

PROPOSED ORDINANCE

An ordinance adding Chapter 16 to the Los Angeles County Flood Control District Code related to the adoption of a special Parcel tax within the District to provide for increased Stormwater and Urban Runoff capture and reduced Stormwater and Urban Runoff pollution, and help put Los Angeles County on a path to water resiliency and economic security through equity-focused strategies and policies to increase drought preparedness, improve water quality and public health, create jobs, build capabilities, and remove barriers.

The people of the Los Angeles County Flood Control District ordain as follows:

Chapter 16

Special Parcel Tax to Provide for Stormwater and Urban Runoff Capture and Reduced Stormwater and Urban Runoff Pollution

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16.01 Title.

This Chapter shall be known as the “The Los Angeles Region Safe, Clean Water Program” ordinance.

16.02 Operative Date.

This ordinance shall be operative commencing with July 1, 2019.

16.03 Purpose.

This ordinance is adopted to achieve the following and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. Impose a special Parcel tax upon Parcels of property within the boundaries of the District at the rate of two and one-half cents per square foot of impermeable surface, except as exempted, to be used for the purposes set forth herein.
- B. Exempt certain Parcels from the special Parcel tax, specifically parcels located in the Antelope Valley, and parcels owned by qualifying low-income seniors.
- C. Provide funding for programs and Projects to increase Stormwater and Urban Runoff capture and reduce Stormwater and Urban Runoff pollution in the District, including Projects providing Water Supply Benefit, Water Quality Benefit, and Community Enhancement Benefit.

16.04 Definitions.

As used in this Chapter, the following terms mean:

- A. “Assessor” means the County of Los Angeles Office of the Assessor.
- B. “Auditor-Controller” means the Auditor-Controller of the County of Los Angeles.
- C. “Benefit to Disadvantaged Community” means Water Quality Benefits, Water Supply Benefits, and Community Enhancement Benefits experienced directly by a DAC population.
- D. “Board” means the Los Angeles County Board of Supervisors, also acting as the governing body of the Los Angeles County Flood Control District.
- E. “Census Block Group,” means, as defined by the United States Census Bureau, a statistical division of census tracts, which are generally defined to contain between 600 and 3,000 people,

and are used to present data and control block numbering. A Census Block Group consists of clusters of blocks within the same census tract. Each census tract contains at least one Census Block Group and is uniquely numbered within the census tract.

- F. "Chief Engineer" means Chief Engineer of the District or their authorized deputy, agent, or representative.
- G. "Community Enhancement Benefit" means benefits created in conjunction with Stormwater and Urban Runoff Projects, including but not limited to: improved flood management, flood conveyance, and flood risk mitigation; creation of parks and wetlands, or restoration of habitat and wetlands; improved public access to waterways providing enhanced or new recreational opportunities; greening of schools; improved public health; reduction of urban heat island effect; carbon reduction/sequestration; improved air quality; green waste reduction/diversion; and local workforce investment and job training.
- H. "County" means the County of Los Angeles.
- I. "Disadvantaged Community" (DAC) means a community defined by a Census Block Group with an annual median household income of less than 80 percent of the Statewide annual median household income (as defined in California Water Code §79505.5).
- J. "District" means the Los Angeles County Flood Control District.
- K. "District Program" means that part of the Safe, Clean Water (SCW) Program as described in Section 16.06(A)1 of this Chapter.
- L. "Feasibility Study" means a detailed technical investigation and report that is conducted to determine the feasibility of a proposed Project.
- M. "Flood Control Act" means the Los Angeles County Flood Control Act.
- N. "Impermeable Surface" means surfaces, such as pavement, concrete, or rooftops, which prevent the infiltration of Stormwater and Urban Runoff into the ground.
- O. "Multi-Benefit Project" means a Project that has a Water Quality Benefit as well as either or both a Water Supply Benefit and Community Enhancement Benefit.
- P. "Municipal Program" means that part of the SCW Program as described in Section 16.06(A)2 of this Chapter.

