

Safe, Clean Water Program Credit Trading Program Procedures and Guidelines

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Chief Engineer of the
Los Angeles County Flood Control District

December 18, 2024

Date Adopted



SAFE, CLEAN WATER PROGRAM TAX CREDIT TRADING PROGRAM PROCEDURES & GUIDELINES

Overview

On November 6, 2018, the voters approved Measure W, establishing the Los Angeles Region, Safe, Clean Water (SCW) Program and imposing a Special Parcel Tax within the Los Angeles County Flood Control District (District) in the amount of two and one-half cents per square foot of Impermeable Area, except as exempted, to provide for increased Stormwater and Urban Runoff and capture and reduced Stormwater and Urban Runoff pollution in the District.

Tax Credit and Tax Credit Trading Programs

The SCW Program includes a Credit Program that provides for a Special Parcel Tax credit for qualifying Parcel owners or Benefited Developments. All Parcels subject to the Special Parcel Tax are eligible for the Credit Program. Credits are given for completed and operational activities that result in Water Quality (WQ), Water Supply (WS), and Community Investment (CI) Benefits. The Credit Program Procedures and Guidelines (adopted September 19, 2019, herein after referred to as Credit Program P&Gs) contains additional information on the requirements associated with the Credit Program.

The SCW Program also includes a Tax Credit Trading Program (CTP), which *“allows Parcel owners to purchase and sell credits to satisfy Special Parcel Tax obligations.”* ([Section 16.10.B.](#) of the Los Angeles County Flood Control District Code). The intent of the CTP is to allow any Parcel owner or Benefited Development subject to the Special Parcel Tax to reduce the amount of their Tax by purchasing Tax Credit Trading Units (TCTUs) from a third party based on the third-party's implementation of Stormwater Improvement projects that meet the criteria described herein. The buyer of TCTUs receives a credit against their Special Parcel Tax amount commensurate with the value of the credit associated with the TCTUs purchased.

This document describes the Procedures and Guidelines for the CTP. These Guidelines were developed pursuant to Section 18.11.A of the Los Angeles County Flood Control District (FCD) Code, which states:

“The credit trading program described in Section 16.10.C. of Chapter 16 shall be implemented in accordance with procedures and guidelines developed and adopted by the Chief Engineer, in consultation with stakeholders, and updated



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from time to time, consistent with the purposes and goals of the SCW Program, as the Chief Engineer deems necessary or appropriate for the effective operation of the program.”

Definitions

The definitions set forth in Sections 16.03 and 18.02 of the FCD Code and Los Angeles County Public Works (Public Works) Credit Program P&Gs shall apply to these Guidelines. In addition, the following definitions shall also apply:

Qualifying Activities: The construction, operation or maintenance of a Stormwater Improvement on a Parcel that is subject to exemption from the Special Parcel Tax pursuant to Section 16.09 of the FCD Code. Qualifying Activities exclude projects and activities that are already being claimed as the basis for a Special Parcel Tax credit by a property owner through the SCW Program Credit Program.

Qualified Buyers: Also referred to as “the Buyer.” Owners of Parcels or Benefited Developments subject to the Special Parcel Tax who obtain approval from Public Works to purchase TCTUs.

Qualified Sellers: Also referred to as “the Seller.” Tax-exempt Parcel owners or authorized entities that obtain approval from Public Works to sell TCTUs subject to the requirements herein.

Tax Credit Trading Unit: A TCTU represents \$1.00 of annual Special Parcel Tax credit generated by a Qualified Seller’s Qualifying Activities.

General CTP requirements

- All Parcel owners and Benefited Developments subject to the Special Parcel Tax are eligible to purchase TCTUs.
- TCTUs may only be generated by Stormwater Improvements that are implemented on, and manage runoff from, Parcels that are exempt from the Special Parcel Tax.
- The Stormwater Improvement must be fully constructed and operational prior to issuance of TCTUs by Public Works. However, Sellers can obtain conditional approval of TCTU issuance based on submission and approval of design documents reflecting 100% engineering design.
- Qualifying Activities will be evaluated in accordance with criteria and other provisions of the Credit Program P&Gs including, but not necessarily limited to, criteria for eligible Stormwater Improvements, credit calculations, and provisions related to inspection, operation, and maintenance.



