

ANALYSIS

This ordinance amends the Los Angeles County Flood Control District Code by amending Chapter 16, relating to the Los Angeles Region Safe, Clean Water Program, and adding Chapter 18, relating to Safe, Clean Water Program implementation.

MARY C. WICKHAM
County Counsel

By



MARK T. YANAI
Principal Deputy County Counsel
Public Works Division

MTY:lt

Requested: 11/06/18
Revised: 07/25/19

ORDINANCE NO. _____

An ordinance amending Chapter 16 of the Los Angeles County Flood Control District Code, relating to the Los Angeles Region Safe, Clean Water Program, and adding Chapter 18 to the Los Angeles County Flood Control District Code, relating to Safe, Clean Water Program implementation.

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

SECTION 1. Section 16.03 is hereby amended to read as follows:

16.03 Definitions.

As used in this Chapter, the following terms mean:

...

F. "Community Investment Benefit" means a benefit created in conjunction with a Project or Program, such as, but not limited to: improved flood management, flood conveyance, or flood risk mitigation; creation, enhancement or restoration of parks, habitat or wetlands; improved public access to waterways; enhanced or new recreational opportunities; and greening of schools. A Community Investment Benefit may also include a benefit to the community derived from a Project or Program that improves public health by reducing heat island effect, and increasing shade or planting of trees and/or other vegetation that increase carbon reduction/sequestration, and improve air quality.

...

N. "Infrastructure Program" means the program, implemented as part of the Regional Program, described in Section 16.05.D.1 of this Chapter.

NO. "Infrastructure Program Project Applicant" means any individual, group, business or governmental entity, including, but not limited to, the District, a Municipality, watershed management group, joint powers authority, public utility, special district, school, community-based organization, non-governmental organization, non-profit organization, federally-recognized Indian tribe, State Indian tribe listed on the Native American Heritage Commission's California Tribal Consultation List, or mutual water company, that submits a proposed Project or Feasibility Study for consideration for funding by the SCW Program.

OP. "Infrastructure Program Project Developer" means the individual, group or entity that carries out or causes to be carried out part or all of the actions necessary to complete a Project.

Q. "Low-Income Household" means a household in the District with a household income that does not exceed the Low-Income limit for Los Angeles County, as determined annually by the California Department of Housing and Community Development.

R. "Low-Income Senior-Owned Parcels" means Parcels within the District that are owned and occupied as a residence by individuals over the age of sixty-two (62) who are the head of a Low-Income Household.

PS. "Multi-Benefit Project" means a Project that has: (1) a Water Quality Benefit, and (2) a Water Supply Benefit or a Community Investment Benefit, or both.

QT. "Municipal Program" means that part of the SCW Program described in Section 16.05.C. of this Chapter.

RU. "Municipality" means a city within the District, or the County, pertaining to unincorporated areas within the District.

SV. "Nature-Based Solution" means a Project that utilizes natural processes that slow, detain, infiltrate or filter Stormwater or Urban Runoff. These methods may include relying predominantly on soils and vegetation; increasing the permeability of Impermeable Areas; protecting undeveloped mountains and floodplains; creating and restoring riparian habitat and wetlands; creating rain gardens, bioswales, and parkway basins; and enhancing soil through composting, mulching, and planting trees and vegetation, with preference for native species. Nature-Based Solutions may also be designed to provide additional benefits such as sequestering carbon, supporting biodiversity, providing shade, and creating and enhancing parks and open space, and improving quality of life for surrounding communities. Nature-Based Solutions includes Projects that mimic natural processes, such as green streets, spreading grounds and planted areas with water storage capacity.

TW. "Parcel" means a parcel of real property situated within the District, as shown on the latest equalized assessment roll of the County and identified by its Assessor's Parcel Number, and that is tributary to a receiving water identified in the Water Quality Control Plan for the Los Angeles Region in effect as of January 1, 2018. Parcel shall not include a possessory interest based on a private, beneficial use of government-owned real property.

~~UX.~~ "Program" means a planned, coordinated group of activities related to increasing Stormwater or Urban Runoff capture or reducing Stormwater or Urban Runoff pollution in the District.

~~VY.~~ "Project" means the development (including design, preparation of environmental documents, obtaining applicable regulatory permits, construction, inspection, and similar activities), operation and maintenance (including monitoring), of a physical structure or facility that increases Stormwater or Urban Runoff capture or reduces Stormwater or Urban Runoff pollution in the District.

~~WZ.~~ "Regional Oversight Committee" ("ROC)" means athe body created by the Board whose responsibilities include, but are not limited to, assessing and making recommendations to the Board regarding whether the SCW Program purposesGoals are being achieved.

~~XAA.~~ "Regional Program" means that part of the SCW Program described in Section 16.05.D. of this Chapter.

~~YBB.~~ "Safe, Clean Water (SCW) Program" ("SCW Program") means the program established by this ordinance, including the administration of revenues from the Special Parcel Tax levied pursuant to this ordinance, and the criteria and procedures for selecting and implementing Projects and Programs and allocating revenues among the Municipal, Regional, and District Programs.

CC. "SCW Program Goals" means the goals of the SCW Program described in Section 18.04 of Chapter 18 of this code.

DD. "Scientific Studies Program" means the program, implemented as part of the Regional Program, described in Section 16.05.D.3. of this Chapter.

ZEE. "Special Parcel Tax" means the tax described in Section 16.08 of this Chapter.

A AFF. "Stakeholder" means a person; Municipality; watershed management group; joint powers authority; citizens' group; homeowner or other property owner; business; non-governmental organization; social justice group; health advocate; local park representative; school board member; environmental group; labor union; academic institution; neighborhood council; town council; community group; water resources agency, such as a groundwater pumper or manager, or a private or public water agency; other governmental agency; or other interested party that has a direct or indirect stake in the SCW Program.

BBGG. "Stormwater" means water that originates from atmospheric moisture (rainfall or snowmelt) and falls or flows onto land, water or other surfaces.