- Q. "Municipal Project" means a Project carried out through the Municipal Program that has a Water Quality Benefit. A Municipal Project may also be a Multi-Benefit Project.
- R. "Municipality" means a city or a County unincorporated area within the District.
- S. "Nature-Based Solution" means a Project component that manages Stormwater and Urban Runoff to provide a Water Quality Benefit, Water Supply Benefit, and Community Enhancement Benefit by doing any of the following: rely predominantly on soils and vegetation to restore the natural ecosystem processes required to slow, detain, and absorb water; infiltrate water to aquifers; filter pollutants out of water and air; which may include utilizing strategically undeveloped mountains and floodplains, wetlands, rain gardens and grading, compost, mulch, soil building, tree and vegetation planting, and parkway basins; sequester carbon; support biodiversity; provide shade; and aesthetically enrich environments.
- T. "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").
- U. "Project Applicant" means any individual, group, business or governmental entity including but not be limited to a corporation, special district, school, Municipality, non-governmental organization, non-profit organization, community-based organization, public utility, federally recognized Indian tribes, state Indian tribes listed on Native American Heritage Commission's California Tribal Consultation List or mutual water company that submits a Project or Feasibility Study for consideration.
- V. "Project Developer" means the individual, group or entity that carries out or causes to be carried out part or all the actions necessary to complete a Project for the Regional Infrastructure Program.
- W. "Project" means an infrastructure Project, or non-infrastructure activity or program, or other eligible activity funded by SCW Program revenue.
- X. "Regional Oversight Committee (ROC)" means a body empaneled by the Board whose responsibilities are to help ensure that SCW Program purposes are being achieved.

- Y. "Regional Program" means that part of the SCW Program as described in Section 16.06(A)3 of this Chapter.
- Z. "Safe, Clean Water (SCW) Program" means a program established by the District to administer revenues from the parcel tax levied pursuant to this ordinance, including the criteria and procedures for selecting and implementing Projects and allocating revenues among the Municipal, Regional and District Programs.
- AA. "Stakeholder" means a person, citizens' group, homeowner or other property-owner, business, non-governmental organization, environmental group, labor union, 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, other government agency, or other interested party that has a direct or indirect stake in the SCW Program.
- BB. "Stormwater" means water that originates from atmospheric moisture (rainfall or snowmelt) and falls onto land, water, and/or other surfaces.
- CC. "Surface Water" means water that flows or collects on the surface of the ground.
- DD. "Treasurer" means the Treasurer and Tax Collector of the County of Los Angeles.
- EE. "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.
- FF. "Water Quality Benefit" means an increase in Stormwater and Urban Runoff capture and reduction in Stormwater and Urban Runoff pollution that results in an improvement in the chemical, physical, and biological characteristics of a waterbody in the District. Activities resulting in this benefit include but are not limited to: infiltration or treatment of Stormwater and Urban Runoff, non-point source pollution control, and diversion of Stormwater and Urban Runoff to sanitary sewer system.
- GG. "Watershed Area Steering Committees" means the bodies empaneled, one for each Watershed Area, whose responsibilities are to select Projects for the Regional Program.
- HH. "Water Supply Benefit" means an increase in the amount of locally available water supply, provided there is a nexus to Stormwater and Urban Runoff capture. Activities resulting in this benefit include but are not limited to the following: reuse and conservation practices, water

recycling, increased groundwater replenishment, storage or available yield, offset of potable water use. Water Supply Benefit created through SCW Program is subject to applicable adjudicated judgments of water rights.

II. "Watershed Area" means a regional boundary adopted by the Board.

16.05 Separate Section with True and Impartial Statement of Facts Identifying the Tax and Specific Limitations on How the Revenue Can Be Spent

This ordinance enacts an annual special Parcel tax in the amount of two and one-half cents per square foot of Impermeable Surface, upon all Parcels located within the District, commencing in fiscal year 2019-20. Pursuant to Section 16.11 of this Chapter government owned Parcels, Parcels located in the Antelope Valley, as well as Parcels owned by qualifying low income senior citizens as further described in Section 16.11 of this Chapter below are exempt from this special Parcel tax.

