June 21, 2019

Department of Public Works
County of Los Angeles
500 West Temple St
Los Angeles, CA 90012

**SUBJECT: Safe, Clean Water Program Implementation Ordinance Comments**

The Los Angeles Area Chamber of Commerce (Chamber) is one of the largest and most influential business organizations in the Los Angeles region. Our organization represents over 1,650 organizations, which employ over 650,000 employees in the region. For over 130 years, the Chamber has proudly served its community working to improve the business climate and quality of life for the region.

The Chamber is committed to the successful implementation of LA County’s Measure W. To assure the Chamber can bring the perspectives and experience of businesses throughout the County, large and small, and with a diverse set of business enterprises and real property holdings, we convened a group of Chamber members whose expertise could be helpful to the County throughout the implementation process. We have reviewed the draft documents and respectfully submit the following comments.

**Implementation Ordinance**

*High Priority:*

- A non-exclusive list of activities eligible for “Additional Activities Credit” should be included in the Implementation Ordinance. That list should include the same activities the County included in the Credit Program Procedures and Guidelines, along with additional categories that support the defined SCW Program Goals. Additional categories should include, at a minimum, public outreach (including employee engagement), volunteer efforts, and financial support for projects or other activities undertaken by non-profit organizations, community-based organizations, neighborhood associations, etc. that advance the defined SCW Program Goals.

*Additional:*

- The “standard formulas” included in the SCW Program Elements (July 2018) for determining the amount of available water quality and water supply credit should be included in the Implementation Ordinance itself (as opposed to only in the Credit Program Procedures and Guidelines).

- The following concept included in the SCW Program Elements (July 2018) needs to be incorporated into the Implementation Ordinance: *The water quality credit options are dependent on the entitlement approval or construction date of the Stormwater and/or Urban Runoff improvement. Stormwater and/or Urban Runoff improvements designed to meet LID...*
standards that have received approval through an entitlement process, but that have not been installed prior to the election date of the SCW Program, shall meet the applicable LID ordinance requirements in place at the time of the entitlement approval.

- As drafted, credit available on a going forward basis. The Implementation Ordinance needs a mechanism to refund tax paid in FY 2019-2020.

- New development projects and Benefited Developments should have the opportunity to submit a formal credit application and receive approval prior to construction of BMPs, subject to District review and acceptance of the supporting documentation.

- It should be made clear that the credit recertification can be submitted by the original applicant or a successor to that applicant (e.g. a subsequent owner of a parcel or subsequent representative of a Benefited Development). The Implementation Ordinance may also benefit from a definition of “owner” for purposes of the credit program. Further, given that Benefited Development credit applications may often rely on community-scale features that are beyond the scale of an individual parcel, it is important that the Implementation Ordinance make it clear that parcels within Benefited Developments can be recertified as a collective group by an authorized representative.

- The SCW Program Elements (July 2018) included a waiver of the credit recertification requirement for Stormwater Improvements maintained by a public entity. This waiver should be included in the Implementation Ordinance.

- The right to appeal a credit determination should be included in the Implementation Ordinance itself (it is currently only referenced in the Credit Program Procedures and Guidelines).

- The appeal process to challenge the County’s impermeable area calculation should allow for an applicant to demonstrate “actual Impermeable Area” through best evidence (e.g. certification by an engineer or other appropriate professional (e.g. a professional surveyor)).

**Credit Program Procedures and Guidelines**

*High Priority:*

- Additional Activities Credit should not be limited to those parcel owners or Benefited Developments who are achieving at least 65 percent credit via the water quality, water supply, and/or Community Investment credits. Parcel owners and Benefited Developments should be fully incentivized to seize opportunities to implement off-site actions that advance the defined SCW Program Goals.

- The definition of “Water Supply Benefit Volume” should not limit delivery of water for beneficial use “on site or in nearby parcels.” If the water is being used beneficially anywhere, it should qualify.
• Given the potential wide range in approaches for managing and maintaining Stormwater Improvements and Additional Activities, the Credit Program Procedures and Guidelines should have the flexibility to permit the development of individualized recertification approaches (that still meet the intent of the recertification process) for multi-parcel developments and Benefited Developments.

• As an alternative to calculating the Community Investment Credit based on the number of distinct “Community Investment Benefits,” Community Investment Credit should also be available on a dollar-for-dollar expenditure match, so long as the applicant demonstrates that the expenditure results in one or more Community Investment Benefits. Again, both options should be available to the applicant.

• The County should not limit the availability of the Additional Activities Credit to those parcels that qualify for a 6 percent Community Investment Credit; it should be open to all parcels or Benefited Developments willing to make investments in activities (both on- and off-site) that advance the defined SCW Program Goals.

• Dollar-for-dollar matching credit for the Additional Activities Credit should be determined based on any of the following: development costs (i.e. design, preparation of environmental documents, obtaining applicable regulatory permits, construction, inspection, and similar activities), operation and maintenance costs, the cost of the activity to the applicant (including lost production), cost avoidance to SCW Program, or other appropriate estimation of the value of the activity.

Additional:

• The definitions in the Credit Program Procedures and Guidelines need to be updated to be consistent with the definitions included in the Implementation Ordinance itself.

• If the District denies a credit application/recertification, or if the approved credit is lower than the percentage applied for, the County should provide the applicant with the specific reasons for the denial or approved credit percentage, and, if applicable, specific direction on what steps the applicant can take, if any, to obtain the credit applied for.

• The following concept included in the SCW Program Elements (July 2018) should be incorporated into the Credit Program Procedures and Guidelines: The water quality credit options are dependent on the entitlement approval or construction date of the Stormwater and/or Urban Runoff improvement. Stormwater and/or Urban Runoff improvements designed to meet LID standards that have received approval through an entitlement process, but that have not been installed prior to the election date of the SCW Program, shall meet the applicable LID ordinance requirements in place at the time of the entitlement approval.

• With respect to the credit appeals process, the appellant should be included in transmittals to the Scoring Committee, and the Scoring Committee (as opposed to the appellant) should
schedule a hearing on the appeal within forty-five (45) days from the date of receipt of the appeal.

Thank you again for taking the time to consider our comments on the implementation ordinance and related documents. If you have any questions or would like to discuss further with our Task Force, please contact me at jduhoff@lachamber.com or 213.580.7585.

Sincerely,

Jessica Duboff  
Vice President, Public Policy