible to receive an allocation of the revenues from the water quality fee, required before the LACFCD releases funds to the WAG or municipality.

2. Certifying the WQIPs prepared by each of the nine WAGs, initially and once every three years thereafter.

3. Appointing the public water agency and State conservancy or other public agency members to the WAG Boards.

4. Appointing the Oversight Board members, once every two years.

5. Approving rules and regulations governing the Oversight Board and any amendments to the rules and regulations as required.

6. Determining that the revenues derived from the water quality fee do not exceed the cost of providing the service once every five years.

Acting as the governing body of the County, your Board would assume the following responsibilities under the proposed LACFCD Water Quality Improvement Program:

1. Appointing one representative and one alternate to each of the nine WAG governing Boards to represent the unincorporated areas in each watershed area.

2. Certifying unincorporated area audits on an annual basis.

FISCAL IMPACT/FINANCING

LACFCD-wide Program: Agencies and municipalities within the County of Los Angeles spent an estimated $340 million in Fiscal Year 2010-11 to fund water quality projects and maintenance activities. Of this, the LACFCD and the County unincorporated areas spent over $104 million. Projected costs are expected to increase as water quality regulations become more stringent.

If approved by the property owners, the total projected fee revenues would be approximately $276 million per year. The WAGs would receive approximately $138 million per year, municipalities would receive approximately $110 million per year, and the LACFCD would receive approximately $28 million per year. The Program Elements provide that administrative costs would be limited to 10 percent annually for municipalities (collectively, approximately $11 million maximum) and WAGs (collectively, approximately $13.8 million maximum).

County Unincorporated Area Stormwater Program: The County General Fund expenditures for the unincorporated area stormwater program from Fiscal Years 2007-08 through 2010-11 were $21.4 million. In Fiscal Year 2011-12, the County budgeted $7.5 million for unincorporated area stormwater projects. The Fiscal Year 2012-13 recommended budget includes $8.3 million for unincorporated area stormwater projects. It is estimated that the proposed 40 percent local return fee will generate approximately $12.5 million per year for the County unincorporated areas. Administrative costs would be limited to a maximum of approximately $1.25 million.

Government-owned parcels are subject to the fee. This would include parcels owned by the County as well as State- and Federal-owned parcels that are County-operated and -maintained where pursuant to an agreement, the County will be responsible for the fee payment. The estimate of the County's annual fee obligation will be provided at the time your Board considers its parcel owner mail-in ballot decision on the water quality funding initiative. At that time, the reported number will identify the fee total and net County cost and revenue offsets. Based on the estimated annual fee obligation of the County, the net benefit of the program for the County will be reported.

The County unincorporated areas will also benefit from WAG-funded projects. If approved by the voters, the fee will provide the County with an ongoing committed funding source and enable the County to expand the unincorporated area stormwater program, both at the local and regional levels.

LACFCD: The LACFCD's share of the water quality fee revenues would be used to pay for activities associated with administration of the fee, such as collection, disbursement, and auditing of fee revenues; support activities for municipalities and WAGs; and planning, implementing, and maintaining new and existing projects operated by the LACFCD. Based on the estimated annual fee revenues to be collected, the LACFCD's annual allocation is estimated at $28 million.

There is no fee obligation for flood control channels or County-owned roads. The LACFCD will be required to pay fees for actual parcels that it owns. As with the County's fee obligation, the estimated LACFCD fee obligation will be provided at the time your Board considers the parcel owner-mailed ballots received for the LACFCD parcels. At that time, the reported fiscal impact for the LACFCD will identify the total estimated annual fee obligation.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Proposition 218 requires a two-step process for imposing the water quality fee: a protest hearing and then if there is no majority protest, an election. For the protest hearing, the LACFCD will be required to give notice by mail to the owners of each of the parcels affected by the fee of a public hearing before your Board and the right to protest. The notice must be mailed at least 45 days before the public hearing and provide the property owners with information about the fee, including the exact amount of the fee that will be imposed on the property. If there is no majority protest, then the LACFCD will recommend that your Board move forward with a property-owner, mailed-ballot election. For such an election, the LACFCD will mail ballots to the owners of each of the parcels affected by this fee. Each parcel will have one vote, regardless of the size of the parcel or amount of the proposed fee. If the majority of returned ballots are in favor of the fee, then your Board may levy the fee. Thereafter, your Board cannot increase the fee except by conducting a new protest hearing and election in compliance with Proposition 218.

The LACFCD expects to return to your Board with a recommendation to enter into a contract with an election vendor. At this time, it is anticipated that the protest hearing will be held on November 27, 2012. Provided there is no majority protest, an election may be scheduled for May 7, 2013, pursuant to State Election Code.

Additionally, the Chief Executive Office will return to your Board requesting that your Board, as property owner of County parcels, submit mail-in ballots for the County-owned parcels and State and Federal parcels operated and maintained by the County. The LACFCD will also request that your Board, as property owner of LACFCD parcels, submit mail-in ballots for the LACFCD-owned parcels.

If approved by the voters and your Board, the Treasurer and Tax Collector will begin collecting the fee in Fiscal Year 2013-14.

ENVIRONMENTAL DOCUMENTATION

In accordance with Section 15378(b)(4) of the California Environmental Quality Act Guidelines, the recommended actions do not constitute a project and, therefore, is not subject to the requirements of the California Environmental Quality Act. These actions do not involve any commitment to any specific project, which may result in potentially significant impacts on the environment.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no negative impacts on current services.

LACFCD: If the proposed fee is approved in the property-owner election, the LACFCD Water Quality Improvement Program will require realignment of LACFCD resources and possible additional staff, all of which would be funded from the projected new revenue to the LACFCD from the water quality fee.

County Unincorporated Area Stormwater Program: If approved in the property-owner election, the LACFCD Water Quality Improvement Program may require staffing resources from the Auditor-Controller, Chief Executive Office, County Counsel, and Public Works for both municipal and WAG programs.

CONCLUSION

Please return six adopted copies of this letter to the Department of Public Works, Watershed Management Division.

Respectfully submitted,

GAIL FARBER

Director

GF:GH:sw

Enclosures

c: Auditor-Controller
Chief Executive Office (Rita Robinson)
County Counsel
Executive Office
All Department Heads

ORDINANCE NO. _____

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

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

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

Chapter 18

18.01 Short Title.

18.02 Definitions.

18.03 Purpose and Intent.

18.04 Water Quality Fee Imposed.

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

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

18.07 Required Water Quality Project Criteria.

18.08 Implementation of this Chapter.

18.09 Formation and Composition of Watershed Authority Groups.

18.10 Water Quality Projects Oversight Board.

18.11 Revenue Bonds.

18.12 District Held Harmless.

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18.01 Short Title.

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

18.02 Definitions.

The following definitions apply to this Chapter 18:

"Auditor" means the Auditor-Controller of the County of Los Angeles.

"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.

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

"Implementation Manual" means goals, policies, guidelines, procedures, standards, and requirements prepared by the Chief Engineer and approved by the Board of Supervisors to implement this chapter, as described in Section 18.08.

"Municipal projects" means water quality projects carried out by Municipalities and financed in whole or in part with Water Quality Fee revenues allocated to the Municipalities.

"Municipality" means a city or the collective unincorporated areas within the boundaries of the District.

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"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").

"Regional projects" means water quality projects of regional significance that are carried out by Watershed Authority Groups and financed in whole or in part with Water Quality Fee revenues, and that affect a combined tributary area exceeding one hundred (100) acres of land, address pollutant loads from more than one Municipality, or are part of a plan that treats an entire reach of a river or subwatershed.

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

"Surface water" means water that flows or collects on the surface of the ground.

"Treasurer" means the Treasurer and Tax Collector of the County of Los Angeles.

"Urban runoff" means surface water flow that may contain, but is not composed entirely of stormwater, such as flow from residential, commercial, or industrial activities.

"Water quality benefit" means any activity that contributes to the improvement of surface water quality.

"Water Quality Fee" means the fee imposed pursuant to this chapter to provide funding for water quality projects.

"Water Quality Improvement Plan (WQIP)" means a plan prepared by a Watershed Authority Group for the watershed area it represents and approved by the Board of Supervisors, which identifies pollutants, establishes targets for improvement,

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and identifies and prioritizes regional projects for planning, design and implementation within the ensuing five (5) years, in accordance with procedures and requirements set forth in the Implementation Manual.

"Water quality project" means a project or program that includes a water quality benefit.

"Watershed Area" means one of the nine (9) geographic areas identified in Section 18.09 of this chapter and in Section 2 of the Los Angeles County Flood Control Act, subsection 8b(C), as described on maps prepared and maintained by the Chief Engineer based upon the Chief Engineer's determination of the hydrologic topographies of the watersheds.

"Watershed Authority Group" means a group formed in accordance with Section 18.09 and with the Joint Exercise of Powers Act, Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, consisting of Municipalities and other public agencies within each watershed area identified in Section 18.09, and which is responsible for preparing a WQIP and carrying out regional projects within the watershed area.