Revenue from this special Parcel tax specifically funds Projects pursuant to the Expenditure Plan contained in Section 16.06 of this Chapter to pay the costs and expenses needed to increase Stormwater and Urban Runoff capture and reduce Stormwater and Urban Runoff pollution in the District in accordance with criteria and procedures specified in this ordinance and additional criteria and procedures adopted by the Board consistent with the purposes of this ordinance. Projects funded by the revenues from the special Parcel tax shall be used to increase Stormwater and Urban Runoff capture and reduce Stormwater and Urban Runoff pollution in the District, and may include Projects that provide Water Supply Benefit, Water Quality Benefit, and Community Enhancement Benefit.

16.06 Expenditure Plan.

The District shall expend all special Parcel tax revenues consistent with the expenditure plan contained in this section.

- A. The District shall use the special Parcel tax revenues to pay the costs and expenses of carrying out Projects to increase Stormwater and Urban Runoff capture and reduce Stormwater and Urban Runoff pollution in the District in accordance with criteria and procedures established in the

Chapter.. Projects funded by the revenues from the special Parcel tax may provide Water Supply Benefit, Water Quality Benefit, and Community Enhancement Benefit. The District shall allocate the revenues derived from the special Parcel tax as follows:

1. Ten (10) percent shall be allocated to the District for implementation and administration of Projects and programs described in subsection A, and for payment of the costs incurred in connection with the levy and collection of the special Parcel tax and the distribution of the funds generated by imposition of the special Parcel tax in accordance with the criteria and procedures established in this Chapter.
2. Forty (40) percent shall be allocated to cities within the boundaries of the District and to the County of Los Angeles, in the same proportion as the amount of revenues collected within each jurisdiction and within the unincorporated territories, to be expended by those cities within the cities' respective jurisdictions and by the County of Los Angeles within the unincorporated territories that are within the boundaries of the district, for the implementation, operation and maintenance, and administration of Projects and programs described in subsection A, in accordance with the criteria and procedures established in this Chapter.
3. Fifty (50) percent shall be allocated to pay for the implementation, operation and maintenance, and administration of watershed-based Projects and programs described in subsection A, including Projects and programs identified in regional plans such as stormwater resource plans developed in accordance with Part 2.3 (commencing with Section 10560) of Division 6 of the Water Code, watershed management programs developed pursuant to waste discharge requirements for municipal separate storm sewer system (MS4) discharges within the coastal watersheds of the County of Los Angeles, issued by the Los Angeles Regional Water Quality Control Board, and other regional water management plans, as appropriate, in accordance with the criteria and procedures established in this Chapter.

- B. The District and Municipalities within the boundaries of the District may use the proceeds from the special Parcel tax to finance bonds issued by the District or Municipalities so long as the bond proceeds are used for Projects that meet the requirements of this expenditure plan.
- C. The expenditure plan in subsection A is specific and legally binding and an enforceable limitation on how the revenue from this Parcel tax may be spent.
- D. The revenue collected pursuant to section 16.10 of this Chapter may not be used for any purpose not specifically identified in this section.

16.07 Program Elements

A. General Requirements

- 1. SCW Program funds shall be transferred to Municipalities and Project Developers in advance of eligible expenditures taking place. Prior to their receipt of SCW Program funds, Municipalities and Project Developers must enter into an agreement with the District to transfer SCW Program funds.
- 2. Expenditures eligible for SCW Program funds include, but are not limited to, the following:
 - a. Infrastructure development tasks including design, preparation of environmental documents, obtaining permits, construction, operations & maintenance (O&M), and inspection.
 - b. Real property acquisition, including leases, easements and right of entry permits, necessary to implement eligible Projects.
 - c. Scientific and technical studies, and Stormwater and Urban Runoff modeling and monitoring.
 - d. Stormwater and Urban Runoff residential and/or commercial retrofits.
 - e. Projects or studies to investigate new technologies or methodologies to increase Stormwater and Urban Runoff capture and reduce Stormwater and Urban Runoff pollution for improving water quality, increasing local water supplies, or improving the ability of communities to adapt to the impacts of climate change.
 - f. The development of Feasibility Studies to enable Project Applicants to submit Projects for SCW Program funds.