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- No SCW Program funding may be used for any stage of the Stormwater Improvement, including planning, design, construction, operation, and maintenance. Public Works will consider individual Stormwater Improvement projects funded by other municipal sources on a case-by-case basis.
- Municipalities are excluded from participation in the CTP.
- Parcel Owners and Entities applying for TCTU certification or recertification must certify that the funding for their Stormwater Improvement project is entirely, and for all practical purposes, separate from SCW Program funding.
- If SCW Program funds are used for maintenance or other reasons in connection with a Stormwater Improvement for which TCTUs have previously been issued, additional TCTUs will not be issued for that Stormwater Improvement in subsequent certification cycles.
- Only Qualifying Activities undertaken subsequent to November 6, 2018 are eligible for TCTU certification.
- Public Works may perform random, periodic site visits to audit the condition of Qualifying Activities. This includes during the certification or recertification process or anytime during the certification or recertification cycle.

TCTU calculations

TCTUs will be calculated based on the Special Parcel Tax amount that would be attributable to the Parcel if the Parcel were not exempt from the Special Parcel Tax. TCTUs will be calculated in the same manner as Final Parcel Credits are calculated for the Credit Program for taxed parcels, as described in the Credit Program P&Gs. Refer to the Credit Program P&Gs for further details of the tax credit calculation and different types of credits.

Tax Credit Trading Units

A TCTU represents \$1.00 of annual Special Parcel Tax credit.


While TCTUs are generated in accordance with the Credit calculations for different benefit categories (as outlined in the Credit Program P&Gs), once certified, all TCTUs will be applied at the same rate of \$1.00 of annual Special Parcel Tax credit per TCTU. This means that buyers are not required to purchase TCTUs specific to any WQ, WS, and CI Benefit ratios applicable to their properties under the Credit Program.

The figures below demonstrate scenarios for how credits and TCTUs can be generated.



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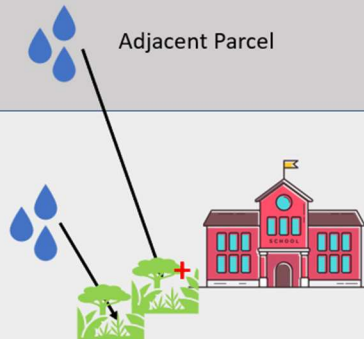
Scenario 1: Stormwater Improvement on tax exempt Parcel manages runoff from Parcel only. No Additional Activities are implemented.

	<p>OUTCOME:</p> <ul style="list-style-type: none"> • If Parcel was not tax-exempt, SCW Program Special Parcel Tax would equal \$1,089/year (\$0.025/sq. ft.) • Parcel owner generates TCTUs by implementing a Stormwater Improvement project that provides Water Quality (WQ), Water Supply (WS), and Community Investment (CI) Benefits. • Maximum TCTUs = 80% of Parcel's hypothetical tax = 80% * \$1,089 = \$871.20
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Stormwater Improvement on Parcel meets criteria for maximum credit for WQ, WS and CI benefits. Stormwater Improvement does not meet the criteria for Additional Activities credit.

Scenario 2. Stormwater Improvement on tax exempt Parcel manages runoff from Parcel and also from offsite areas.

	<p>OUTCOME:</p> <ul style="list-style-type: none"> • If Parcel was not tax-exempt, SCW Program Special Parcel Tax would equal \$1,089/year (\$0.025/sq. ft.) • Parcel owner/eligible entity generates TCTUs by implementing a Stormwater Improvement project that provides WQ, WS, and CI Benefits. • Parcel owner/eligible entity manages runoff from offsite. • Maximum TCTUs = 80% of Parcel's hypothetical tax (for WQ, WS, CI Benefits) + 20% of Parcel's hypothetical tax (for Additional Activities) = 100% * \$1,089 = \$1,089
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Stormwater Improvement on Parcel meets criteria for maximum credit for WQ, WS and CI benefits. Stormwater Improvement also meets criteria for Additional Activities credit by managing stormwater from offsite properties.

Tax Credit Trading Unit Lifespan and Timing

TCTUs are certified in 2-year cycles (Certification Cycles) in advance of delivered performance (See "Application Process" Section). A seller who generates, for example, 1,000 TCTUs per year, will receive 2,000 TCTU's at the start of each Certification Cycle. These may be sold one time and then are retired.