18.03 Purpose and Intent.

This chapter is enacted pursuant to Section 2, subsection 8c, 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 implement the authority provided by Assembly Bill 2554 (2010) to provide funding for Municipalities, Watershed Authority Groups, and the District to initiate, plan, design, construct, implement, operate,

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maintain, and sustain projects and services to improve surface water quality and reduce stormwater and urban runoff pollution in the District. It is also the intent of this chapter to encourage the design of such projects to achieve multiple benefits and incorporate sustainable solutions, as provided in the Implementation Manual.

18.04 Water Quality Fee Imposed.

A. A Water Quality Fee will be imposed upon certain parcels within the District in the manner set forth in this chapter. The Water Quality Fee will be levied and collected by the Treasurer and apportioned by the Auditor. The Board of Supervisors will make appropriations from the District's funds in a manner that authorizes the disbursement of Water Quality Fee revenues in accordance with Section 18.05.

B. The Water Quality Fee will be calculated for each parcel subject to the fee based upon the parcel's impervious area, which will be determined based upon the lot size and other specified characteristics of the parcel, to reflect the parcel's proportional allocation of the cost of the projects and services that are funded by revenues from the Water Quality Fee. The boundaries of the area, and identification of the parcels, subject to the fee and the method for calculating the Water Quality Fee for each parcel are supported by, and set forth in, an engineer's report prepared at the direction of the Chief Engineer and filed with the clerk of the Board of Supervisors. The Chief Engineer will make the engineer's report available to any person upon request at no charge. The maximum rate used for calculating the Water Quality Fee, as set forth in the engineer's report, will remain the same from year to year, unless an increase is approved in accordance with Article XIII D of the California Constitution.

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C. The Water Quality Fee will be collected for each fiscal year on the property tax roll in the same manner and at the same time as the general taxes of the County are collected, or through direct invoicing to parcel owners that do not receive a consolidated property tax bill. The Auditor will provide each Watershed Authority Group with an annual accounting of the total revenues collected from the Water Quality Fee in its respective watershed area, including the revenues collected in each Municipality. The Auditor will also provide an annual statement of the revenues collected from the Water Quality Fee to each Municipality.

D. 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 will be applicable to the collection of the Water Quality Fee.

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

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

A. Ten percent (10%) shall be allocated to the District to be used for implementation and administration of water quality projects, as determined by the District, including activities such as planning, water quality monitoring, and any other related activities, and for payment of the costs incurred in connection with the levy and collection of the Water Quality Fee and distribution of the funds generated by imposition of the Water Quality Fee, and any other related activities associated with administering this chapter.

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B. Forty percent (40%) shall be allocated to the Municipalities, in the same proportion as the amount of the Water Quality Fee collected within each Municipality, to be expended by the Municipalities within the Municipalities' respective jurisdictions for eligible municipal projects. Any Municipality may assign some or all of its allocation of the Water Quality Fee to the Watershed Authority Group for any watershed area(s) in which the Municipality is located for funding regional projects located in whole or in part within the jurisdiction of the Municipality.

C. Fifty percent (50%) shall be allocated to the nine (9) Watershed Authority Groups established in accordance with Section 18.09, in the same proportion as the amount of the Water Quality Fee collected within the watershed area of each Watershed Authority Group, to be expended by the Watershed Authority Groups to prepare WQIPs and carry out regional projects within that watershed area through a collaborative process as provided in the Implementation Manual. The implementation of a WQIP by a Watershed Authority Group requires the consent of any Municipality member of the Watershed Authority Group whose jurisdiction comprises more than forty percent (40%) of the total land area in the applicable watershed area.

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

Prior to its receipt of any Water Quality Fee revenues, a Municipality or Watershed Authority Group must enter into an agreement with the District to provide for the transfer and use of the revenues as provided in this chapter. The transfer of proceeds agreement is designed to carry out the requirements of this chapter, the Implementation Manual and other laws governing the Water Quality Fee. A form

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agreement will be prepared by the District in collaboration with Municipalities and Watershed Authority Groups and approved by the Board of Supervisors and will include:

A. Requirement for compliance with the terms of this chapter and the Implementation Manual.

B. Provisions as necessary to provide clarity and accountability in the use of Water Quality Fee revenues.

C. Provision for indemnification of the District.

18.07 Required Water Quality Project Criteria.

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

1. That the water quality project demonstrates the ability to provide and sustain long-term water quality benefits.

2. That the water quality project is based on generally accepted scientific and engineering principles and the best available information.

3. Pursuant to the Los Angeles County Flood Control Act, that only the costs of the water quality benefit(s) provided by a water quality project are funded with revenues from the Water Quality Fee. Other costs of water quality projects are not eligible to be funded with revenues from the Water Quality Fee except insofar as these costs are incidental to a water quality benefit provided by the project.

B. All regional projects funded under this chapter are required to be included in an approved WQIP that is prepared in accordance with the Implementation Manual.

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18.08 Implementation of this Chapter.

The Chief Engineer will develop an Implementation Manual setting forth goals, policies, guidelines, procedures, standards, and requirements to implement this chapter, subject to approval by the Board of Supervisors.

The Implementation Manual will include standards for determining eligibility of water quality projects to be funded with Water Quality Fee revenues, as well as requirements and procedures for preparation of WQIPs by Watershed Authority Groups and evaluation procedures for selection of water quality projects by Watershed Authority Groups, the evaluation procedures to be developed in collaboration with Watershed Authority Groups, Municipalities, and stakeholders, consistent with the provisions of this chapter. The Implementation Manual will include goals and policies for the planning and selection of water quality projects by Municipalities, Watershed Authority Groups, and the District, including policies and guidance to encourage and facilitate the design of water quality projects to achieve multiple benefits and incorporate sustainable solutions where feasible and appropriate.

The Implementation Manual will also set forth procedures and requirements for the following:

A. Audits, reporting and recordkeeping relating to expenditures of Water Quality Fee revenues by Municipalities, Watershed Authority Groups, and the District.

B. Addressing misuse of Water Quality Fee revenues and other failures to comply with the terms of this chapter or the Implementation Manual.

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C. Executing transfer agreements pursuant to Section 18.06 and addressing the failure of any Municipality or Watershed Authority Group to sign a transfer agreement.

D. Formation and governance of Watershed Authority Groups, including requirements and procedures for an existing joint powers authority to serve as a Watershed Authority Group(s).

E. Provisions for stakeholder involvement.

F. Matters relating to the Water Quality Projects Oversight Board described in Section 18.10.

G. Request by a property owner for correction or adjustment of the fee that has been imposed on his or her property.

18.09 Formation of Watershed Authority Groups.

A Watershed Authority Group will be established for each of the following nine (9) watershed areas within the boundaries of the District: Ballona Creek, Dominguez Channel, Upper Los Angeles River, Lower Los Angeles River, Rio Hondo River, Upper San Gabriel River, Lower San Gabriel River, Santa Clara River, and Santa Monica Bay. Each Watershed Authority Group must be formed in accordance with the Joint Exercise of Powers Act, Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code. The Chief Engineer will prepare and maintain on file maps setting forth the precise boundaries of the watershed areas based upon the Chief Engineer's determination of the hydrologic topographies of the watersheds.

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All Municipalities that are located within the boundaries of a watershed area and contain parcels that are subject to the Water Quality Fee, as established by Section 18.10, are eligible to become members of the Watershed Authority Group for that watershed area. A Municipality that is located in more than one watershed area is eligible for membership in the Watershed Authority Groups for all watershed areas in which it is located. A Municipality may join a Watershed Authority Group at any time.

For each Watershed Authority Group except the Santa Clara River Watershed Authority Group, the Board of Supervisors will select two (2) public agencies to serve as non-Municipality members. One public agency will be a public water supply, wastewater, or replenishment agency with experience in stormwater capture and/or water reuse for water supply augmentation, and the other public agency will be a state conservancy or other public agency with experience identifying and bringing together funding from multiple sources and implementing projects with multiple benefits in the watershed area for the Watershed Authority Group for which the agency is selected. For the Santa Clara River Watershed Authority Group, the Board of Supervisors will select only one (1) public agency meeting the requirements of one (1) of the types of public agencies described above, and this agency will be eligible to serve as a non-Municipality member of the Santa Clara River Watershed Authority Group.

Each Watershed Authority Group is strictly accountable for all funds, receipts, and disbursements of the Watershed Authority Group. The Treasurer will act as the treasurer of each Watershed Authority Group and will be the depository and have custody of all funds of each Watershed Authority Group. The Auditor will perform the

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functions of the controller of each Watershed Authority Group. The Treasurer and Auditor, at their discretion, may delegate their functions to a treasurer or controller designated by the Watershed Authority Group. The Watershed Authority Group is required to reimburse the Treasurer and the Auditor for costs incurred in connection with the performance of their duties.