HH. "Stormwater Investment Plan" ("SIP") means a five (5) year plan developed by a Watershed Area Steering Committee that allocates funding for Projects and Programs in the Regional Program's Infrastructure Program, Technical Resources Program, and Scientific Studies Program for the ensuing fiscal year and lays out tentative funding for four (4) subsequent years. SIPs will be approved by the Board on an annual basis.

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

JJ. "Technical Resources Program" means the program, implemented as part of the Regional Program, described in Section 16.05.D.2. of this Chapter.

KK. "Transfer Agreement" means the agreement described in Section 16.05.A.1. of this Chapter, between the District and an Infrastructure Program Project Developer or Municipality to transfer SCW Program funds.

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

EEEMM. "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.

FFNN. "Water Quality Benefit" means a reduction in Stormwater or Urban Runoff pollution, such as improvements in the chemical, physical, and biological characteristics of Stormwater or Urban Runoff in the District. Activities resulting in this benefit include, but are not limited to: infiltration or treatment of Stormwater or Urban Runoff, non-point source pollution control, and diversion of Stormwater or Urban Runoff to a sanitary sewer system.

GGOO. "Water Supply Benefit" means an increase in the amount of locally available water supply, provided there is a nexus to Stormwater or Urban Runoff capture. Activities resulting in this benefit include, but are not limited to, the following: reuse and conservation practices, diversion of Stormwater or Urban Runoff to a sanitary sewer system for direct or indirect water recycling, increased groundwater replenishment or available yield, or offset of potable water use.

HHPP. "Watershed Area" means the regional hydrologic boundaries as depicted on maps maintained by the District for the SCW Program, that are established in consideration of topographic conditions and other factors. The SCW Program includes the following nine (9) Watershed Areas: (1) Central Santa Monica Bay; (2) Lower Los Angeles River; (3) Lower San Gabriel River; (4) North Santa Monica Bay; (5) Rio Hondo; (6) Santa Clara River; (7) South Santa Monica Bay; (8) Upper Los Angeles River; and (9) Upper San Gabriel River.

HHQQ. "Watershed Area Steering Committee" means a body created by the Board, one for each Watershed Area, ~~whose responsibilities include programming funding for the purpose of developing SIPs and recommendations for other activities to be funded through the Regional Program.~~

SECTION 2. Section 16.04 is hereby amended to read as follows:

16.04 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 and Programs to increase Stormwater or Urban Runoff capture or reduce Stormwater or Urban Runoff pollution in the District in accordance with criteria and procedures established in this Chapter and Chapter 18 of this code. Projects and Programs funded by the revenues from the Special Parcel Tax may provide a Water Supply Benefit, Water Quality Benefit, and Community Investment

Benefit. The District shall allocate the revenues derived from the Special Parcel Tax as follows:

...

3. Fifty percent (50%) shall be allocated to pay for the implementation, operation and maintenance, and the administration of Projects and Programs implemented through the Regional Program, including Projects and Programs identified in approved 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, 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 and Chapter 18 of this code. Funds allocated to the Regional Program shall be distributed among the nine (9) Watershed Areas in proportion to the funds generated in each Watershed Area.

...

SECTION 3. Section 16.05 is hereby amended to read as follows:

16.05 Program Elements.

A. General Requirements

...

2. Expenditures eligible for SCW Program funds include, but are not limited to, the following:

a. Infrastructure development tasks including design and planning, preparation of grant applications, preparation of environmental documents, obtaining permits, construction, operations and maintenance, and inspection;

...

3. Ineligible expenditures for SCW Program funds include, but are not limited to, the following:

...

b. Expenditures related to the investigation, defense, litigation, or judgment associated with any regulatory permit violations, notices of violation, or allegations of noncompliance with regulations brought forth by any State, federal, or local regulatory agency, or a third party unrelated to Projects and Programs selected for funding under the SCW Program;

...

f. Costs and expenses incurred prior to November 6, 2018.

B. District Program.

Ten percent (10%) of the revenue from the annual Special Parcel Tax shall be allocated for the District Program. The District shall perform the following functions as part of the District Program:

...

4. Provide technical assistance, including the hiring and coordination of watershed coordinators.

...

D. Regional Program.

...

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

...

c. Shall be programmed in accordance with the Board-approved SIPs ~~by Watershed Area Steering Committees for respective~~ each of the Watershed Areas;

...

E. Regional Oversight Committee.

The Regional Oversight Committee ("ROC") is an independent body that ensures the SCW Program gGoals are met. The ROC shall consist of subject-matter experts, with knowledge in Water Quality Benefits, Water Supply Benefits, Nature-Based Solutions, Community Investment Benefits, public health, sustainability, and other pertinent subject-matter. The ROC shall prepare SCW Program progress reports and submit recommendations to the Board. ROC members shall be governed by and comply with State conflict of interest laws (e.g., ~~Government Code sections~~ Gov. Code §§ 1090 et seq. and 870100 et seq.) and the County's conflict of interest policies.

SECTION 4. Section 16.09 is hereby amended to read as follows:

16.09 Exemptions.

The following Parcels shall be subject to exemption from the Special Parcel Tax specified in Section 16.08 of this Chapter:

...

B. Upon application, ~~low-income senior-owned~~Low-Income Senior-Owned Parcels.

SECTION 5. Section 16.10 is hereby amended to read as follows:

16.10 Credit, Incentive and Credit Trading Program.

~~The Board shall adopt an ordinance, not later than August 1, 2019, establishing criteria and procedures consistent with the following provisions:~~

A. Credit program. The District shall implement a credit program consistent with the following provisions and in accordance with the provisions of Section 18.10 of Chapter 18 of this code. The credit program shall provide a credit to Parcel owners (including Parcel owners in developments served by a centralized Stormwater or Urban Runoff system) for qualifying improvements that capture or treat Stormwater or Urban Runoff or reduce Stormwater or Urban Runoff pollution in the District.