A Qualified Seller may apply for recertification of TCTUs at the end of each Certification Cycle as described in the "Application Process" section. The recertified TCTUs will be associated with a unique tracking identification number to distinguish them from the TCTUs sold in the previous certification cycle.

Each TCTU may be used to reduce a Parcel's Special Parcel Tax amount for one fiscal year. Buyers may purchase TCTUs in an amount up to 100% of the amount of their



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Special Parcel Tax for up to two years. TCTUs will be applied to the Buyer's Special Parcel Tax obligation in each fiscal year for which TCTUs have been purchased.

Tax Credit Trading Unit Price

TCTU prices are set individually by each Qualified Seller (see "Application Process" section below).

Trading Program Boundaries

TCTUs must be sold to buyers located within the same SCW Program Watershed Area and Municipal boundaries in which the TCTUs are generated. The CTP website will allow Buyers to identify the municipality and watershed where the property for which they are purchasing TCTUs is located.

Operation and Maintenance Obligation

Certification of TCTUs obligates the Seller to maintain the performance of Qualifying Activities during the years for which the TCTU is certified (i.e., throughout the two-year Certification Cycle).

Tax Credit Trading Unit Purchases

Taxed Parcel owners who have maximized their Final Parcel Credit for a specific fiscal year may not redeem or purchase TCTUs for the same fiscal year. Parcel owners whose Final Parcel Credit is less than 100% may further reduce their Special Parcel Tax amount up to the maximum allowed reduction (100%) through the purchase of TCTUs. For each fiscal year, a buyer may purchase as many TCTUs as desired to meet up to 100% of their Special Parcel Tax amount.

Buyers of TCTUs are not required to demonstrate that implementation of a Stormwater Improvement on the Buyer's Parcel would be infeasible as a condition for purchasing TCTUs.

TCTUs are sold on a first-come, first-serve basis. Buyers can become eligible to make a purchase on a first-come basis by registering interest through the CTP website.

All purchase/sales of TCTUs will be overseen by Public Works to ensure that the transactions meet the conditions set forth in these P&Gs.

Exclusive contracts between Buyers and Sellers to guarantee purchase of current and future year TCTUs are prohibited. However, Public Works will allow for this under limited circumstances, such as when a Seller and Buyer are the same person or entity or when a Buyer has specifically funded construction of a Stormwater Improvement on the Seller's Parcel. In these cases, approval by Public Works must be obtained prior to completion of the purchase/sale.



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In general, the TCTU purchase/sale process is as follows:

1. Available credits are listed online at CTP website at price set by seller.
2. Buyers submit request to Seller to purchase credits via CTP website.
3. Buyer and Seller agree on purchase price. Once this occurs, Seller submits sale request to Public Works.
4. Public Works reviews proposed transaction to ensure it meets CTP requirements set forth in these P&Gs.
5. Buyer and Seller mutually agree on a payment method. Payment must occur within five business days of Public Works transaction approval or Seller can relist credits for sale on CTP website.
6. Once payment from Buyer is received, Seller issues the Buyer and Public Works a receipt in the form of a signed TCTU Purchase Agreement.
7. Public Works will immediately credit the TCTU account for the Buyer's Parcel with the TCTUs purchased and apply associated Special Parcel Tax credits to the first subsequent tax year. The account will automatically be depleted in subsequent years until all purchased TCTUs have been redeemed.
8. TCTU transactions must be completed by May 1st to be credited to the Buyer's account for the following tax year. TCTU Purchase Agreements received by Public Works after May 1st will be applied to the Special Parcel Tax for the fiscal year after the next fiscal year.

Refer to Figure 2, TCTU Purchase/Sale Flow Chart, at the end of this document for a visual representation of the TCTU purchase/sale process.

Multiple Parcels with common ownership subject to the Special Parcel Tax may be aggregated for the purposes of purchasing TCTUs. To simplify TCTU purchase and redemption amongst multiple Parcels in common ownership within the same SCW Program Watershed Area and municipality, the purchaser may request Public Works to calculate and apply a single average tax credit percentage to each Parcel of the aggregate. If Public Works approves the request, the average tax credit percent will be applied to each individual Parcel of the aggregate.

Additional Considerations

Within each SCW Program Watershed Area, issuance of TCTUs will be limited to 5% of total SCW Program revenues for that area. Public Works will reevaluate this cap over time.