18.10 Water Quality Projects Oversight Board.

A Water Quality Projects Oversight Board is established and will be referred to hereinafter in this chapter as the "Oversight Board." The Oversight Board will consist of members with water quality experience drawn from academia, professional societies, nongovernmental organizations, and the private and public sectors, as well as members from the general public who are not necessarily required to have water quality experience. The composition and qualifications of the Oversight Board, the method of appointing members, and procedures governing the Oversight Board and its duties will be set forth in the Implementation Manual.

The purpose of the Oversight Board is to conduct public hearings and make findings and recommendations to the Board of Supervisors on matters related to the WQIPs prepared by Watershed Authority Groups. In addition, review and approval by the Oversight Board is required for proposed municipal projects for which the total costs of the water quality benefit, excluding operation and maintenance, are expected to exceed two million dollars ($2,000,000), as described in the Implementation Manual.

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18.11 Revenue Bonds.

Bonds issued hereunder by the governing body of a Municipality, the District, or a Watershed Authority Group, to the extent such entity is authorized by law to issue and sell revenue bonds, may be secured by Water Quality Fee revenues as set forth in this chapter. Only those amounts specifically allocated to a Municipality, the District, or a Watershed Authority Group 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, but shall be payable, principal and interest, only from revenues received from the Water Quality Fee.

18.12 District Held Harmless.

Nothing in this chapter requires the District to accept ownership or responsibility for any water quality project developed, constructed, or otherwise carried out or implemented by a Municipality or a Watershed Authority Group with the Water Quality Fee revenues. Unless the District enters into an express agreement with a Watershed Authority Group or Municipality to the contrary, neither the District nor the County to the extent that it is acting on behalf of the District, nor their officers, employees, agents or volunteers ("District Indemnitees") will be liable in connection with errors, defects, injuries, or property damage caused by or attributed to any water quality project that is funded in whole or in part with Water Quality Fee revenues, and each Municipality and Watershed Authority Group is required to indemnify the District Indemnitees and hold them harmless for claims, liability, and expenses, including attorneys fees, incurred by any District Indemnitees as a result of any water quality project developed, constructed,

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or otherwise carried out or implemented by the Municipality or Watershed Authority Group pursuant to this chapter, except for claims, liability, and expenses, including attorneys fees, resulting from the sole negligence or willful misconduct of District Indemnitees.

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PROGRAM ELEMENTS FOR THE

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

WATER QUALITY IMPROVEMENT PROGRAM

I. Introduction: Purpose and Intent of the Program

If approved in a property-owner election held in accordance with Article XIIID of the California Constitution, a fee (hereafter "Water Quality Fee") will be imposed upon parcels within the Los Angeles County Flood Control District ("District").

The Water Quality Fee will provide a portion of the funding for the Los Angeles County Flood Control District Water Quality Improvement Program ("The Program"), which is authorized pursuant to section 2, subsection 8c, of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915 and subsequent amendments). The purpose of the Program is to provide funding for Municipalities and, Watershed Authority Groups (as defined below), as well as the District to initiate, plan, design, construct, implement, operate, and maintain surface water quality projects and services to improve surface water quality, protect sources of drinking water supplies from contamination, and reduce stormwater and urban runoff pollution in the District. It is also the intent of the Program to encourage the design of water quality projects to achieve multiple benefits and incorporate sustainable solutions.

Specifically, water quality projects that provide multiple benefits are desirable and to be encouraged, where feasible, such as protecting and enhancing available drinking water supply via water conservation/reuse efforts such as rainwater harvesting and groundwater recharge; providing flood protection and control; protecting public health and safety; protecting open space and natural areas; providing places for recreation, such as parks or ball fields; creating, restoring, or improving wetlands, riparian, and coastal habitats; and providing other public benefits. While the Program encourages projects that provide multiple benefits, as described above, the Los Angeles County Flood Control Act requires that revenues from the Water Quality Fee only be used for water quality benefits.

This document sets forth a summary of the key program elements intended for the Los Angeles County Flood Control District Water Quality Improvement Program to implement the authority provided by Assembly Bill 2554 (2010). If imposition of the fee is approved by the voters, adoption of an implementing ordinance and an Implementation Manual by the Board of Supervisors as the governing body of the District would be required.

II. Definitions

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

"Municipal projects" means water quality projects carried out by Municipalities and financed in whole or in part with Water Quality Fee revenues allocated to the Municipalities. "Municipal projects" also has the meaning set forth in Paragraph III(D)(1)(i), but only for the purpose of applying the $2 million threshold for municipal projects that is described in that section.

"Municipality" means a city or the collective unincorporated areas within the boundaries of the District.

“Public Schools Clean Water Program” means a program that will be implemented by Watershed Authority Groups in accordance with procedures developed by the District, for using a portion of the revenues from the Water Quality Fee allocated to Watershed Authority Groups to fund water quality curriculum and regional capital improvements providing water quality benefits at public schools within each watershed.

"Regional projects" means water quality projects of regional significance that are carried out by Watershed Authority Groups and financed in whole or in part with Water Quality Fee revenues, and that affect a combined tributary area exceeding one hundred (100) acres of land, address pollutant loads from more than one Municipality, or are part of a plan that treats an entire reach of a river or subwatershed. Regional projects are to be developed in collaboration with Municipalities and stakeholders, taking into account factors such as the collective impact of a variety of pollutant sources and planning for the entire watershed area rather than individual local areas.

"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 Program because the party can affect or be affected by the actions, objectives, and policies of one or more Municipal or Regional Projects.

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

"Surface water" means water that flows or collects on the surface of the ground.

"Urban runoff" means surface water flow that may contain but is not composed entirely of stormwater, such as flow from residential, commercial, or industrial activities.

“Water quality benefit" means any activity that contributes to the improvement of surface water quality.

"Water quality project" means a project or program that includes a water quality benefit.

"Water Quality Improvement Plan (WQIP)" means a plan prepared by a Watershed Authority Group for the watershed area it represents and approved by the Board of Supervisors, which identifies pollutants, establishes targets for improvement, and identifies and prioritizes regional projects for planning, design and implementation within the ensuing five (5) years, in accordance with procedures and requirements set forth in the Implementation Manual.

"Watershed Area" means one of the nine (9) geographic areas identified in Section 2 of the Los Angeles Flood Control Act, subsection 8b(C), as described on maps prepared and maintained by the Chief Engineer based upon the Chief Engineer's determination of the hydrologic topographies of the watersheds.

"Watershed Authority Group" or "WAG" means a group formed in accordance with the Joint Exercise of Powers Act, Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, consisting of Municipalities and other public agencies within each of nine watershed area.

III. Program Elements

A. Distribution of the Water Quality Fee Revenues

1. <u>Allocation of Fee Revenues Among the District, Municipalities, and Watershed Authority Groups</u>

The revenues from the Water Quality Fee will be allocated and used, subject to the requirements of the Program, as follows:

a. Ten percent (10%) will be allocated to the District to be used for implementation and administration of water quality projects, as determined by the District, including activities such as planning, water quality monitoring, and any other related activities, and for payment of the costs incurred in connection with the levy and collection of the Water Quality Fee and distribution of the funds generated by imposition of the Water Quality Fee, and any other related activities associated with administering the Program.

b. Forty percent (40%) will be allocated to the Municipalities, in the same proportion as the amount of the Water Quality Fee collected within each Municipality, to be expended by the Municipalities within the Municipalities' respective jurisdictions for eligible municipal projects and other eligible water quality measures as defined in Paragraph III(B)(4). Any Municipality may assign some or all of its allocation of the Water Quality Fee to the Watershed Authority Group for

any watershed area(s) in which the Municipality is located for funding regional projects located in whole or in part within the jurisdiction of the Municipality.

c. Fifty percent (50%) will be allocated to the nine (9) Watershed Authority Groups in the same proportion as the amount of the Water Quality Fee collected within the watershed area of each Watershed Authority Group, to be expended by the Watershed Authority Groups to prepare Water Quality Improvement Programs ("WQIPs") and carry out regional projects within that watershed area through a collaborative process that includes input from stakeholders within their watershed areas as provided in the Implementation Manual. The implementation of a WQIP by a Watershed Authority Group will be required to have the consent of any Municipality member of a Watershed Authority Group whose jurisdiction comprises more than forty percent (40%) of the total land area in the applicable watershed area.

2. Agreements for Transfer of Proceeds of the Water Quality Fee.

Prior to its receipt of any Water Quality Fee revenues, a Municipality or Watershed Authority Group must enter into an agreement with the District to provide for the transfer and use of Water Quality Fee revenues. The transfer of proceeds agreement is designed to carry out the requirements of the Program and other laws governing the Water Quality Fee. A form agreement will be prepared by the Chief Engineer in collaboration with Municipalities and Watershed Authority Groups and approved by the Los Angeles County Flood Control District Board of Supervisors ("Board of Supervisors"), to include:

a. Requirement for compliance with the terms of the Program.

b. Provisions as necessary to provide clarity and accountability in the use of Water Quality Fee revenues.

c. For agreements with Watershed Authority Groups, provisions for empanelling local and regional stakeholders ("Stakeholder Advisory Panels") to provide input to Watershed Authority Groups on proposed regional projects funded by the Water Quality Fee.

d. For agreements with Municipalities, provisions to ensure a balanced variety of stakeholder engagement in the project selection process.

e. Guidelines for monitoring, reporting, and auditing water quality projects.

f. Provisions for management of interest funds, debt, liability and obligations.

g. Provisions for indemnification of the District.