- g. The modification, upgrade, retrofit, or expansion of an existing Project to incorporate new elements to increase Stormwater and Urban Runoff capture and reduce Stormwater and Urban Runoff pollution to provide additional Water Quality Benefit, Water Supply Benefit, and Community Enhancement Benefit.
 - h. Debt financing should the District or a Municipality determine that bonds or loans are prudent and necessary to implement a Project.
 - i. Stormwater and Urban Runoff programs such as but not limited to school education and curriculum, public education, watershed coordinators, regional water quality planning and coordination, local workforce job training, and others.
 - j. Credit, incentive, and credit trading programs aligned with the core principles and outcomes of the SCW Program.
- 3. Ineligible expenditures for SCW Program funds include, but are not limited to, the following:
 - a. Payment of fines imposed by any State, Federal, or local regulatory agency.
 - b. Expenditures related to the investigation, defense, litigation, or judgment associated with any regulatory permit violations, notices of violation, or noncompliance regulations brought forth by any State, Federal, local regulatory agency, or a third party unrelated to eligible Projects.
 - c. Expenditures 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 SCW Program revenues.
 - d. Costs associated with any litigation including investigation, defense, litigation, settlement, and payment of any judgements for claims and liability related to the design and implementation of eligible Projects.

B. District Program

Ten (10) percent of the revenue from the annual SCW Program tax shall be allocated for the District Program. The District will have the following responsibilities:

1. Administer the SCW Program including tax and payment administration, review budgets and reports, and conduct audits.
2. Plan, implement, and maintain District Projects.
3. Administer the Regional Program.
4. Provide technical assistance, including the hiring of watershed coordinators.
5. Regional Water Quality planning and coordination, scientific studies, and water quality modeling.
6. The District will administer the programs below. Not less than \$25-million of District Program funds shall be allocated for these programs over a revolving five (5) year period. These programs will be implemented throughout the District with special attention to the needs of disadvantaged communities. The District will partner with stakeholders to collaboratively implement these programs. Programs may include, but are not limited to:
 - a. Public education programs.
 - b. Local workforce job training, which will provide certification classes and vocational training at the community level for the design, construction, inspection, operation and maintenance of Stormwater and Urban Water management and Multi-Benefit Projects.
 - c. Schools education and curriculum program, such as classroom curriculum, guest speakers, etc.

C. Municipal Program

Forty (40) percent of the funds from the annual SCW Program tax revenues shall be allocated for the Municipal Program. Each municipality shall receive a proportional share of these Municipal Program revenues based on the SCW Program tax revenues collected within each municipality. Projects implemented through the Municipal Program shall include a Water Quality Benefit. Multi-Benefit Projects that incorporate a Water Supply Benefit and/or a Community Enhancement Benefit are strongly encouraged. Each Municipality receiving Municipal Program funding from the SCW Program will have the following responsibilities:

1. Engage stakeholders in the planning process for use of the Municipal Program funds during the planning and implementation of Municipal Program Projects.
2. Prepare a Progress/Expenditure Report that details a program-level summary of expenditures and a quantification of Water Quality Benefits, Water Supply Benefits, and Community Enhancements realized through use of Municipal Program funds.
3. Comply with all SCW Program fund transfer, reporting and audit requirements.

D. Regional Program

Fifty (50) percent of the annual SCW Program tax revenues shall be allocated to the Regional Program. The Regional Program shall consist of three programs: an Infrastructure Program, a Technical Resources Program, and a Scientific Studies Program.