TCTUs must be sold to buyers located within the same SCW Program Watershed Area and Municipal boundaries in which the TCTUs are generated¹.

Public Works will continue to track CTP outcomes and performance over time and make changes to the program in line with SCW Program goals. This includes implementing additional trading program rules and incentives for further encouraging stormwater management projects on private property and/or encouraging the development of projects in areas where they are most needed.

Application Process

The process and procedures to certify, recertify, and redeem TCTUs are described below.

Application for TCTU Certification/Recertification (Qualified Sellers)

Any tax exempt Parcel owner may apply for TCTU certification/recertification by following the procedure below. Consistent with the Credit Program, all applications for TCTU certification/recertification must be verified by a civil engineer licensed to practice in California. Refer to Figure 1, TCTU Certification/Recertification Flow Chart, at the end of this document for a visual depiction of the certification/recertification process.

- The Application (and related guidance) for TCTU Certification and Recertification forms can be found on the SCW Program website. Guidance is also provided on how to calculate the number of TCTUs to be issued, consistent with Credit calculations for the Credit Program. The form allows applicants to state their asking price and anticipated volume of TCTUs. To facilitate selection of suitable asking prices, the CTP website provides a running list of successful transactions, including information on TCTU price and volume of TCTUs sold.
- Tax exempt Parcel owners may apply for TCTU certification/recertification at any time. Applications received by Public Works by September 30th will be considered for certification or recertification for the following two fiscal years.
- The application for TCTU Certification must include the following documentation:
 - Engineer's report including:
 - A copy of the applicable Low Impact Development (LID), Industrial General Permit (IGP)/Regional Water Quality Control Board (RWQCB) stormwater permit, Standard Urban Stormwater Mitigation Plan (SUSMP), construction

¹ This is required to keep SCW Program revenue reductions associated with redemption of TCTUs within the same Watershed Area and Municipality as the associated Water Quality, Water Supply and Community Investment Benefits that stormwater improvements generate.



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permit or other permit for which the TCTU certification application is being requested, as applicable. If no permit is required for implementation of the Qualifying Activities, a copy of the applicable LID, IGP/RWQCB, or SUSMP design guidelines used to design the improvements must be provided.

- An Estimate or Calculations of the following:
 - The impermeable area of each Parcel(s) and hypothetical Special Parcel Tax amount.
 - The impermeable area within each Parcel(s) that is tributary to the Stormwater Improvement
 - The volume of the Stormwater Improvement.
 - Applicable LID design storm volume or IGP/RWQCB stormwater permit or SUSMP design standard for the impermeable area of the Parcel(s) or Benefited Development.
 - The TCTUs requested for certification, based on the Credit calculation methodology outlined in the Credit Program P&Gs and applied to the tax-exempt Parcel's hypothetical Special Parcel Tax. At minimum, the stormwater improvement must qualify for Water Quality credits.
- Photo documentation of the completed construction or installation of a new Stormwater Improvement; or for recertification of existing Stormwater Improvements, photo documentation that the Stormwater Improvement is in good working condition.
- The maintenance management plan for the Stormwater Improvement.
- Engineering certification by a registered civil engineer licensed to practice in the State of California that the Stormwater Improvement meets or exceeds the applicable LID, IGP/RWQCB stormwater permit, or SUSMP standards.
- Certification of common ownership if aggregating multiple Parcels, as applicable
- If Community Investment Benefits and/or Additional Activities Credit are applied for, information that demonstrates how the Stormwater Improvement provides these specific benefits, consistent with requirements for the Credit Program.
- A covenant by the Parcel owner to maintain the Stormwater Improvement in a condition that is functioning as designed throughout the term of the certification or recertification cycle and authorizing Public Works staff to access the Parcel



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for maintenance audits/inspections. If TCTUs are certified, the covenant will need to be recorded against the Parcel prior to the issuance of TCTUs.