1. Unless otherwise approved by the District, water quality credit shall be calculated based on the extent to which a Parcel(s) has complied with (1) an applicable Low Impact Development (LID) ordinance, (2) Standard Urban Stormwater Mitigation Plan (SUSMP) requirements, (3) an Industrial General Permit (IGP), (4) another Los Angeles Regional Water Quality Control Board-approved permit governing the discharge of Stormwater or Urban Runoff (RWQCB Stormwater Permit),

or (5) some combination of Stormwater or Urban Runoff discharge requirements for the Parcel. Credit shall also be available for improvements or projects that result in Water Supply Benefits or Community Investment Benefits.

2. The maximum credit under the credit program shall be one hundred percent (100%) of each Parcel's specific Special Parcel Tax amount.

3. The credit program shall include provisions allowing for aggregating Parcels under common ownership and applying the credit in developments served by centralized Stormwater or Urban Runoff improvements.

~~B. Incentive Program. The District may establish an incentive program to recognize and reward efforts that advance the goals of the SCW Program.~~

EB. Credit trading program. The District shall establish a credit trading program that, at a minimum, would allow Parcel owners to purchase and sell credits to satisfy Special Parcel Tax obligations. The program shall be implemented in accordance with the provisions of Section 18.11 of Chapter 18 of this code.

~~D. Low-income credit. The District may establish a credit for qualifying Parcel owners who are low-income.~~

C. The Chief Engineer shall work with stakeholders to develop and implement a general income-based tax reduction program, including implementation procedures and guidelines for the program, and shall update those implementation procedures and guidelines 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.

D. The Chief Engineer shall work with stakeholders to explore the feasibility of, and options for, additional incentives beyond or in support of the credit, income-based tax reduction, low-income senior exemption, and credit trading programs.

SECTION 6. Section 16.11 is hereby amended to read as follows:

16.11 Lapsed Funds.

A. Municipalities and Infrastructure Program Project Developers shall be able to carry over uncommitted Special Parcel Tax funds for up to five (5) years from the end of the fiscal year in which those funds are transferred from the District to the Municipality or Infrastructure Program Project Developer. Additional requirements may be included in the ~~Transfer a~~Agreement.

B. Municipalities and Infrastructure Program Project Developers who are unable to expend ~~their approved funding as described in their budgets~~SCW Program funds in a timely manner shall be subject to lapsing funds procedures. Lapsed funds are funds that were ~~committed and approved~~transferred to a Municipality or an Infrastructure Program Project Developer, but were not able to be spent~~committed~~per the approved schedule to eligible expenditures by the end of the fifth (5th) fiscal year after the fiscal year in which those funds were transferred from the District. ~~Unspent funds are considered lapsed five (5) years after the transfer agreement execution date.~~

C. Lapsed funds shall be ~~reprogrammed~~allocated by the Watershed Area Steering Committee of the respective Watershed Area to a new Project or Program recommendation with benefit to that Municipality or Watershed Area.

SECTION 7. Section 16.12 is hereby amended to read as follows:

16.12 Reporting Requirements.

A. Each Municipality shall prepare a progress/expenditure report describing their use of Municipal Program funds in accordance with the provisions of Section 18.06.D. of Chapter 18 of this code. ~~The report shall include details that summarize the expenditures and describe the Water Quality Benefits, Water Supply Benefits, Nature-Based Solutions, and Community Investment Benefits realized through use of Municipal Program funds.~~

B. Each Infrastructure Program Project Developer shall prepare progress/expenditure reports describing its use of Regional Program funds in accordance with the provisions of Section 18.07.F. of Chapter 18 of this code. ~~The reports shall include details that summarize the expenditures and describe the Water Quality Benefits, Water Supply Benefits, Nature-Based Solutions, and Community Investment Benefits realized through use of Regional Program funds.~~

SECTION 8. Section 16.13 is hereby amended to read as follows:

16.13 Audit Recordkeeping.

The following recordkeeping and audit requirements shall apply:

...

C. At all reasonable times, Municipalities and Infrastructure Program Project Developers shall permit the Chief Engineer, ~~or their authorized representative,~~ to examine all Projects and Programs that were erected, constructed, implemented, operated, or maintained, in whole or part, using SCW Program funds. Municipalities

and ~~Watershed Area Steering Committees~~ Infrastructure Program Project Developers shall permit the authorized District representative, including the Auditor-Controller, 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 or Programs funded, in whole or part, by the SCW Program.

SECTION 9. Section 16.15 is hereby amended to read as follows:

16.15 Amendment of Ordinance.

...

B. After a period of no longer than thirty (30) years, the Board shall evaluate the needs of the SCW Program and make an affirmative determination that the Special Parcel Tax is needed to build additional Projects to achieve Water Quality Benefits and other benefits in accordance with the ~~goals of the~~SCW Program Goals. Should the Board determine that no additional Projects are needed, the Special Parcel Tax will be reduced accordingly, to reflect a transition from funding new Projects to funding operation, maintenance and replacement of Projects that were constructed with SCW Program funds during the previous thirty (30) years.

SECTION 10. Section 16.16 is hereby amended to read as follows:

16.16 Direction to Board.

The Board shall adopt an ordinance or ordinances implementing the following provisions:

...

B. An exemption from the Special Parcel Tax for Low-income Senior-Owned Parcels who apply for such exemption consistent with Section 16.09.B.

SECTION 11. Chapter 18 is hereby added to read as follows:

18.01 Title.

This Chapter shall be known as the "Safe, Clean Water Program Implementation Ordinance."

18.02 Definitions.

The definitions set forth in Section 16.03 of Chapter 16 of this code shall apply to this Chapter 18. In addition, the following definitions shall apply to this Chapter 18:

A. "Additional Activities Credit" means a credit against a Parcel's Special Parcel Tax amount for Parcel owners that initiate and complete qualifying additional activities after November 6, 2018, that confer benefits to the broader regional community related to SCW Program Goals. Implementation criteria and procedures related to Additional Activities Credit will be established in the Credit Program Procedures and Guidelines.