1. Infrastructure Program

The Infrastructure Program shall implement Multi-Benefit watershed-based Projects that have a Water Quality Benefit as well as either a Water Supply Benefit or Community Enhancement Benefit, or both. Infrastructure Program funds:

- a. Shall be spent on post-Feasibility Study eligible activities.
- b. Shall be programmed by Watershed Area Steering Committees proportional to the funds generated in each Watershed Area.
- c. Shall be programmed such that each Municipality receives benefits in proportion to the funds generated within their jurisdiction.
- d. Shall be programmed such that a spectrum of project types and sizes are implemented throughout the region.
- e. Shall be allocated such that funding for Projects that provide a Benefit to DACs be not less than 110% of the ratio of the DAC population to the total population in each Watershed Area.
- f. Non-Municipal Project Applicants are required to secure a Municipal letter of support to receive funding through the Infrastructure Program.

2. Technical Resources Program

The Technical Resources Program shall provide resources for the development of Feasibility Studies through support from Technical Resource Teams and Watershed Coordinators.

3. Scientific Studies Program

The Scientific Studies Program shall provide funding for eligible scientific and other activities, such as but not limited to: scientific studies, technical studies, monitoring, modeling, and other similar activities.

4. Watershed Areas

Watershed Areas shall be established for implementation of the Regional Program. The Chief Engineer shall maintain on file detailed maps establishing the precise boundaries of the Watershed Areas.

5. Watershed Area Steering Committees

Each Watershed Area shall have a Watershed Area Steering Committee that shall include Municipalities, water agencies and other stakeholders. No member of the Watershed Area Steering Committee shall participate in discussions or vote where that member has a direct personal financial interest in the Project under consideration.

6. Regional Oversight Committee

The Regional Oversight Committee (ROC) is an independent body that ensures Regional Program goals are met. The ROC consists of subject matter experts, with knowledge in Water Quality Benefits, Water Supply Benefits, and Community Enhancement Benefits. ROC members shall not have any direct personal connection to Projects implemented through the SCW Program.

16.08 Special Account.

The Auditor-Controller shall create a new account into which the proceeds from the special Parcel tax authorized by this ordinance shall be deposited.

16.09 Independent Audit.

The Board shall cause an independent financial audit to be conducted annually by an independent auditing firm for the purposes of determining compliance by the District with the terms of this ordinance, and to report on the status of all revenues and expenditures as of the end of each fiscal year, including all fund balances. The audit shall be completed and such auditor's report to be issued by June 30 of the following year and shall be posted on the District's publicly accessible Internet Website.

16.10 Special Parcel Tax Rate.

- A. Commencing the fiscal year 2019-20, an annual special Parcel tax in the amount of two and one-half (2.5) cents per square foot of impermeable surface, except as exempted, to raise revenue to fund Projects and programs pursuant to the expenditure plan contained in Section 16.06 of this Chapter is hereby imposed upon all Parcels located within the District, except as provided in section 16.11 of this Chapter. As provided in section 16.05 of this Chapter, all proceeds from the special Parcel tax shall be deposited in the account created by the Auditor-Controller. All proceeds from the special Parcel tax shall be used to fund the Projects and programs pursuant to the expenditure plan as set forth in section 16.06 of this Chapter.
- B. All laws and procedures regarding exemptions, due dates, installment payments, corrections, cancellations, refunds, late payments, liens and collections for the secured roll ad valorem property taxes shall be applicable to the collection of the special Parcel tax. The secured roll tax bills shall be the only notices required for the levying of the special Parcel tax. The Auditor-Controller shall place the special Parcel tax on the secured tax roll for the initial fiscal year 2019-20, and for subsequent fiscal years. The Treasurer and Tax Collector of the County shall collect the special Parcel tax for the initial Fiscal Year 2019-20, and for subsequent fiscal years, on the tax roll at the same time and in the same manner, and subject to the same penalties as the ad valorem property taxes fixed and collected by or on behalf of the County. The District shall establish and administer an appeals process to address and correct potential errors in the levy of the special Parcel tax. The County shall be entitled to deduct its reasonable costs incurred collecting the special Parcel tax before such tax is remitted to the District.
- C. Parcel owners may seek review with the District the following grounds:
 - 1. Mathematical error in the calculation of the tax