- TCTU Certification is valid for two (2) fiscal years. A Parcel owner wishing to be issued TCTUs for a Stormwater Improvement beyond two (2) fiscal years must submit an application for recertification. Applications for recertification must be received by Public Works no later than September 30th to be considered for recertification for the next two fiscal years. This allows time for buyers to complete transactions with sellers prior to the May 1st transaction deadline, assuming Public Works verification and review process can be completed within as the timeline outlined below.
 - The purpose of recertification is to ensure the Stormwater Improvement(s) is/are still in place and operating properly. No monitoring, testing, or new calculations are required, but rather a resubmission of applicable prior submittals with current pictures of the improvements in a condition that is functioning as designed.
 - Applicants must submit a signed statement with the recertification application that the Stormwater Improvement is in good working order.
 - If recertifying for TCTUs associated with Community Investment Benefits or Additional Activities, applicants must also submit documentation demonstrating that benefits associated with those TCTUs will continue to be provided for the next two fiscal years.

Upon initial receipt of the Application for TCTU Certification/Recertification, an administrative review for completeness will be conducted. The applicant will be notified by Public Works within thirty (30) days if additional information is required. Public Works will notify the applicant upon confirmation of a complete application. The applicant will also be notified within sixty (60) days of the complete application notice whether their application has been approved or denied.

The Application includes a grant of permission to Public Works to access the Parcel to conduct an inspection of the Stormwater Improvement at any time, and Public Works may perform such inspection, in its sole discretion, prior to approving or denying the Application.



Conditional Certification of Proposed Stormwater Improvements

Owners of tax exempt Parcels with Stormwater Improvements that are not fully completed may apply for a conditional certification from Public Works. Applicants for conditional certification must provide the following information:

- Parcel owner name
- Assessor's Parcel Numbers for Parcel(s) included in the application
- The impermeable area of each Parcel(s) and hypothetical Special Parcel Tax amount.
- Preliminary engineering plans with location and design details of Stormwater Improvement(s)
- Total TCTUs generated by proposed project, including WQ, WS, and CI Benefits and Additional Activities (as applicable), based on the Credit calculation methodology outlined in the Credit Program P&Gs and applied to the tax-exempt Parcel's hypothetical Special Parcel Tax..
- 100% design documents.

The applicant will be notified by Public Works within thirty (30) days if additional information is required to complete the conditional certification, or if the application for conditional certification has been granted.

If a conditional certification has been granted, the Parcel owner should notify Public Works when construction of the Stormwater Improvement has been completed. Once Public Works has verified that the construction of the Stormwater Improvement has been completed in accordance with the approved design documents and is operational, the Parcel owner may submit the conditional approval documents with an Application for TCTU Certification.

Breach of Covenant

Should a Qualified Seller either modify or fail to maintain Qualifying Activities for which TCTUs have been certified such that the Qualifying Activities are no longer functioning as intended when the associated TCTUs were approved by Public Works, Public Works may find the Qualified Seller in breach of the covenant to maintain the Qualifying Activities and issue a notice of violation to the Qualified Seller describing the remedial actions necessary to cure the breach. If all remedial actions are not completed within a



reasonable time to Public Works' satisfaction, Public Works, in its sole discretion, may decertify the TCTUs associated with the Qualifying Activity.

Appeals Process for TCTU Certification and Recertification

If a Parcel owner's Application for TCTU Certification/Recertification is denied or if the number of TCTUs that are certified are fewer than what was applied for, and the Parcel owner disagrees with Public Works' determination, the Parcel owner may submit an appeal, via email, within thirty (30) business days from the date of notice of Public Works' determination. The email should be sent to safecleanwaterla@dpw.lacounty.gov and should contain the following information at a minimum.

