

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

**RESOLUTION NO. 24-XXX**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN LEANDRO  
DECLARING ITS INTENTION TO INITIATE A PROCEEDING TO OBTAIN APPROVAL  
OF AN AMENDMENT OF THE CITY'S STORMWATER FEE, A PROPERTY-RELATED  
FEE CONFORMING TO ARTICLE XIII D, SECTION 6 OF THE STATE  
CONSTITUTION**

**WHEREAS**, the City of San Leandro is initiating an amendment to the existing Stormwater Fee; and

**WHEREAS**, the City maintains and manages a municipal storm drainage system that includes capital improvements, maintenance and operations, and activities to ensure compliance with all state and federal regulations associated with the National Pollutant Discharge Elimination System ("NPDES"); and

**WHEREAS**, the City's comprehensive storm drainage system includes man-made drainage elements such as curbs and gutters, ditches, culverts, pipelines, manholes, catch basins (inlets), and outfall structures in addition to the City's natural creek system that serves as an integral part of the system; and

**WHEREAS**, the City, through its storm drainage system, provides stormwater services ("Services") that include, but are not limited to, collecting, conveying, and managing stormwater runoff from properties within the City; and

**WHEREAS** the Alameda County Flood Control District (ACFCD) is a partner in managing local flood control issues as many of the City's storm drainage systems discharge into ACFCD-owned and/or managed facilities; and

**WHEREAS**, the existing Stormwater Fee generates approximately \$1.1 million annually and has not increased since its adoption in 1993; and

**WHEREAS**, the existing Stormwater Fee's purchasing power has decreased over the past 30 years by greater than half and over that same period, clean water regulations have increased with more mandates that require additional investment, repair, and maintenance of the system to address recurring flooding and capacity issues and to plan for future climate adaptation; and

**WHEREAS**, the Stormwater Fee does not provide adequate funding to pay for all of the City's storm drainage system needs. In order to finance these needs the City would need to amend the Stormwater Fee in compliance with Article XIII D, Section 6 of the Constitution, which would require a ballot proceeding; and

**WHEREAS**, the City Council authorized Schaaf & Wheeler to complete a Storm Drain Master Plan (SDMP) to map the City's storm drainage system, evaluate flood risks, recommend actions and prioritize capital projects needed to maintain the

stormwater system and meet Clean Water regulations. The SDMP identified an approximately \$4.8 million annual revenue need to fund clean water, flood protection, and stormwater system operating and capital improvement costs; and

**WHEREAS**, the City Council authorized HF&H Consultants LLC to assist with the Proposition 218 noticing and balloting process, to perform a rate study, and to draft a Stormwater Fee Report ("Fee Report") to determine the amount of the fees on various parcels of land that would, in compliance with Article XIII D, Section 6 of the Constitution, finance certain capital improvements, operations and maintenance needs and NPDES clean water compliance needs; and

**WHEREAS**, the Fee Report includes a rate option to generate \$3.2 million in Stormwater Fee revenue to fund annual costs and the very high and high priority capital improvement projects and while this option would not provide full funding of the system's needs, it would ensure that the highest priority projects are addressed. Another amendment to the Fee would need to be considered in the next 5-10 years at which time additional system and climate adaptability information currently not available could be considered.

**NOW, THEREFORE**, the City Council of the City of San Leandro does RESOLVE as follows:

Section 1. Intention to Seek Approval of a Property Related Fee. The City intends to seek property owner approval of a proposed amendment to the existing Stormwater property related fee ("Stormwater Fee Amendment"), pursuant to Article XIII D, Section 6 of the California Constitution.