2. Discrepancy of more than either the result of a ten (10) percent error in the actual impermeable area or \$50 in the tax amount, whichever is greater.
- D. The Auditor-Controller shall file a report with the Board by no later than January 1, 2020, and by January 1 of each year thereafter stating the amount of funds collected and expended pursuant to this ordinance, and also the status of the Projects required or authorized to be funded pursuant to the expenditure plan contained in this ordinance.
 - E. Nothing in this ordinance shall limit a Parcel owner's ability to pass through the Parcel tax to a tenant. Land owners must comply with all applicable rent control ordinances, contractual provisions in the specific lease, federal subsidized housing requirements, and other applicable laws.
 - F. After a period of thirty (30) years, the Board shall evaluate the need for the SCW Program and make a determination of whether the tax should be rescinded.

16.11 Exemptions and Exclusions

The following Parcels shall be exempt from the special Parcel rate tax specified in Section 16.10 of this Chapter:

- A. Government owned or leased Parcels as provided by law.
- B. Parcels located in the Antelope Valley.
- C. Upon application, low income senior owned Parcels as determined by the Board.

16.12 Miscellaneous Provisions

- A. Municipalities and Project Developers shall be able to carry over uncommitted SCW Program tax 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 or Project Developer. Additional requirements may be included in the transfer agreement.
- B. Municipalities and Project Developers who are unable to expend their approved funding as described in their Stormwater Investment Plan shall be subject to lapsing funds procedures. Lapsing funds are funds that were committed and approved but were not able to be spent per the approved schedule. Funds are considered lapsed five (5) years after the transfer agreement execution date.

Lapsed funds shall revert back to the Watershed Area Steering Committee of the respective Watershed Area and be reprogrammed to a new Project with benefit to that Municipality or Watershed Area.

Each Project Developer shall prepare a Progress/Expenditure Report for all Projects to be filed within the District. The report shall include details that summarize the expenditures and quantification of Water Quality Benefit, Water Supply Benefit, and Community Enhancement Benefit realized through use of SCW Program funds. The entity shall be subject to and comply with all applicable requirements of the District regarding Project reporting requirements.

- C. Each Municipality shall prepare an Annual Progress/Expenditure Report for all Projects implemented through the Regional Program. The Annual report shall include details that summarize the expenditures and quantification of Water Quality Benefits, Water Supply Benefits, and Community Enhancement Benefits realized through use of SCW Program funds. The project developer shall be subject to and comply with all applicable requirements of the District regarding Project reporting.
- D. The following recordkeeping and audit requirements shall apply:
 - 1. SCW Program funds distributed to the District, Municipalities, and Project Developers shall be held in separate interest-bearing accounts and not combined with other funds. Interest earned shall be used for SCW Projects in the Watershed Area Steering Committee or Municipality in which it was earned, consistent with the requirements of the SCW Program.
 - 2. Municipalities, Project Developers, and the District shall retain, for a period of seven (7) years after Project completion, all records necessary in accordance with Generally Accepted Accounting Principles to determine the amounts expended, and eligibility of Projects implemented using SCW Program funds. Municipalities and Project Developers, upon demand by authorized representatives of the District shall be required to make such records available for examination and review or audit by the District or its authorized representative. Records shall include: accounting records, written policies and procedures, contract files, original estimates, correspondence, change order files including

documentation covering negotiated settlements, invoices, and any other supporting evidence deemed necessary to substantiate charges related to SCW Program funds and expenditures.