If a Municipality has not executed the transfer of proceeds agreement by the end of any fiscal year in which the Water Quality Fee revenues are collected, then the Municipality's share of the revenues for that fiscal year would be reallocated to the Watershed Authority Group(s) in which the municipality is located, in proportion to the revenues collected in each Watershed Authority Group's watershed area, for funding regional projects located within the jurisdiction of the municipality.

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

Notwithstanding the foregoing, the Chief Engineer of the District or his/her authorized deputy, agent, or representative ("Chief Engineer"), may extend the time in which a Municipality or a Watershed Authority Group must have executed the transfer of proceeds agreement in order to receive its share of the revenues from the Water Quality Fee.

B. Program Goals and Requirements Regarding Uses of Revenues from the Water Quality Fee

1. <u>Required Water Quality Project Criteria</u>.

a. All water quality projects funded in whole or in part with Water Quality Fee revenues will be required to comply with the following criteria:

(1) That the water quality project demonstrates the ability to provide and sustain long-term water quality benefits.

(2) That the water quality project is based on generally accepted scientific and engineering principles and the best available information.

(3) Pursuant to the Los Angeles County Flood Control Act, only the costs of the water quality benefit(s) provided by a water quality project can be funded with revenues from the Water Quality Fee. Other costs of water quality projects are not eligible to be funded with revenues from the Water Quality Fee except insofar as these costs are incidental to a water quality benefit provided by the project.

b. All regional projects funded under this chapter are required to be included in an approved WQIP that is prepared in accordance with the Implementation Manual.

2. Water Quality Project Goals.

In determining the water quality projects to be funded with revenues from the Water Quality Fee, Municipalities, Watershed Authority Groups, and the District will be required to consider, where applicable, the following water quality project goals:

a. That the water quality project be designed and located to maximize the water quality benefits, such as through the use of distributed Best Management Practices (BMPs) (i.e., BMPs that are distributed throughout a watershed and are generally located close to pollutant sources).

b. That the water quality project not conflict with the Basin Plan adopted by the California Regional Water Quality Control Board for the Los Angeles Region, applicable MS4 Permit, or other related regulatory programs.

c. That the water quality project be coordinated with and 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 water quality project be coordinated with other water quality projects implemented pursuant to the Program.

e. That the water quality project contribute 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.

f. That the water quality project maximize the effective use of Water Quality Fee revenues by leveraging other private, local, State, and Federal funds for water quality and other project elements.

h. That the water quality project promotes the creation of green jobs.

g. That the water quality project be designed to directly contribute to or support through public education, monitoring and other programs, management of stormwater and urban runoff to achieve multiple benefits and sustainable solutions and allow for maximum beneficial use of water resources including:

(1) Protecting and enhancing available sources of drinking water supply via water conservation/reuse efforts such as rainwater harvesting, groundwater recharge, and pretreatment recharge.

(2) Protecting drinking water from contamination.

(3) Flood protection and control.

(4) Protection of public health and safety.

(5) Protection of open space and natural areas.

(6) Providing places for recreation, such as parks or ball fields.

(7) Creating, restoring, or improving wetlands, riparian, and coastal habitats.

(8) Other public benefits.

3. Implementation of the Program.

The Chief Engineer will develop an Implementation Manual setting forth policies, guidelines, procedures, standards, or requirements to implement the Program, including the Public Schools Clean Water Program, subject to approval by the Board of Supervisors. Evaluation procedures for selection of water quality projects by Watershed Authority Groups will be developed in collaboration with Watershed Authority Groups, Municipalities, and stakeholders.

4. Eligible Expenditures.

Pursuant to the Los Angeles County Flood Control Act, Water Quality Fee revenues may only be used to fund the costs of the water quality benefit(s) provided by a water quality project. Other costs of water quality projects are not eligible to be funded with revenues from the Water Quality Fee except insofar as those costs are incidental to a water quality benefit provided by the project.

Expenditures eligible for use with Water Quality Fee revenues will include, but not be limited to, the following:

a. Planning, design, construction, implementation, operation and maintenance, and monitoring of water quality projects by Watershed Authority Groups, Municipalities, the District, and their contractors, including consultants, government agencies, and NGOs.

b. Preparation of WQIPs by Watershed Authority Groups, including research and data development.

c. Studies, investigations, computer modeling, and monitoring related to pollutants and pollutant loading in water bodies.

d. The cost of adding a water quality element to a project built for another purpose.

e. Preparing environmental documents and obtaining permits necessary to implement eligible water quality projects.

f. Applying for and complying with regulatory permits issued by the Regional Board or State Water Resources Control Board, including MS4 permits.

g. Joint water quality projects with adjoining Watershed Authority Groups, Municipalities, or the District with recognized mutual benefit.

h. Investigation, defense, litigation, settlement and payment of any judgments for claims and liability associated with obligations for the design and implementation of eligible water quality projects.

i. Operation and maintenance activities, and where applicable, upgrade and replacement of existing facilities providing

water quality benefits that meet the requirements of the Program.

j. Debt service and debt issuance costs should the District, a Municipality, or a Watershed Authority Group determine that bonds are prudent and necessary to implement the Program.

k. Cost/benefit analyses and other evaluation of the relative beneficial and adverse aspects and costs of the water quality benefit.

l. Administrative costs. Watershed Authority Group and Municipality administrative costs are limited to ten percent (10%) of the annual Water Quality Fee revenues allocated to that entity in a fiscal year. "Administrative costs" means all administrative costs of a Watershed Authority Group, a Municipality, or the District in connection with the Program, 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.

m. Educational and outreach programs designed to enlist the public in reducing pollution in stormwater and urban runoff.

n. Water quality projects at public schools including infrastructure improvements and curriculum.

o. Real property acquisition, leases, and easements necessary to carry out water quality projects.

p. Local incentive programs as described in Paragraph III(H)(4) below.

q Municipalities' participation in a Watershed Authority Group.

r. Compensation paid to members of Stakeholder Advisory Panels pursuant to Paragraph III(C)(5)(d).

5. <u>Ineligible Expenditures</u>.

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

a. Non-water quality components of water quality projects except insofar as these components are incidental to the water quality benefit.

b. Expenditures incurred prior to the effective date of the ordinance that the Board is required to adopt to establish criteria for implementation of the Water Quality Fee.

c. Payment of fines imposed by the Regional Board or other regulatory agency unrelated to eligible water quality projects.

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 State, Federal, or local regulatory agency, or a third party unrelated to eligible water quality projects.

e. Expenditures by a Municipality or Watershed Authority Group for the investigation or litigation of any claim or action against the District, County, or their officers, employees or agents alleging improper allocation, withholding or reassignment of Water Quality Fee revenues.

f. Payment of the Water Quality Fee on behalf of any parcel owner, including parcels owned by Municipalities that are subject to the Water Quality Fee.

C. Watershed Authority Group Formation, Governance, and Project Planning and Selection Procedures

1. Formation of Watershed Authority Groups.

A Watershed Authority Group will be established for each of the following nine (9) watershed areas within the boundaries of the District: Ballona Creek, Dominguez Channel, Upper Los Angeles River, Lower Los Angeles River, Rio Hondo River, Upper San Gabriel River, Lower San Gabriel River, Santa Clara River, and Santa Monica Bay. Each Watershed Authority Group will be formed in accordance with the Joint Exercise of Powers Act, Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code and must be approved by the District and comply with the requirements of the Program for a Watershed Authority Group. A joint powers authority ("JPA") must be approved by the District as the Watershed Authority Group for a watershed area in order to be eligible to enter into the transfer agreement in accordance with Paragraph III(A)(2) above. The District will provide administrative and technical assistance relating

to the formation of the Watershed Authority Groups including developing a model JPA Agreement.

An existing JPA may act as the Watershed Authority Group for a watershed area if it complies with the requirements for a Watershed Authority Group. The Chief Engineer will develop procedures in the event there is more than one JPA seeking to be the Watershed Authority Group for a watershed area.

At the discretion of the District, a Watershed Authority Group may be ineligible to receive disbursements from the Water Quality Fee unless Municipalities with more than fifty percent (50%), collectively, of the combined land area within the watershed area of the Watershed Authority Group are members of the Watershed Authority Group.

2. Boundaries of Watershed Areas.

Descriptions of the watershed areas are included below. The Chief Engineer will be required to prepare and maintain on file a detailed map(s) setting forth the precise boundaries of the watershed areas based upon the Chief Engineer's determination of the hydrologic topographies of the watersheds.