B. "Benefited Development" means a group of Parcels that drain to common, centralized Stormwater Improvements. Implementation criteria and procedures related to Benefited Developments will be established in the Credit Program Procedures and Guidelines.

C. "Community Investment Credit" means a credit against a Parcel's Special Parcel Tax amount for Stormwater Improvement that results in a Community Investment Benefit.

D. "Credit Program Procedures and Guidelines" means the implementation procedures and guidelines for the credit program described in Section 18.10.A. of this Chapter.

E. "Feasibility Study Guidelines" means the guidelines for the preparation of Feasibility Studies described in Section 18.07.B.3. of this Chapter.

F. "Industrial General Permit" ("IGP") means the set of requirements by which the State Water Resources Control Board and Los Angeles Regional Water Quality Control Board implement and enforce regulations on industrial storm water discharges and authorized non-storm water discharges from industrial facilities in California. The Industrial General Permit is called a general permit because many industrial facilities are covered by the same permit but comply with its requirements at their individual industrial facilities.

G. "Low Impact Development Ordinance" ("LID Ordinance") means the most recent ordinance establishing local low impact development standards and requirements on certain new development and redevelopment projects operative within the Municipality in which the project is located that conforms to requirements imposed by the Los Angeles Regional Water Quality Control Board on that Municipality through the Municipality's MS4 Permit. In the absence of an operative LID Ordinance in the Municipality in which the project is located, the most current LID Ordinance adopted by the County shall apply.

H. "MS4 Permit" means Order No. R4-2012-0175 (As Amended By State Water Board Order WQ 2015-0075 and Order No. R4-2012-0175-A01) NPDES

Permit No. CAS004001 Waste Discharge Requirements For Municipal Separate Storm Sewer System (MS4) Discharges Within The Coastal Watersheds of Los Angeles County, Except Those Discharges Originating From The City of Long Beach MS4 or Order No. R4-2014-0024 (As Amended By Order No. R4-2014-0024-A01) NPDES Permit No. CAS004003 Waste Discharge Requirements For Municipal Separate Storm Sewer System Discharges From The City of Long Beach, or any successor permit issued by the Los Angeles Regional Water Quality Control Board.

I. "ROC Operating Guidelines" means the operating guidelines for the ROC described in Section 18.08.A.3. of this Chapter.

J. "RWQCB Stormwater Permit" means a permit other than an IGP, issued by the Los Angeles Regional Water Quality Control Board, governing the discharge of Stormwater or Urban Runoff.

K. "SCW Program Progress Report" means a biennial report that summarizes all Regional Program WARPP Reports, all Municipal Program annual progress and expenditure reports, and all District Program annual reports and makes findings regarding whether and the extent to which SCW Program requirements were met and SCW Program Goals were achieved.

L. "Scoring Committee" means a group of six (6) subject-matter experts in Water Quality Benefits, Water Supply Benefits, Nature-Based Solutions, and Community Investment Benefits created by the Board to review and score Projects and Feasibility Studies in connection with the Infrastructure Program.

M. "Scoring Committee Operating Guidelines" means the operating guidelines for the Scoring Committee described in Section 18.07.C.3.c. of this Chapter.

N. "Standard Urban Stormwater Mitigation Plan" ("SUSMP") means a plan that designates best management practices that must be used in specified categories of development projects under NPDES permits, as approved by the Los Angeles Regional Water Quality Control Board.

O. "Stormwater Improvement" means a structure or facility, or system of structures or facilities, that captures Stormwater or Urban Runoff or reduces Stormwater or Urban Runoff pollution in the District.

P. "Technical Assistance Team" means a group of subject-matter experts in Stormwater and/or Urban Runoff infrastructure design, hydrology, soils, Nature-Based Solutions, green infrastructure, Stormwater and/or Urban Runoff quality, water supply, recreation, open space, community needs, and other related areas, provided by the District to assist Infrastructure Program Project Applicants and others, as part of the Technical Resources Program.

Q. "Threshold Score" means a minimum score that Projects must meet or exceed in order to be eligible for Infrastructure Program funding.

R. "WASC Operating Guidelines" means the operating guidelines for the WASC described in Section 18.07.G.1.e. of this Chapter.

S. "Water Quality Credit" means a credit against a Parcel's Special Parcel Tax amount for a Stormwater Improvement that results in a Water Quality Benefit by complying with: (1) an applicable LID Ordinance, (2) applicable SUSMP requirements,

(3) an applicable IGP, (4) an applicable RWQCB Stormwater Permit, or (5) any combination of the foregoing.

T. "Water Supply Credit" means a credit against a Parcel's Special Parcel Tax amount for a Stormwater Improvement that results in a Water Supply Benefit.

U. "Watershed Area Regional Program Progress (WARRP) Report" means an annual report describing the progress of all Projects and Programs included in an SIP during the previous year and summarizing how the implementation of the SIP during the previous year has achieved SCW Program Goals.

V. "Watershed Coordinator" means one or more persons assigned to assist a Watershed Area Steering Committee with community and stakeholder education and engagement and to perform the other activities described in Section 18.07.D.3. of this Chapter.

18.03 Purpose.

The purpose of this Chapter is to establish additional criteria and procedures related to the implementation of the Los Angeles Region Safe, Clean Water Program described in Chapter 16 of this code. The Board may consider revisions to Chapter 16 of this code and this Chapter 18 in connection with the first biennial public hearing, as described in Section 18.08.C.5. below, and as needed thereafter.