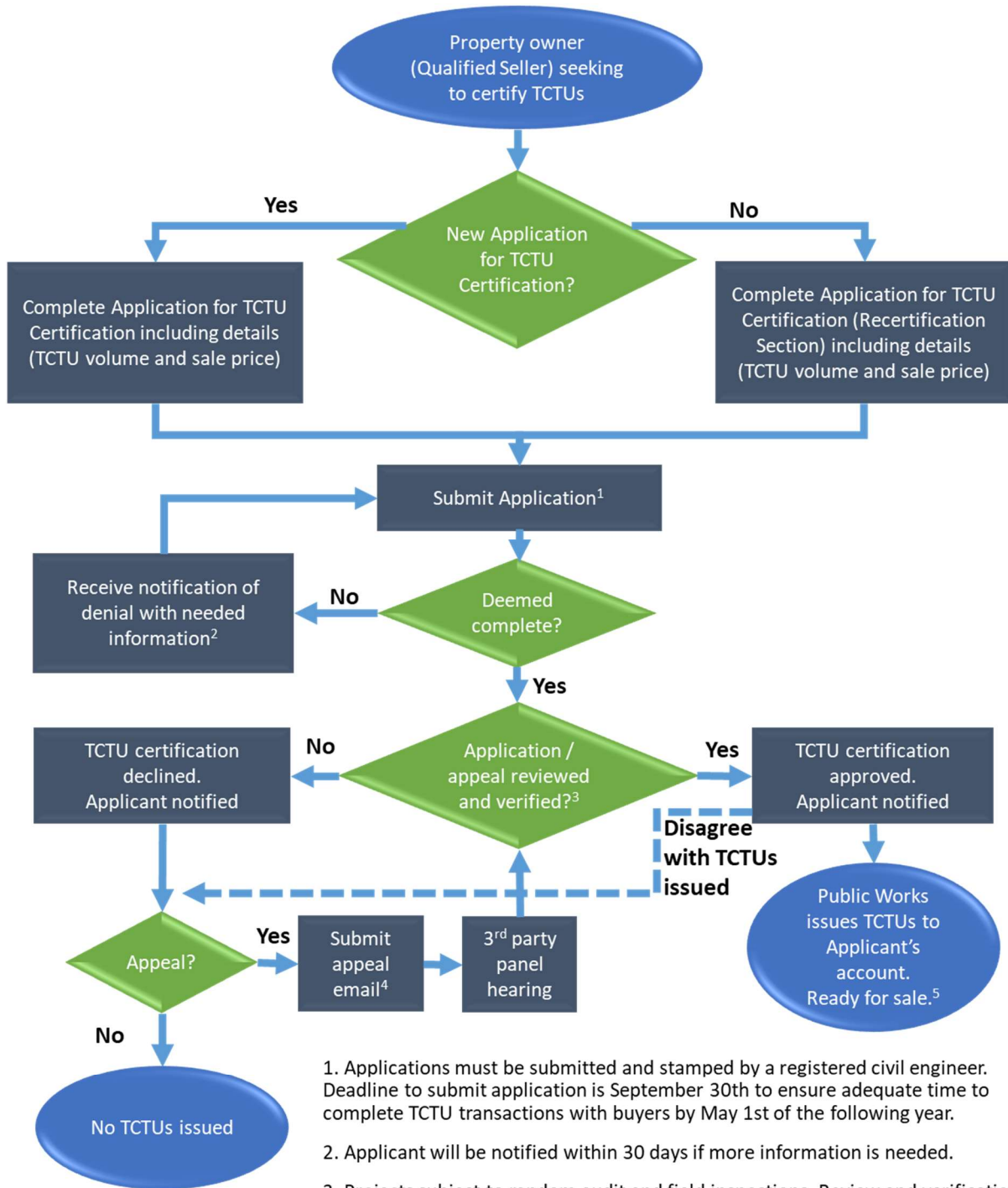
- Qualified Seller's Name
- Assessor's Parcel Number(s)
- Basis of appeal
- Supporting Documentation
 - As-built engineering drawings
 - Proof of ownership or proof of sale
 - Any additional engineering calculations or further justifications

Upon receipt of an appeal email, Public Works staff will confirm receipt and schedule a hearing on the appeal before the Scoring Committee. Public Works will schedule the hearing within forty-five (45) days from the date of receipt of the appeal email. At the hearing, the owner will have the opportunity to present the appeal to the Scoring Committee and answer any questions from the Scoring Committee. The Scoring Committee will make its determination on the appeal and Public Works staff will notify the Parcel owner of the determination of appeal within two (2) weeks of the hearing.



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Figure 1: TCTU Certification / Recertification Flow Chart



1. Applications must be submitted and stamped by a registered civil engineer. Deadline to submit application is September 30th to ensure adequate time to complete TCTU transactions with buyers by May 1st of the following year.