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 forty percent (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 forty percent (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 forty percent (40%) of the total land area in the Upper San Gabriel River Watershed.

g. Lower San Gabriel River Watershed: The Lower San Gabriel River Watershed includes the Cities of Artesia, Bellflower, Cerritos, Hawaiian Gardens, La Mirada, Lakewood, Norwalk, Santa Fe Springs, Whittier, southern portions of Diamond Bar, easterly portions of Downey, Long Beach, Paramount, Industry, La Habra Heights, Pico Rivera,

Signal Hill, and unincorporated areas of the County, as depicted on maps in the Office of the Chief Engineer.

h. Santa Clara River Watershed: The Santa Clara River Watershed includes the City of Santa Clarita, and various portions of unincorporated areas of the County and portions of the City of Palmdale, as depicted on maps in the Office of the Chief Engineer. No parcels in the City of Palmdale are subject to the fee. The jurisdiction of the County is over forty percent (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 forty percent (40%) of the total land area in the Santa Monica Bay Watershed.

3. Composition of the Watershed Authority Groups.

All Municipalities that are located within the boundaries of a watershed area and contain parcels that are subject to the Water Quality Fee will be eligible to become members of the Watershed Authority Group for that watershed area. A Municipality that is located in more than one watershed area will be eligible for membership in the Watershed Authority Groups for all watershed areas in which it is located. A Municipality will be able to join a Watershed Authority Group at any time.

For each Watershed Authority Group except the Santa Clara River Watershed Authority Group, the Board of Supervisors will select two (2) public agencies to serve as non-Municipality members. One public agency will be a public water supply, wastewater, or replenishment agency with experience in stormwater capture and/or water reuse for water supply augmentation and the other public agency will be a state conservancy or other public agency with experience identifying and bringing together funding from multiple sources and implementing projects with multiple benefits in the watershed area for the Watershed Authority Group for which

the agency is selected. For the Santa Clara River Watershed Authority Group, the Board of Supervisors will select only one (1) public agency, meeting the requirements of one of the types of public agencies described above, and this agency will be eligible to serve as a member of the Santa Clara River Watershed Authority Group.

4. Governance of the Watershed Authority Groups.

a. The governing board of each Watershed Authority Group will consist of one representative with demonstrated expertise in water quality from each of its members. The governing body of each member will appoint its representative and one alternate to serve in the absence of the representative.

b. Each member Municipality will have one seat on the Watershed Authority Group Board and one vote on items of business, except that the adoption of a WQIP or funding of projects identified in the WQIP by a Watershed Authority Group will require the consent of any member Municipality whose jurisdiction comprises more than forty percent (40%) of the total land area within such Watershed Authority Group.

c. The representatives of the public water supply, wastewater, or replenishment agency and state conservancy or other public agency will each have one seat on the Watershed Authority Group Board and one vote on items of business.

d. At its first meeting and annually thereafter, the Watershed Authority Group governing board will be required to choose from among its members a chair and vice-chair to serve for one (1) year.

e. A quorum is required for the governing board of a Watershed Authority Group to take action on any item of business. A quorum will consist of a simple majority of the members, except that a quorum of the governing board of the Santa Clara Watershed Authority Group must include both member Municipalities. If a quorum is present, approval of any item of business requires a simple majority vote of those in attendance; except that the adoption of a WQIP or funding of projects identified in the WQIP by a Watershed Authority Group will require the consent of any member Municipality whose jurisdiction comprises more than forty percent (40%) of the total land area within such Watershed Authority Group.

f. The governing board of each Watershed Authority Group will determine the frequency, location, and schedule for regular meetings. Meetings will 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. Each Watershed Authority Group is a public body and will be required to 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.

5. Duties of the Watershed Authority Groups.

Watershed Authority Groups will have the following duties:

a. Prepare and adopt a WQIP every three (3) years, or sooner if necessary.

b. Plan, implement, and maintain regional projects.

c. Implement the Public School Clean Water Program as developed by the District in accordance with Section III(E)(K).

d. Create and convene a Stakeholder Advisory Panel in accordance with the transfer agreement provided for in Paragraph III(A)(2) above, including a minimum of three (3) members and a maximum of nine (9) members. Representatives must reflect a balanced variety of stakeholder interests. Watershed Authority Group members may not be Stakeholder Advisory Panel members. Watershed Authority Groups shall compensate Stakeholder Advisory Panel members, unless prohibited by their employers, in the amount of Fifty Dollars ($50) per meeting attended. If a member is required to travel in the performance of his or her official duties for the Stakeholder Advisory Panel, the Watershed Authority Group shall reimburse such member for his or her necessary travel expenses, including transportation, meals, and lodging.

e. Establish that the Watershed Authority Group's fiscal year shall begin on July 1 and end on June 30.

f. 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.

g. Prepare annually, within twelve (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 be required to provide specific directives and guidance for preparation of audit reports. Watershed Authority Group governing boards will be required to certify the audit report and confirm that all expenditures met the requirements of the Program.

h. Submit to the District annually, within thirty (30) days of the annual anniversary of the adoption of its WQIP, a WQIP implementation progress report summarizing the progress made over the preceding twelve (12) month period. The District will provide specific directives and guidance for preparation of the report.

i. Prepare and maintain a five (5) year schedule for regional projects selected for funding including a budget of each regional project's estimated capital and operating costs, by year, by funding source.

j. Provide the District additional financial and other information, as required by the District.

k. Help identify project partners and additional sources of funding to augment Water Quality Fee revenues for water quality projects.

6. Duties of the Stakeholder Advisory Panels.

Each Stakeholder Advisory Panel will have the following duties:

a. Identify and recommend regional projects for inclusion in the WQIP.

b. Review draft WQIPs and provide input to the Watershed Authority Group.

c. Recommend regional projects from approved WQIPs for implementation.

d. Serve as liaison between Watershed Authority Group and other Stakeholders, community and interest groups.

e. Help identify project partners and additional sources of funding to augment regional projects funded by the Water Quality Fee.

f. Provide input on other matters affecting the Watershed Authority Group and implementation of the Program, including input to the Watershed Authority Group for its recommendation to the Board of Supervisors on the Oversight Board appointee representing the corresponding watershed area pursuant to Paragraph III(F)(1) below.

7. Administration of the Watershed Authority Groups.

Each Watershed Authority Group will be strictly accountable for all funds, receipts, and disbursements of the Watershed Authority Group. The Treasurer and Tax Collector of the County of Los Angeles ("Treasurer") will act as the treasurer of each Watershed Authority Group and will be the depository and have custody of all funds of each Watershed Authority Group. The Auditor-Controller of the County of Los Angeles ("Auditor") will perform the functions of the controller of each Watershed Authority Group. The Treasurer and Auditor, at their discretion, may delegate their functions to a treasurer or controller designated by the Watershed Authority Group. The Watershed Authority Group will be required to reimburse the Treasurer and the Auditor for costs incurred in connection with the performance of their duties. Members of the governing board of a Watershed Authority Group will not receive compensation for their service to the Watershed Authority Group governing board.

A Watershed Authority Group may contract with businesses, non-governmental organizations ("NGOs"), its members, or the District to perform any work related to the business of the Watershed Authority Group such as studies; preparation of the WQIP; and implementation of regional projects which includes activities such as planning, design, construction, and operation and maintenance.

8. Preparation of Water Quality Improvement Plans.

Each Watershed Authority Group will be required to prepare a WQIP for the watershed area it represents that identifies pollutants, establishes targets for improvement, and identifies and prioritizes regional projects for planning, design and implementation within the next five (5) years using proceeds of the Water Quality Fee allocated to the Watershed Authority Group. Watershed Authority Groups will be required to consult and receive input and

recommendations from its Stakeholder Advisory Panel regarding the preparation of the WQIP.

WQIPs must be prepared and include Sections as follows:

a. Identification of pollutants affecting the watershed area and, as appropriate, their source(s).

b. Selection of improvement targets, and a timeline for accomplishing the targets.

c. Identification of potential water quality project concepts for planning and further development consistent with the eligibility criteria and goals pursuant to Paragraphs III(B)(1) and (B)(2) above, respectively.

d. Identification and description of water quality projects, as evaluated and prioritized in accordance with evaluation procedures developed by the Chief Engineer. Projects to be evaluated must meet the following conditions:

    (1) Be fully fundable by the Water Quality Fee or other committed source of funds.

    (2) List estimated expenditures and revenues, and the components to be financed with revenue from the Water Quality Fee.

    (3) Provide a description of any multiple benefits, as described in Paragraph III(C)(2)(g) above.

    (4) Undergo a cost/benefit analysis that compares the costs of the water quality project to the water quality, environmental, socioeconomic, and other benefits of the water quality project.

    (5) Include plans and annual provisions for funding operation and maintenance.

e. Description of the Stakeholder Advisory Panel and Stakeholder involvement process.

f. Plans for implementation of the Public School Clean Water Program within the watershed area, in accordance with the procedures developed by the District in accordance with Section III(E)(1)(l).

g. Description of performance measurements to ensure intended performance of their regional projects after they are constructed or implemented.