18.04 SCW Program Goals.

The Los Angeles Region Safe, Clean Water Program shall be implemented consistent with the following goals:

- A. Improve water quality and contribute to attainment of water-quality requirements.
- B. Increase drought preparedness by capturing more Stormwater and/or Urban Runoff to store, clean, reuse, and/or recharge groundwater basins.
- C. Improve public health by preventing and cleaning up contaminated water, increasing access to open space, providing additional recreational opportunities, and helping communities mitigate and adapt to the effects of climate change through activities such as increasing shade and green space.
- D. Leverage other funding sources to maximize SCW Program Goals.
- E. Invest in infrastructure that provides multiple benefits.
- F. Prioritize Nature-Based Solutions.
- G. Provide a spectrum of project sizes from neighborhood to regional scales.
- H. Encourage innovation and adoption of new technologies and practices.
- I. Invest in independent scientific research.
- J. Provide DAC Benefits, including Regional Program infrastructure investments, that are not less than one hundred and ten percent (110%) of the ratio of the DAC population to the total population in each Watershed Area.
- K. Provide Regional Program infrastructure funds benefitting each Municipality in proportion to the funds generated within their jurisdiction, after accounting for allocation of the one hundred and ten percent (110%) return to DACs, to the extent feasible.

L. Implement an iterative planning and evaluation process to ensure adaptive management.

M. Promote green jobs and career pathways.

N. Ensure ongoing operations and maintenance for Projects.

18.05 District Program Implementation.

A. The District Program shall be implemented in accordance with the provisions of this Section.

B. The District shall perform the following functions as part of the implementation of the District Program:

1. Administer the SCW Program, including collection of the Special Parcel Tax and distribution of funds; administration of credit, credit trading, low-income senior, and any income-based tax reduction or incentive programs; review of budgets and reports; and conducting of audits.

2. Annually prepare a five (5) year revenue forecast for each Watershed Area.

3. Plan, implement, and maintain District Projects.

4. Administer and provide staffing for the Regional Program.

5. Provide staffing for the Scoring Committee, Watershed Area Steering Committees, and the ROC.

6. Provide for coordination of Watershed Coordinators to ensure consistency and sharing of best practices and resources across the District.

7. Provide Technical Assistance Teams and Watershed Coordinators funded by the Technical Resources Program. The District may, in its discretion, also provide Technical Assistance Teams using funds allocated to the District Program.

8. Coordinate Watershed Area scientific studies funded by the Scientific Studies Program.

9. Engage Stakeholders in the planning process for use of the District Program funds.

10. Operate in accordance with best practices for government agencies.

11. Conduct independent audits to ensure compliance with requirements of the SCW Program.

12. Prepare, prior to the start of the District's fiscal year, a plan for how SCW Program funds will be used.

13. Prepare within six (6) months after the end of the District's fiscal year an annual report that details a Program-level summary of expenditures and a description of Water Quality Benefits, Water Supply Benefits, and Community Investment Benefits realized through use of District Program funds.

14. Comply with all SCW Program audit requirements.

C. Educational Programs.

1. The Chief Engineer shall implement and administer the following educational Programs:

a. Public education and community engagement Programs throughout the District, including a sustained education and engagement Program for disadvantaged communities;

b. Local workforce job training, which will provide certification classes and vocational training at the community level for the construction, inspection, operation and maintenance of Stormwater or Urban Runoff management and Multi-Benefit Projects, including instruction regarding applicable design concepts; and

c. Schools education and curriculum Programs.

2. Not less than twenty percent (20%) of District Program funds shall be allocated for these Programs over a revolving five (5) year period.

3. These Programs will be implemented throughout the District with special attention to the needs of DACs.

4. The Chief Engineer shall partner with Stakeholders to collaboratively develop and implement these Programs.

18.06 Municipal Program Implementation.

A. The Municipal Program shall be implemented in accordance with the provisions of this Section.

B. Each Municipality receiving Municipal Program funding from the SCW Program shall perform the following functions as part of the Municipal Program:

1. Prioritize the development of Projects that, to the extent feasible, assist in achieving compliance with the MS4 Permit.

2. Prepare, prior to the start of that Municipality's fiscal year, a plan for how SCW Program funds will be used in the ensuing fiscal year.

3. Comply with all SCW Program reporting and audit requirements, and provide to the District additional financial and other information, as required by the SCW Program or upon request of the District.

4. As part of the Municipal Program planning process, consider Municipal-level requests for Projects from eligible Infrastructure Program Project Applicants.

5. At least annually, prepare and provide to the public informational materials containing up-to-date information on the Municipality's actual and budgeted use of revenues from the SCW Program.

6. Operate in accordance with best practices for government agencies.

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

8. Identify or establish, and then execute, a plan to engage with Stakeholders in the planning process for use of the Municipal Program funds during the planning and implementation of Projects and Programs.

9. Comply with all Transfer Agreement requirements.

10. Prepare a vector minimization plan addressing vector considerations for the design, operation, and maintenance of each Project.

C. Maintenance of Effort.

1. A Municipality must spend at least seventy percent (70%) of its Municipal Program funds annually on eligible expenses related to Projects or Programs implemented on or after November 6, 2018, which also includes operations and maintenance of Projects built to comply with the MS4 Permit, so long as the Project complies with Municipal Program requirements.

2. Up to thirty percent thirty percent (30%) of a Municipality's Municipal Program funds may be used to pay for costs and expenses incurred on or after November 6, 2018, related to the continuation of Programs implemented or the maintenance of Projects implemented prior to November 6, 2018.

D. Municipal Program Annual Progress/Expenditure Reports.

1. Each Municipality shall prepare and submit an annual report to the District, not later than six months after the end of that Municipality's fiscal year.

2. The annual report shall include the following information:

a. A summary of the expenditures and Water Quality, Water Supply, and Community Investment Benefits realized through use of SCW Program funds;

b. The amount of SCW Program funds expended;

c. Documentation that the SCW Program funds were used for eligible expenditures;

d. A description of work accomplished during the reporting period;

- e. The milestones or deliverables completed/submitted during the reporting period;
- f. The work anticipated to be accomplished during the next reporting period;
- g. Photo documentation of the above, as appropriate;
- h. Additional information as required by the District; and
- i. A description of the Municipality's stakeholder-engagement activities during the reporting period, including documentation, as appropriate.