3. At all reasonable times, Municipalities and Project Developers shall permit the Chief Engineer, or his or her authorized representative, to examine all Projects that were erected, constructed, implemented, operated, or maintained, in whole or part, using SCW Program funds. Municipalities and Watershed Area Steering Committees shall permit the authorized District 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 SCW Program.
 4. Municipalities shall be subject to an independent audit of their use of SCW Program funds not less than once every five (5) years. Municipal audits are to be funded with Municipal Program funds.
 5. Project Developers shall be subject to an independent audit upon completion of the Project. Additional interim audits may be conducted.
 6. District shall be subject to an independent audit of their use of SCW Program funds not less than once every five (5) years.
- E. The following procedures apply for misuse of funds and failure to comply with requirements.
1. If the District determines that a Project Developer or Municipality has misused SCW Program funds, the District may issue a written notice to the Project Developer or Municipality of that determination and to refund those funds, including associated interest, to the District within thirty (30) days of notification.
 2. Funds refunded by a Project Developer or Municipality shall, at the Board' discretion, be reassigned and used to plan, implement, and maintain Projects in accordance with the following:
 - a. SCW Program funds refunded by a Municipality shall be used to fund Municipal or Regional Projects that are located within the jurisdiction of the Municipality.

- b. SCW Program funds refunded by a Project Developer shall be used to implement Projects in the same Watershed Area from which the revenues were collected.
 - 3. Failure to comply with a notice to refund funds by the required date shall result in immediate suspension of future SCW Program fund disbursements to that entity until such time as funds are refunded.
 - 4. If the District determines that a Municipality or Project Developer has failed to comply with any applicable requirement of the SCW Program, the District, at its discretion, may issue a written notice to the Municipality or Project Developer of that determination and that the District shall withhold future disbursements of SCW Program funds pending compliance. Withheld disbursements shall be retained by the District for a period of five (5) years after which, if the violation has not been resolved, they shall revert back to the District and be reprogrammed by the respective Watershed Area Steering Committee for another Project.
 - 5. If a Project Developer or Municipality disputes a determination by the District, as described above, the Project Developer or Municipality may submit a notice of appeal to the District not later than ten (10) business days from the date of the written notice from the District. The District shall appoint a hearing officer to conduct a hearing on the appeal. The submission of a notice of appeal does not relieve the Municipality or Project Developer of the obligation to refund the SCW Program funds in dispute. If the hearing officer determines an adjustment is required, that adjustment shall be reflected in the next disbursement of SCW Program funds.
- F. The District shall not be required to accept ownership or responsibility for any Project developed, implemented or constructed by a Municipality or a Project Developer with SCW Program funds. Unless the District enters into an express agreement with a Project Developer 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") shall be liable in connection with errors, defects, injuries, property damage caused by or attributed to any Project that is funded in whole or in part with SCW Program funds, and each Municipality and Project Developer shall 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 Project developed, implemented, or constructed by the Municipality or Project Developer that is funded, in whole or in part, with the SCW Program funds, except for claims, liability, and expenses, resulting from the sole negligence or willful misconduct of District Indemnitees.

16.13 Amendment of Ordinance.

Except for amendments that would increase the tax rate, impose the tax on properties exempt, change the expenditure plan, violate state law or be inconsistent with the purposes of this ordinance, the Board is hereby authorized to amend this ordinance as may be convenient or necessary to comply with the intent of this ordinance or otherwise required by law without submitting the amendment to the voters for approval.

16.14 Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provisions or applications, and to this end the provisions of this ordinance are declared to be severable. The Board and the electorate, should it approve the special Parcel tax, do hereby declare that they would have adopted and approved this ordinance and the special Parcel tax and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof, be declared invalid or unconstitutional. In case any provision of this ordinance shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this ordinance shall not in any way be affected or impaired thereby.

16.15 Effective Date.

This ordinance shall take effect immediately upon approval by two-thirds of the electorate voting in an election on this ordinance.

16.16 Statute of Limitations

Pursuant to Government Code Section 50077.5 and Code of Civil Procedure Section 860, any judicial action or proceeding to attack, review, set aside, or annul this special Parcel tax, if approved by the voters, shall be commenced within 60 days of the effective date of this ordinance.

16.17 Execution.

The Chair of the Board of Supervisors is authorized to attest to the adoption of this ordinance by the voters of the County.