9. Approval of Water Quality Improvement Plans.

The following approval process will apply to WQIPs:

a. Watershed Authority Groups will prepare, adopt and submit a WQIP to the Chief Engineer.

b. The Chief Engineer will have sixty (60) days to review WQIPs submitted by Watershed Authority Groups and make findings. During its review, the Chief Engineer may request Watershed Authority Groups to submit additional information or to make changes to the WQIP. Watershed Authority Groups may elect to not follow the Chief Engineer's request and direct for the WQIP to be advanced to the Oversight Board established in accordance with Paragraph III(F) below.

c. The Oversight Board will have forty-five (45) days to review WQIPs submitted by Watershed Authority Groups, along with the findings and recommendations submitted by the Chief Engineer and comments received from stakeholders, and make findings and recommendations to the Board of Supervisors as to their compliance with the requirements of the Program. During its review, the Oversight Board may request Watershed Authority Groups to submit additional information or to make changes to the WQIP. Watershed Authority Groups may elect to not follow the Oversight Board’s request and direct for the WQIP to be advanced to the Board of Supervisors.

d. The Board of Supervisors will be required either to approve the WQIP or return it to the Oversight Board for further work.

e. A Board of Supervisors approved WQIP will be required in order for annual funding to be disbursed to a Watershed Authority Group, except that, as stated in Paragraph III(E)(1)(m), the Watershed Authority Group may request a one-time advance of up to 20% of its first year's allocation of the Water Quality Fee to use for development of the WQIP. The WQIP will be valid for a period of three (3) years after that approval.

10. Development and Implementation of Regional Projects.

Each Watershed Authority Group will be required to select regional projects from its WQIP for implementation and funding following approval of its WQIP by the Board of Supervisors. Selection of projects for implementation will require the consent of any member Municipality whose jurisdiction comprises more than forty percent (40%) of the total land area within the watershed area.

A Watershed Authority Group will also be required to consult and receive input and recommendations from its Stakeholder Advisory Panel regarding selection and funding of regional projects.

Watershed Authority Groups will be required to create and maintain a five (5) year schedule for regional projects selected for implementation including a budget forecast of each regional project's estimated costs, by year, by funding source. Additionally, Watershed Authority Groups will be required to provide the District with an annual WQIP Implementation Progress Report pursuant to Paragraph III(C)(5)(h) above.

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

D. Program Requirements for Municipal Projects

1. Duties of Municipalities.

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

a. Plan, implement, and maintain municipal projects.

b. Expend Water Quality Fee revenues in the watershed area from which they were collected.

c. Be strictly accountable for all funds, receipts, and disbursements by the Municipality.

d. Prepare and maintain a list of its proposed municipal projects to be financed with Water Quality Fee revenues, including their projected expenditures, and annually, inform the Watershed Authority Group(s) in which it is located, of

the municipal projects it intends to implement, with updates as necessary.

e. Prepare, within six (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 will be required to certify the audit report and that all expenditures comply with the requirements of the Program.

f. Provide the District additional financial and other information, as required by the District.

g. Engage stakeholders in the planning process for their municipal projects.

h. A Municipality may, at the discretion of its governing board, enter into a binding agreement with another Municipality, the County, the District, a consultant, or other entity to carry out the Municipality's duties under the Program.

i. Submit to the Chief Engineer plans for municipal projects in which the total costs of the water quality benefit are expected to exceed Two Million Dollars ($2,000,000), for review and submittal to the Oversight Board in accordance with Paragraph III(D)(3) below. Solely for purposes of applying this $2 million threshold, the following terms will have the following meanings: "municipal projects" refers only to infrastructure and capital projects, and includes not only individual projects but also a series of actions which can be characterized as one large project or as logical parts in a chain of actions; and "total costs of the water quality benefit" includes eligible expenditures for all phases of planning, design, and implementation of the portion of a municipal project that provides a water quality benefit. Operation and maintenance activities are exempt from the $2,000,000 threshold as are regional projects included in an approved WQIP. If a Municipality first determines that the total costs of the water quality benefit are not expected to exceed Two Million Dollars ($2,000,000), but then subsequently revises its plans or the project budget so that the total costs of the water quality benefit are expected to exceed the $2,000,000 threshold, it must submit plans for the project to the Chief Engineer in a timely manner for review and submittal to the Oversight Board in accordance with Paragraph III(D)(3) below. The requirements in this paragraph do not apply to

municipal projects that are also included as regional projects in an approved WQIP in accordance with Paragraph III(C)(8)(d).

j. The $2,000,000 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.

k. Prepare informational materials to provide members of the public with up-to-date information on the Municipality's actual and budgeted use of revenues from the Water Quality Fee, and make the information available to the public through the Municipality's websites and on request.

2. Development and Implementation of Municipal Projects.

Municipalities will be required to develop and implement their municipal projects in accordance with the following requirements:

a. Municipal projects must meet required water quality project criteria that are described in stated Paragraph III(B)(1) above.

b. Municipal projects must be planned and selected giving consideration to the water quality project goals listed in Paragraph III(B)(2) above and the evaluation procedures used by Watershed Authority Groups for selection of projects.

c. A balanced variety of stakeholders must be engaged in the project selection process.

d. Municipal projects in which the total costs of the water quality benefit are expected to exceed Two Million Dollars ($2,000,000) must be approved by the Oversight Board in accordance with Paragraph III(D)(3) below.

e. Municipal projects constructed or otherwise carried out or implemented by a Municipality shall be owned, operated, and maintained by the Municipality or, by agreement, a Municipality may transfer ownership of a municipal project to another governmental agency for ownership and maintenance.

3. Approval Process for Large Municipal Projects.

The following approval process will apply to new Municipal projects:

a. Municipalities will submit to the Chief Engineer, plans for municipal projects in which the total costs of the water quality benefit are expected to exceed Two Million Dollars ($2,000,000), as required by Paragraph III(D)(1)(i) above.

b. The Chief Engineer will have fifteen (15) days to review each such municipal project and make findings and recommendations to the Oversight Board as to its compliance with the requirements of the Program. During its review, the Chief Engineer may request the Municipality to submit additional information or make changes to the municipal project. Municipalities may elect to not follow the Chief Engineer's request and direct for the municipal project to be advanced to the Oversight Board.

c. The Oversight Board will have forty-five (45) days to review such municipal project, along with the finding and recommendations submitted by the Chief Engineer and testimony received from stakeholders, for compliance with the requirements of the Program in order to determine whether to approve the municipal project or return it to the Chief Engineer for further work.

In the event that a Municipality needs approval prior to the next meeting of the Oversight Board in order to apply for or receive grant funds for a municipal project in which the total costs of the water quality benefit are expected to exceed Two Million Dollars ($2,000,000), the Municipality may submit the project plans to the Chief Engineer for approval, rather than the Oversight Board. The Chief Engineer, on behalf of the Oversight Board, will have ten (10) days to review the municipal project and determine whether to approve it or return it to the Municipality for further work.

E. Duties of the District.

1. Duties of the District

The District shall have the following duties:

a. Administer the Los Angeles County Flood Control District Water Quality Improvement Program.

b. Provide for the levy and collection of the Water Quality Fee, the distribution of the Water Quality Fee revenues generated

by imposition of the Water Quality Fee, and any other related activities associated with administering the Water Quality Fee and the Program.

c. Provide specific directives and guidance to Watershed Authority Groups and Municipalities for preparation of budgets, audit reports, and WQIP Implementation Progress Report.

d. Develop and, subject to approval of the Board of Supervisors, enter into transfer agreements with Municipalities and Watershed Authority Groups pursuant to Paragraph III(A)(2) above.

e. Develop guidelines and requirements for Stakeholder Advisory Panels.

f. Review WQIPs submitted by Watershed Authority Groups and make findings and recommendations to the Oversight Board as to their compliance with the requirements of the Program.

g. Review municipal projects in which the total costs of the water quality benefit are expected to exceed Two Million Dollars ($2,000,000) and make findings and recommendations to the Oversight Board as to their compliance with the requirements of the Program.

h. Review and determine whether to approve Municipal projects in which the total costs of the water quality benefit are expected to exceed Two Million Dollars ($2,000,000), where grant funds are contemplated.

i. Act as secretary and serve as staff to the Oversight Board.

j. Take actions, as necessary, to comply with Article XIII D of the California Constitution and the requirements of the Program.

k. Develop a model JPA Agreement that may be used as a basis for Watershed Authority Groups, with input from a working group consisting of counsel for Municipalities and the District.

l. Develop policies, guidelines, procedures, standards, or requirements, subject to approval by the Board of Supervisors, including evaluation procedures for selection of water quality projects by Watershed Authority Groups and

administrative adjustments to WQIPs, and procedures for the Public Schools Clean Water Program.

m. Upon request by a Watershed Authority Group, authorize a one-time advance of up to twenty percent (20%) of its first year's allocation of the Water Quality Fee collected to be used for development of the first WQIP.

n. Conduct audits not less than once every five years of Municipalities' and WAGs' use of Water Quality Fee revenues for compliance with requirements of the Program.

o. Withhold, at its discretion and pending compliance, future disbursements of Water Quality Fee revenues for a Municipality or Watershed Authority Group that fails to comply with any requirements of the Program.