3. The District shall review each Municipality's annual report to make a preliminary determination of whether and the extent to which each Municipality's expenditures achieved SCW Program Goals, and the District shall forward its preliminary determination to the ROC.

4. The ROC shall review the Municipalities' annual reports after the District has completed its preliminary determination, to evaluate whether and the extent to which the Municipalities' expenditures achieved SCW Program Goals and develop recommendations as appropriate. The ROC shall report its findings and recommendations to the Board and provide copies to the respective Municipalities.

18.07 Regional Program Implementation.

A. The Regional Program shall be implemented in accordance with the provisions of this Section.

B. Stormwater Investment Plans (SIP).

1. A SIP shall be adopted for each Watershed Area, annually, in accordance with the following procedure:
 - a. The District shall prepare a five (5) year revenue forecast for each Watershed Area;
 - b. The District shall request proposals for Projects to be included in the Infrastructure Program, Project concepts to be included in the Technical Resources Program, and studies and other activities to be included in the Scientific Studies Program, for each Watershed Area SIP. Small and medium scale, community-level Projects may be combined into a single Project proposal to promote efficiency, achieve economies of scale and advance local-hire and job-training goals. If an Infrastructure Program Project Applicant intends for operation and maintenance costs to be considered for inclusion in a SIP, the Applicant's proposal must include an operation and maintenance plan that identifies the required activities over the useful life of the Project and any expertise or technical training necessary to perform the activities, identify the party that will be responsible for operation and maintenance of the Project, and include a letter of commitment from that party to operate and maintain the Project throughout the Project's useful life;
 - c. Each Watershed Area Steering Committee shall determine which proposed Feasibility Studies and/or Projects to submit to the Scoring Committee for evaluation. Only Projects meeting the following criteria shall be submitted to the Scoring Committee for evaluation:

(1) Projects for which a Feasibility Study has been completed or for which equivalent information has been developed and is available for review by the Scoring Committee;

(2) Projects that are Multi-Benefit Projects;

(3) Projects that are included in a stormwater resource plan developed in accordance with Part 2.3 (commencing with § 10560) of Division 6 of the Water Code, a watershed management program developed pursuant to an MS4 Permit, an Integrated Regional Water Management Plan, or other regional water management plan if determined to be equivalent by the District; and

(4) Projects designed for a minimum useful life of thirty (30) years.

d. Projects for which a Feasibility Study has not been completed and that lack equivalent information may be referred to the Technical Resources Program at the discretion of the Watershed Area Steering Committee;

e. The Scoring Committee shall evaluate each proposed Project submitted by the Watershed Area Steering Committees and shall return scores for each proposed Project to the respective Watershed Area Steering Committee;

f. The District shall establish a Threshold Score for Projects proposed for inclusion in the Infrastructure Program. The Threshold Score shall be identified in the Feasibility Study Guidelines;

g. Each Watershed Area Steering Committee shall review and evaluate the proposed Project scores, proposed Project concepts and proposed

studies, and shall prepare and submit a SIP, in a standard format established in the WASC Operating Guidelines, to the Regional Oversight Committee for review. Projects that lack sufficient information to be scored, or that do not score above the Threshold Score, may be included in the Technical Resources Program at the discretion of the Watershed Area Steering Committee;

h. The ROC shall review each SIP, determine whether and the extent to which each SIP achieves the SCW Program Goals, and provide its findings and recommendations to the respective WASC and to the Board;

i. The Board shall consider each SIP together with the Regional Oversight Committee's recommendation and shall either approve the SIP or return it to the appropriate Watershed Area Steering Committee for revision and resubmittal; and

j. Once the Board approves a SIP, the District shall transfer SCW Program funds to Infrastructure Program Project Developers as indicated in the SIP.

2. SIPs shall be developed by the Watershed Area Steering Committees in accordance with the following criteria:

a. Not less than eighty-five percent (85%) of the budget shall be allocated to Infrastructure Program activities, not more than ten (10%) of the budget shall be allocated to Technical Resource Program activities, and not more than five percent (5%) of the budget shall be allocated to Scientific Studies Program activities;

b. Projects that assist in achieving compliance with a MS4 Permit shall be prioritized, to the extent feasible;

c. Funding for Projects that provide DAC Benefits shall not be less than one hundred and ten percent (110%) of the ratio of the DAC population to the total population in each Watershed Area. To facilitate compliance with this requirement, the District will work with stakeholders and Watershed Coordinator(s) to utilize existing tools to identify high-priority geographies for water-quality improvement projects and other projects that create DAC Benefits within DACs, to help inform WASCs as they consider project recommendations;

d. Each Municipality shall receive benefits in proportion to the funds generated within their jurisdiction, after accounting for allocation of the one hundred ten percent (110%) return to DACs, to the extent feasible, to be evaluated annually over a rolling five (5) year period;

e. A spectrum of Project types and sizes shall be implemented throughout the region, to the extent feasible, to be evaluated annually over a rolling five (5) year period;

f. Nature-Based Solutions shall be prioritized, to the extent feasible;

g. Projects, Feasibility Studies, scientific and technical studies, and other activities selected for inclusion in a SIP should be recommended to receive funding for their total estimated costs, unless a lesser amount has been requested;

h. Operation and maintenance costs for any Project may be included in the Infrastructure Program portion of a SIP, whether or not the design and construction of that Project was included in a SIP; and

i. Only Projects that meet or exceed the Threshold Score shall be eligible for inclusion in the Infrastructure Program. Projects that receive a score below the Threshold Score may be referred to the Technical Resources Program at the discretion of the Watershed Area Steering Committee.