2. Applicant will be notified within 30 days if more information is needed.

3. Projects subject to random audit and field inspections. Review and verification can take up to 60 days.

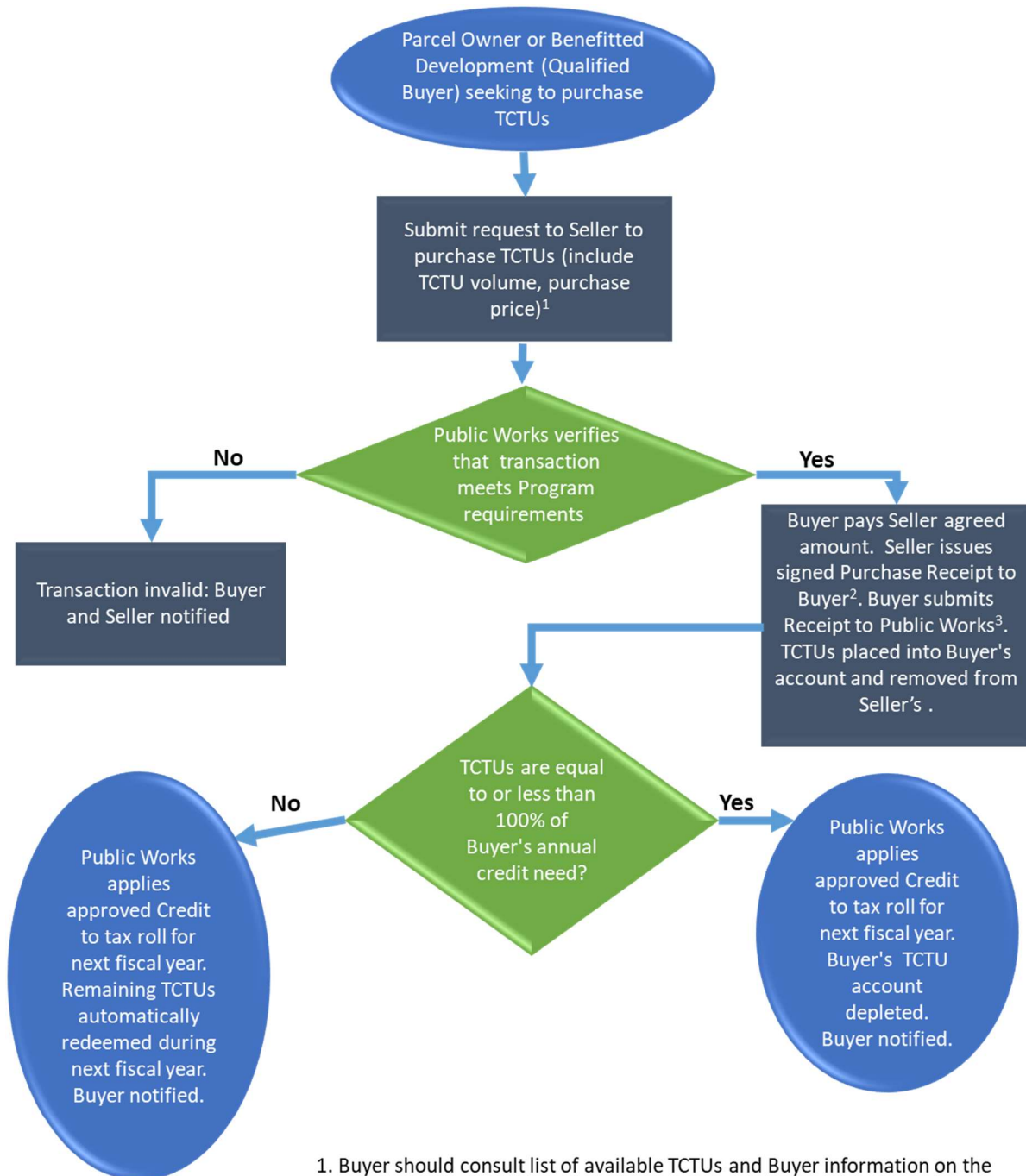
4. Refer to the Appeals Process section in the CTP Procedures and Guidelines.

5. Applicant must sign covenant to maintain to maintain stormwater improvement over certification period



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Figure 2: TCTU Purchase / Sale Flow Chart



1. Buyer should consult list of available TCTUs and Buyer information on the TCTU website. Buyer may purchase TCTUs accounting for up to 2-years of Special Parcel Tax credit. Buyer and Seller properties must be in the same Watershed Area and Municipality.

2. Purchase Receipt template available on SCW Program website. Refer to link in CTP Procedures and Guidelines.

3. Deadline to submit Purchase Receipt is May 1st to receive associated Credit for the following year.