F. Water Quality Projects Oversight Board.

1. Composition and Purpose of Oversight Board

A Water Quality Projects Oversight Board ("Oversight Board") will be established and will consist of thirteen (13) members appointed by the Board of Supervisors as follows: one (1) member from the environmental community; one (1) member from the District; two (2) at-large members from the general public; and nine (9) members to represent each of the watershed areas. The Board of Supervisors will appoint each member representing a watershed area as nominated by the corresponding Watershed Authority Group's governing board. The environmental community, District, and general public members may be selected without regard to watershed area. Members representing the watershed areas must either live or have qualifying water quality experience within the watershed area they represent. Oversight Board members, except for the two general public members, shall have a minimum of five (5) years expertise in water quality and be qualified in one or more of the following areas: science, engineering, water supply, flood control, biology, chemistry, law, fiscal analysis, and environmental science. Individuals with these qualifications may be selected from academia, professional societies, nongovernmental organizations, and private and public sector employees.

The purpose of the Oversight Board will be to conduct public hearings and make findings and recommendations to the Board of Supervisors on matters related to the WQIPs. The Oversight Board will also review proposed Municipal projects in which the total costs of the water quality benefit are expected to exceed Two Million

Dollars ($2,000,000) for compliance with the requirements of the Program in order to determine whether to approve or return them to the District for further work, except for projects that are also included on an approved WQIP as set forth in Paragraph III(D)(1).

The District will be 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.

2. Term and Tenure of Members of the Oversight Board.

Members of the Oversight Board will serve for a renewable term of two (2) 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 sixty (60) days of such removal. Any member whose term has expired may continue to discharge the duties as a member until a successor has been appointed. Terms shall be staggered to ensure continuity.

3. Officers of the Oversight Board.

At its first meeting and annually thereafter, the Oversight Board will be required to choose from among its members a chair and vice-chair to serve for one (1) year. The District will serve as staff for the Oversight Board and act as secretary.

4. Meetings - Quorum of the Oversight Board.

The Oversight Board will determine the frequency and schedule for regular meetings, except that meetings will need to be held as necessary to process the review of Watershed Authority Group, WQIPs and Municipal projects in which the total costs of the water quality benefit are expected to exceed Two Million Dollars ($2,000,000) 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 will consist of seven (7) 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.

5. Compensation of the Oversight Board.

The Members of the Oversight Board, unless prohibited by their employer, will be compensated in the amount of Fifty Dollars ($50) per meeting attended. If a member is required to travel in the

performance of their official duties of the Oversight Board, that member will be reimbursed for his/her necessary travel expenses, including transportation, meals, and lodging. Said compensation will be paid by Water Quality Fee revenues allocated to the District.

6. Rules and Regulations of the Oversight Board.

The Oversight Board will be required to 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 will be submitted to the Watershed Authority Groups and they shall have ninety (90) days to provide written comment thereon. Copies of these rules and regulations will be made available to the public.

The Oversight Board is a public body and will be required to comply with open public meeting requirements of the Ralph M. Brown Act (Government Code Sections 5495 – 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.

7. Duties of Oversight Board.

The Oversight Board will have the following duties:

a. Review WQIPs submitted by Watershed Authority Groups and make findings and recommendations to the Board of Supervisors as to their compliance with the requirements of the Program.

b. Review for compliance with the requirements of the Program and determine whether to approve Municipal projects in which the total costs of the water quality benefit are expected to exceed Two Million Dollars ($2,000,000), which are submitted to the Oversight Board in accordance with Paragraph III(D)(3).

c. Consider comments from Stakeholders on WQIPs and new Municipal projects in which the total costs of the water quality benefit are expected to exceed Two Million Dollars ($2,000,000).

G. Revenue Bonds

Bonds issued hereunder by the governing body of a Municipality, the District, or a Watershed Authority Group, to the extent such entity is authorized by law to issue and sell revenue bonds, may be secured by

Water Quality Fee revenues as set forth in this chapter. Only those amounts specifically allocated to a Municipality, the District, or a Watershed Authority Group 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, but shall be payable, principal and interest, only from revenues received from the Water Quality Fee.

H. Provisions Relating to the Calculation and Collection of the Water Quality Fee

1. Calculation of the Water Quality Fee

The Water Quality Fee will be calculated for each parcel subject to the fee based upon the parcel's impervious area, which will be determined based upon the lot size and other specified characteristics of the parcel, to reflect the parcel's proportional allocation of the cost of the projects and services that are funded by revenues from the Water Quality Fee. The boundaries of the area, and identification of the parcels, subject to the fee and the method for calculating the Water Quality Fee for each parcel are supported by, and set forth in, an engineer's report prepared at the direction of the Chief Engineer and filed with the clerk of the Board of Supervisors. The Chief Engineer will make the engineer's report available to any person upon request at no charge. The maximum rate used for calculating the Water Quality Fee, as set forth in the engineer's report, will remain the same from year to year, unless an increase is approved in accordance with Article XIII D of the California Constitution.

The Chief Engineer will determine annually that the revenues derived from the Water Quality Fee do not exceed the cost of providing the Service. The Board of Supervisors will reduce the Water Quality Fee in the event that revenues are found to exceed the cost of providing the Service.

2. Collection—General Procedure

The Water Quality Fee will be collected for each fiscal year on the property tax roll in the same manner, and at the same time as, the general taxes of the County are collected or through direct invoicing to parcel owners that do not receive a consolidated property tax bill. The Auditor will provide each Watershed Authority Group with an annual accounting of the total revenues collected from the Water Quality Fee in their watershed, including the revenues collected in each Municipality. The Auditor will also provide an annual

statement of the revenues collected from the Water Quality Fee to each Municipality.

Insofar as feasible and not inconsistent with the Program, 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 will be applicable to the collection of the Water Quality Fee.

3. Claims for Reimbursement and Appeals

A claim and appeal process will be established as follows:

a. Contesting the Water Quality Fee: Any parcel owner aggrieved by the Water Quality Fee will be able to seek review of the fee on one or more of the following grounds:

(1) Change in the ownership of a parcel.

(2) Subdivision of an existing parcel.

(3) Error in the ownership, land use designation, or area of a parcel.

(4) Mathematical error in the calculation of the Water Quality Fee.

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

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

b. Appeals: Any parcel owner who disagrees with the decision of the Chief Engineer will be able to 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 will be required to schedule an administrative hearing before a hearing officer designated by the Chief Engineer. The parcel owner will 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 will be required to designate a hearing officer who was not involved in the decision on the claim. The decision of the hearing officer will be final.

c. The submission of a claim or appeal will not relieve any parcel owner of the obligation to pay amounts on the tax bill that are due. If an adjustment is subsequently made which reduces the amount of the Water Quality Fee, the parcel owner will receive a refund of any overpayment.

d. Additional procedures for addressing requests by property owners for adjustments to the fees imposed on their properties may be included in the Implementation Manual.

4. Local Incentive Programs

Municipalities will be able to 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 will be able to rebate annually up to sixty percent (60%) of the municipalities' share of the Water Quality Fee paid by a parcel owner upon satisfactory implementation of sustained on-site measures. Said rebate must be paid from Water Quality Fee revenues allocated to the Municipality or from other funds of the Municipality. The implementation of a Municipality's local incentive program is subject to audit by the District.

I. Miscellaneous Provisions

1. Carryover of Uncommitted Municipality and Watershed Authority Group Water Quality Fee Revenues.

Municipalities will be able to carry over uncommitted Water Quality Fee revenues for up to five (5) years from the end of the fiscal year in which those revenues are transferred from the District to the Municipality's account, with additional requirements as may be

included in the transfer of proceeds agreement as described in Paragraph III(A)(2) above, provided that sufficient details on future water quality projects are included in the annual audit report.

A Watershed Authority Group will be able to carry over uncommitted Water Quality Fee revenues for up to five (5) years from the end of the fiscal year in which those revenues are transferred from the District to the Watershed Authority Group's account, with additional requirements as may be included in the transfer of proceeds agreement, provided that a WQIP has been approved by the Board of Supervisors and that sufficient details on future water quality projects are included in the annual audit report.

Uncommitted Water Quality Fee revenues that are carried over for more than five (5) years will revert back to the District. The District will have two (2) years to spend reverted revenues from Municipalities on District water quality projects within that municipality's jurisdiction. The District will also have two (2) years to spend reverted revenues from Watershed Authority Groups on District water quality projects in the same watershed area from which the revenues were collected or be returned to the parcel owners.

Water Quality Fee revenues not spent within seven (7) years from the end of the fiscal year in which they were collected will be refunded to the parcel owners.