3. The Chief Engineer shall develop and adopt guidelines for the preparation of Feasibility Studies (Feasibility Study Guidelines), including required contents, and shall update those guidelines 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 Regional Program. Prior to adopting or updating the guidelines, the Chief Engineer shall provide not less than thirty (30) days' advance public notice of the proposed guidelines or revisions. Public notice shall, at a minimum, include posting the proposed guidelines or revisions on the SCW Program website.

C. Infrastructure Program Implementation.

1. Prior to the disbursement of any funds for a Project that has been selected for inclusion in the Infrastructure Program, the Infrastructure Program Project Applicant must identify the Infrastructure Program Project Developer for the Project. The individual, group or entity identified as the Infrastructure Program Project Developer must have sufficient knowledge, experience and resources to effectively manage the

design and construction of the Project and ensure its completion. An Infrastructure Program Project Applicant may designate a construction authority to be the Infrastructure Program Project Developer. Also, at the request of the Infrastructure Program Project Applicant or the Infrastructure Program Project Developer, the District, at its discretion, may act as the Infrastructure Program Project Developer for all or any aspects of a Project.

2. Prior to the disbursement of any funds for a Project that has been selected for inclusion in the Infrastructure Program, the Infrastructure Program Project Applicant must also identify the person or entity that will be responsible for the operation, maintenance and repair of the Project and the source of funds that will be used to pay for the operation, maintenance and repair of the Project, throughout the Project's useful life.

3. Prior to the disbursement of any funds for a Project that has been selected for inclusion in the Infrastructure Program, a vector minimization plan must be prepared addressing vector considerations for the Project.

4. Scoring Committee.

a. The Scoring Committee shall include at least two subject-matter experts in Water Quality Benefits, at least one subject-matter expert in Nature-Based Solutions or Community Investment Benefits, and at least one subject-matter expert in Water Supply Benefits.

b. The members of the Scoring Committee shall comply with State conflict of interest laws (e.g., Gov. Code §§ 1090 et seq. and 87100 et seq.) and all applicable conflict of interest policies of the County;

c. The Chief Engineer shall develop and adopt operating guidelines for the governance of the Scoring Committee and the conduct of Scoring Committee business (Scoring Committee Operating Guidelines), including standard Project-scoring criteria, and shall update those guidelines 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 Scoring Committee and the conduct of Scoring Committee business. Each Scoring Committee member will be required to read and comply with the Scoring Committee Operating Guidelines, among other things, as a condition of serving as a member of the Scoring Committee;

d. The District shall provide staff support to the Scoring Committee using funds from the District Program;

e. The District may compensate members of the Scoring Committee who are not otherwise compensated, in the amount of one hundred dollars (\$100) per meeting attended, using funds from the District Program; and

f. Meetings conducted by the Scoring Committee shall be open to the public.

D. Technical Resource Program Implementation.

1. The purpose of the Technical Resources Program is to provide Technical Assistance Teams to assist persons or organizations that do not have the

necessary technical resources or capabilities with the development of Feasibility Studies and compliance with other technical requirements of the Infrastructure Program, and to provide Watershed Coordinators to educate and build capacity in Watershed Areas and facilitate community and Stakeholder engagement with the Technical Resources Program and the Watershed Area Steering Committees as a whole.

2. Technical Assistance Teams.

a. A Technical Assistance Team shall be assigned to assist with the development of a Feasibility Study for each Project concept identified in a SIP;

b. The District, at the request of a Watershed Area Steering Committee, shall provide a Technical Assistance Team to assist Infrastructure Program Project Applicants and others, as appropriate, in meeting other technical requirements of the Infrastructure Program, including, but not limited to, the amendment of eligible water-quality plans to include a Project and assisting non-Municipal Project Applicants with obtaining letters of support from the applicable Municipality; and

c. Technical Assistance Teams shall be paid for with funds allocated to the Technical Resources Program in the applicable SIP. In addition, the District may, in its discretion, provide Technical Assistance Teams using funds allocated to the District Program.

3. Watershed Coordinators.

a. Not less than one (1) Watershed Coordinator will be assigned to each Watershed Area; plus, one (1) additional Watershed Coordinator will be assigned for each additional one-million people within the Watershed Area;

b. Each Watershed Area Steering Committee shall select their respective Watershed Coordinator(s) from a list of eligible candidates provided by the District and shall designate them in their respective SIPs as part of the Technical Resource Program budget. A single Watershed Coordinator position may be filled by an individual or by multiple employees of a single entity at the discretion of the applicable WASC; and

c. The duties and responsibilities of Watershed Coordinator(s) center around connecting potential applicants with technical resources and building inclusion and meaningful engagement in pursuit of SCW Program Goals, and shall include, but not be limited to, the following:

(1) Work with Technical Assistance Teams to bring resources to potential Infrastructure Program Project Applicants;

(2) Work with Municipalities and Stakeholders to identify and develop Project concepts that may be elevated to the Watershed Area Steering Committees and Technical Assistance Teams to assist with development of Feasibility Studies;

(3) Identify and help leverage and secure additional funding sources for Regional Projects and Programs;

(4) Engage Municipalities, community groups, and other watershed Stakeholders to ensure diverse perspectives are included in planning and implementation of the Regional Program;

(5) Conduct community outreach to diverse communities, with an emphasis on disadvantaged communities;

(6) Provide leadership in community outreach efforts related to watershed planning;

(7) Facilitate collaborative decision-making between private and public entities to develop and implement actions that best address community priorities;

(8) Integrate community, Municipality, and regional priorities through partnerships and extensive networks;

(9) Organize public outreach events included in SIPs, such as workshops, demonstrations, community forums and restoration activities, to educate Stakeholders on stormwater-related topics;

(10) Serve as non-voting members of the Watershed Area Steering Committees for their respective Watershed Areas; and

(11) Collaborate with all other Watershed Coordinators and the District to help ensure consistency in implementation and to inform each other of effective efforts, outreach, and communication approaches, including sharing best practices and resources.