Section 2. Fee Study. HF&H Consultants LLC has prepared and submitted to the City a Fee Report concerning the proposed amendment to the Stormwater Fee. The Fee Report was made, filed with the City, and duly considered by the City Council, and is hereby deemed sufficient and approved. The Fee Study shall stand as the Fee Study for all subsequent proceedings under and pursuant to this Resolution. Reference is hereby made to the Fee Study for the following:

- (a) a description of the Services;
- (b) the identification of the parcels upon which the Stormwater Fee Amendment is proposed;
- (c) the proportional cost of the Services attributable to each parcel type (i.e., land use category);
- (d) the amount of the Fee proposed for each parcel land use category and size; and
- (e) the basis upon which the amount of the proposed Fee was calculated.

Section 3. Total Amount of Stormwater Fee Amendment. The amount of the proposed Stormwater Fee Amendment, if approved, that would be collected in Fiscal Year 2024-2025 would be approximately \$3.2 million.

Section 4. Stormwater Capital Improvements and Services. The proposed Stormwater Fee Amendment will provide funds for capital improvements, operations, and maintenance activities as outlined in the Fee Report, as well as activities to help the City comply with all state and federal clean water requirements under the National Pollutant Discharge Elimination System permits issued by the San Francisco Bay Regional Water Quality Control Board.

Section 5. Public Hearing. A noticed public hearing shall be held before this Council at the City Council Chambers at 835 East 14<sup>th</sup> Street, San Leandro, CA 94577, and is scheduled for May 20, 2024 at 7:00 p.m. for the purpose of conducting a hearing and to consider all protests of property owners regarding the proposed Stormwater Fee Amendment and this Council's determination whether the public interest, convenience, and necessity require the Services. The date set forth above for the public hearing may be delayed without returning for additional approval by the Council, provided that such date is not less than forty-five (45) days after the mailing of the notice required and described in Section 6 below.

Section 6. Notice of Public Hearing. The City Clerk is hereby directed to cause a notice of the hearing ordered hereof ("Notice") to be given in accordance with law by mailing and such Notice shall be deemed to have been given when so deposited in the mail. The Notice shall be mailed to all record owners, who shall be those persons whose names and addresses appear on the last equalized secured property tax assessment roll for the County of Alameda, or in the case of any public entity, the representative of such public entity at the address thereof known to the City Clerk. The Notice shall be mailed not less than forty-five (45) days before the date of the public hearing.

Section 7. Majority Protest. If written protests against the proposed Stormwater Fee Amendment are presented to the Council by a majority of owners of the identified parcels before the end of the public hearing, the Fee shall not be imposed. Otherwise, this Council may authorize the City to proceed with a property owner ballot proceeding.

Section 8. Description of the Proposed Stormwater Fee Amendment. Information regarding the Stormwater Fee Amendment, including but not limited to the amount of the Fees by land use type, the basis upon which the amount of the proposed Fee was calculated, the reason for the Fee, and other elements of the Fee shall be described in the Fee Report, Notice of Public Hearing, Ballot Guide and/or Ballot.

Section 9. Fiscal Controls. All revenues received from the proposed Stormwater Fee Amendment shall be spent only to fund the repair, replacement, operation and maintenance of pipes and other infrastructure to prevent system failure and sinkholes, protect clean drinking water, comply with mandated clean water standards, and protect

the City against future flooding. Stormwater Fee revenues received will be deposited into the City of San Leandro Stormwater System Utility Enterprise Fund.

Section 10. Cost-of-Living Adjustment Mechanism. If approved by property owners, the Stormwater Fee Amendment shall be imposed annually. The maximum rate of the Stormwater Fee may be adjusted in future years by an amount equal to the change in the annual San Francisco-Oakland-Hayward Consumer Price Index ("CPI") for All Urban Consumers, not seasonally adjusted, not to exceed 3% (three percent) per year without a further vote or balloting process, and any excess CPI may be "banked" to be used in future years when the CPI is less than 3%.

Introduced by Councilmember \_\_\_\_\_ and passed and adopted this 2<sup>nd</sup> day of April 2024 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

ATTEST: \_\_\_\_\_

Kelly B. Clancy, CMC  
City Clerk