2. Recordkeeping Requirements.

The following recordkeeping and audit requirements will apply to with respect to the Water Quality Fee and the Program:

a. Water Quality Fee revenues received by the District, Municipalities, and Watershed Authority Groups will be required to be held in separate interest-bearing accounts and not combined with other funds. Interest earned on Water Quality Fee revenues will be required to be used for water quality projects in the Watershed Authority Group or Municipality in which it was earned, consistent with the requirements of the Program.

b. Municipalities and Watershed Authority Groups will be required to retain, for a period of ten (10) years after certification by their governing boards, the annual audit reports outlined in Paragraphs III(C)(5) and III(D)(1) above. Municipalities and Watershed Authority Groups, upon demand by authorized representatives of the District,

including the Auditor, will be required to make those reports available for examination and review or audit by the District or its authorized representative.

c. Municipalities, Watershed Authority Groups, and the District will be required to retain, for a period of ten (10) years after water quality project completion, all records necessary to determine the amounts expended, and eligibility of water quality projects. Municipalities and Watershed Authority Groups, upon demand by authorized representatives of the District, including the Auditor, will be required to make such records available for examination and review or audit by the District or its authorized representative.

d. At all reasonable times, Municipalities and Watershed Authority Groups will be required to permit the Chief Engineer, or his or her authorized representative, to examine all water quality projects that were erected, constructed, implemented, operated, or maintained using Water Quality Fee revenues. Municipalities and Watershed Authority Groups will be required to permit the authorized representative, including the Auditor, to examine, review or audit, and transcribe any and all audit reports, other reports, books, accounts, papers, maps, and other records that relate to projects funded with revenues from the Water Quality Fee.

3. Procedures for Addressing Misuse of Water Quality Fee Revenues and Failure to Comply with the Requirements of the Program.

a. If a Municipality or Watershed Authority Group is found by the Chief Engineer to have misused Water Quality Fee revenues, it will, upon written notification by the Chief Engineer, be required to refund those revenues, including associated interest, to the District within thirty (30) days of notification. The revenues will then, at the Chief Engineer's discretion, either be returned to the Municipality or Watershed Authority Group from where they came, or be reassigned and used to plan, implement, and maintain water quality projects:

(1) Water Quality Fee revenues misused by a Municipality will be reassigned to the corresponding Watershed Authority Group for funding regional projects located within the jurisdiction of the Municipality.

(2) Water Quality Fee revenues misused by a Watershed Authority Group will be reassigned to the District for its use in implementing water quality projects in the same watershed area from which the revenues were collected or be returned to the parcel owners.

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

b. If a Municipality or Watershed Authority Group fails to comply with applicable requirements of the Program, the Chief Engineer, at her discretion, may withhold future disbursements of Water Quality Fee revenues pending compliance. Withheld disbursements will be retained by the Chief Engineer for a period of five (5) years after which, if the offending issue has not been resolved, they will revert back to the District. The District will have two (2) years to spend the reverted revenues on qualified water quality projects in the same watershed from which they were collected.

c. Municipalities and Watershed Authority Groups may appeal the decision of the Chief Engineer and request an administrative hearing. Any such appeal must be in writing, must be made within sixty (60) days of the date the Chief Engineer's written decision was mailed, and must contain a statement as to why the District's decision is being disputed. After receiving a timely appeal, the Chief Engineer will schedule an administrative hearing and designate a hearing officer. The Municipality or Watershed Authority Group will be given not less than thirty (30) calendar days prior written notice by first class mail, of the date, time, and place of the hearing and the name of the hearing officer who will conduct the administrative hearing. The Chief Engineer must designate a hearing officer who was not involved in the Chief Engineer's prior decision. The decision of the hearing officer shall be final.

The submission of a claim or appeal does not relieve the Municipality or Watershed Authority Group of the obligation to refund the Water Quality Fee revenues in dispute. If the hearing officer determines an adjustment is required, that adjustment will be reflected in the next disbursement of Water Quality Fee revenues.

4. District Held Harmless.

The District will not be required to accept ownership or responsibility for any water quality project developed, implemented or constructed by a Municipality or a Watershed Authority Group with Water Quality Fee revenues. Unless the District enters into an express agreement with a Watershed Authority Group or Municipality to the contrary, neither the District, nor the County to the extent that it is acting on behalf of the District,, their officers, employees, agents or volunteers ("District Indemnitees") will be liable in connection with errors, defects, injuries, property damage caused by or attributed to any water quality project that is funded in whole or in part with Water Quality Fee revenues, and each Municipality and Watershed Authority Group will be required to indemnify the District Indemnitees and hold them harmless for claims, liability, and expenses, including attorneys' fees, incurred by any District Indemnitees as a result of any water quality project developed, implemented, or constructed by the Municipality or Watershed Authority Group that is funded with the Water Quality Fee, except for claims, liability, and expenses, including attorneys fees, resulting from the sole negligence or willful misconduct of District Indemnitees.

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PROPOSED CLEAN WATER, CLEAN BEACHES
WATER QUALITY FUNDING INITIATIVE

WATER QUALITY FEE AMOUNTS FOR SAMPLE PARCEL TYPES

ENCLOSURE C

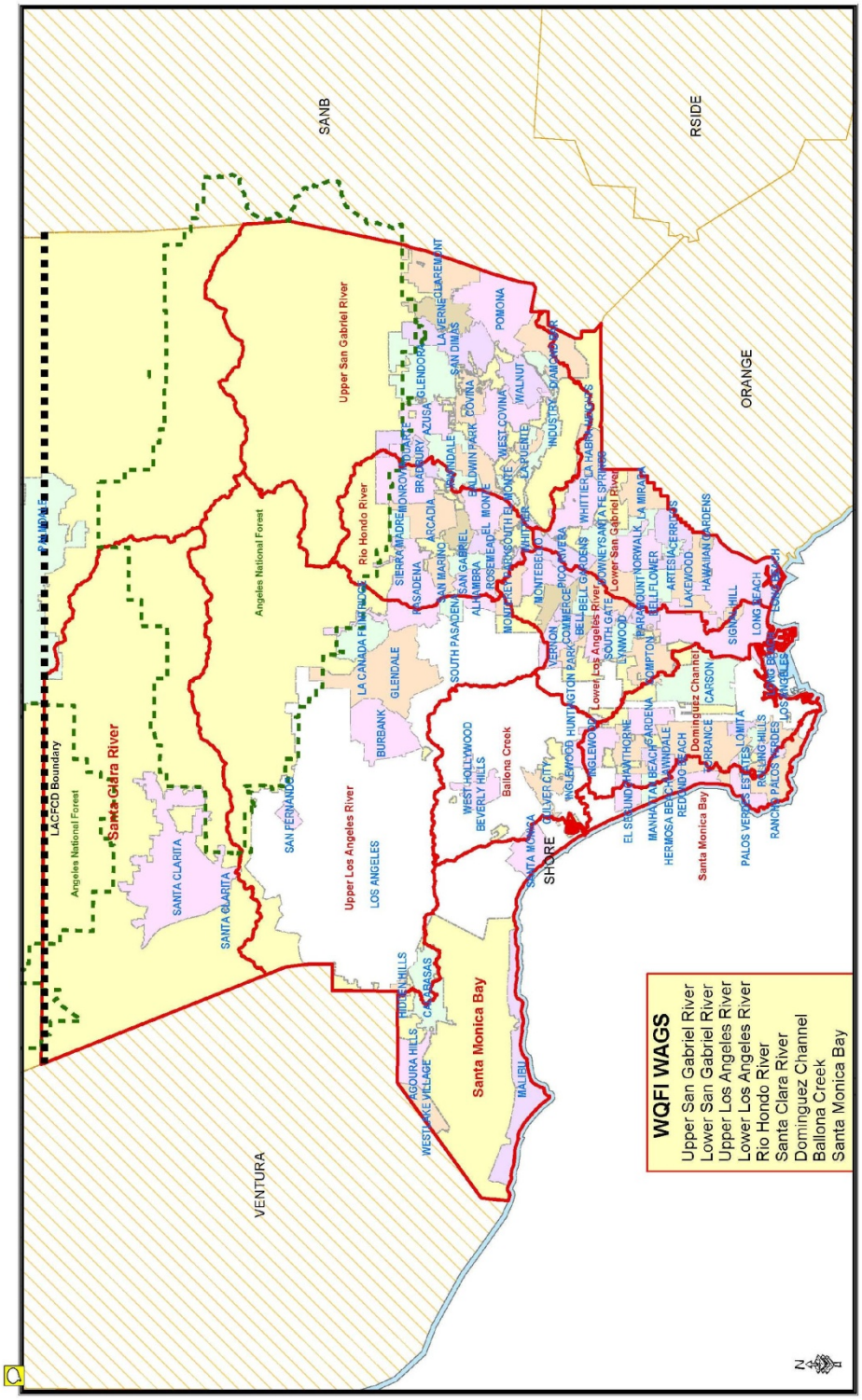
Typical Single Family Residential (7,500 sq ft parcel)
$54 per year

Typical Convenience Store or Fast Food Restaurant (10,000 sq ft parcel)
$251 per year

Typical Big Box Wholesale or Home Improvement Store (10 acre parcel)
$10,950 per year

Typical City Park (5 acres)
$570 per year

PROPOSED CLEAN WATER, CLEAN BEACHES
WATER QUALITY FUNDING INITIATIVE

WATERSHED AUTHORITY GROUP BOUNDARIES

ENCLOSURE D