E. Scientific Studies Program Implementation.

1. The purpose of the Scientific Studies Program is to provide funding for scientific and technical activities, including, but not limited to, scientific studies,

technical studies, monitoring, and modeling related to Stormwater and Urban Runoff capture and pollution reduction.

2. Watershed Area Steering Committees will recommend studies and other activities for funding by including the studies or other activities in the Scientific Studies Program portion of their respective SIPs.

3. All studies and other activities included in the Scientific Studies Program portion of a SIP shall be conducted in accordance with accepted scientific protocols.

4. The Scientific Studies Program shall be administered by the District and, to the extent feasible, shall utilize independent research institutions or academic institutions to carry out Scientific Studies or to help design and peer review Scientific Studies carried out by other entities.

F. Progress/Expenditure Reports.

1. Infrastructure Program Project Developers shall prepare quarterly progress and expenditure reports, as described in subsection 3 below, for their respective Projects and Programs.

2. The District shall prepare quarterly progress and expenditure reports, as described in subsection 3 below, for activities undertaken by the District pursuant to the Technical Resources (e.g. Watershed Coordinators and Technical Assistance Teams) and Scientific Studies Programs.

3. Quarterly progress and expenditure reports shall include the following information:

- a. An estimate of the percentage of work completed;
- b. The amount of SCW Program funds expended;
- c. Documentation that the SCW Program funds were used for eligible expenditures;
- d. A discussion of work accomplished during the reporting period;
- e. The milestones or deliverables completed/submitted during the reporting period;
- f. A discussion of any scheduling concerns and issues encountered that may delay completion of the Program or Project;
- g. The work anticipated to be accomplished during the next reporting period;
- h. Photo documentation of the progress and current status of the Project, as appropriate;
- i. Any anticipated schedule or budget modifications; and
- j. A summary of the outreach activities to DACs and expenditures that achieve DAC Benefits.

4. Infrastructure Program Project Developers shall prepare an annual summary of the quarterly progress and expenditure reports for their respective Programs and Projects, including all items listed in Section 18.07.F.3. The annual summary reports shall also include a description of the Water Quality Benefits, Water

Supply Benefits, Community Investment Benefits and the SCW Program Goals achieved during the prior year.

5. The Watershed Area Steering Committees shall review the Infrastructure Program Project Developers' quarterly progress and expenditure reports and the annual summary reports to evaluate whether the schedules, budgets, scopes and expected benefits have significantly changed and remain consistent with the SCW Program Goals. Programs and Projects that are over budget or behind schedule, or that demonstrate reduced or revised scope or benefits, may be adjusted or removed from future SIPs.

6. The Watershed Area Steering Committees shall forward each quarterly progress and expenditure report and each annual summary report to the ROC, together with the Watershed Area Steering Committees' evaluations.

G. Watershed Area Steering Committees.

1. Membership Requirements.

a. Each Watershed Area Steering Committee shall be comprised of seventeen (17) members plus the Watershed Coordinator(s) for the Watershed Area. Seven (7) members shall represent the Municipalities located within the Watershed Area, five (5) members shall represent agency members, and five (5) members shall represent community Stakeholders. Each member shall have a designated alternate to attend committee meetings, participate in accordance with the WASC Operating Guidelines, and vote in the absence of the primary member; and

b. The Municipal members and their alternates shall be selected in accordance with the following:

(1) A Municipality with at least fourteen percent (14%) of the Impermeable Area located within the Watershed Area shall appoint one primary member and one alternate member. A Municipality with at least twenty-eight percent (28%) of the Impermeable Area located within the Watershed Area shall appoint two primary members and two alternate members. A Municipality with at least forty-three percent (43%) of the Impermeable Area located within the Watershed Area shall appoint three primary members and three alternate members. A single Municipality shall not appoint more than three primary and three alternate members to any Watershed Area Steering Committee, unless the Watershed Area is comprised of less than three Municipalities;

(2) The remaining primary Municipal members shall be selected by the unrepresented Municipalities in the Watershed Area; and

(3) All persons selected as primary or alternate members must meet the applicable qualifications described in the WASC Operating Guidelines.

c. The agency members and their alternates shall be selected in accordance with the following:

(1) The Board shall appoint the primary agency members. The agency members will be, to the maximum extent feasible, selected to represent a range of interests within the Watershed Area and to maintain a regional focus;

- (2) One member shall represent the District;
- (3) One member shall represent the largest municipal water district in the Watershed Area;
- (4) One member shall represent the largest watermaster or groundwater agency in the Watershed Area or, if no such agency exists, a second municipal water district;
- (5) One member shall represent the largest local park and open space agency in the Watershed Area;
- (6) One member shall represent the largest sanitation agency in the Watershed Area;
- (7) Each primary member shall designate an alternate member from their organization; and
- (8) All persons selected as primary or alternate members must meet the applicable qualifications described in the WASC Operating Guidelines.

d. The community Stakeholder members and their alternates shall be selected in accordance with the following:

- (1) The Board shall appoint all primary community Stakeholder members. The primary community Stakeholder members will be, to the maximum extent feasible, selected to maintain a geographic balance and represent a range of interests within the Watershed Area and maintain a regional focus;
- (2) One member shall represent environmental justice interests;

- (3) One member shall represent business interests;
- (4) One member shall represent environmental interests;
- (5) The two remaining primary community Stakeholder

members will be from the community, including, but not limited to, public health agencies, labor organizations, non-governmental organizations, community-based organizations, schools and academia;

- (6) Each primary member shall designate an alternate member from their organization; and

- (7) All persons selected as primary or alternate members must meet the applicable qualifications described in the WASC Operating Guidelines.

- e. The Chief Engineer shall develop and adopt operating guidelines for the governance of the WASCs and the conduct of WASC business (WASC Operating Guidelines), including minimum qualifications to serve as a committee member, and shall update those guidelines 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 WASCs and the conduct of WASC business. Each WASC member will be required to read and comply with the WASC Operating Guidelines, among other things, as a condition of serving as a member of the WASC.

2. Meeting Procedures.