



# Storm Water Rates Presentation

City Council • April 3, 2023

# Regulatory and Administrative History

- **October 1991** – California Regional Water Control Board, San Francisco Region issued NPDES (National Pollutant Discharge Elimination System) Order No. 91-146 regulating storm water discharges by the City of San Leandro (COSL)
- **June 1992** – COSL adopted an Ordinance No. 92-011 implementing a Storm Water Management and Discharge Control *Program*
- **March 1993** – COSL adopted an Ordinance creating a Storm Water Management and Discharge Control Program *Fund*

# Storm Water Charges (Fees) FY 1993/1994

- April 1993 – COSL adopted Resolution 93-77 establishing Storm Water Enterprise Service Charges (Fees) for Fiscal Year 1993/1994
  - Single Family Residential Units - \$26.33 per unit per year
  - Commercial Parcels - \$210.64 per acre per year
  - Apartment/Condominium and Institutional Parcels - \$157.98 per acre per year
- Exempt parcels (477) such as those owned by the COSL, State of California, Alameda County, various utilities, etc.
- FY 1993/1994 Fees designed to generate \$1,030,558 based on:
  - \$1.00 per Equivalent Single-Family Parcel
  - 39,132 Equivalent Single-Family Parcels ( $\$1,030,558 \div 39,132 = \$26.33$ )
  - Single-Family Parcel assigned a runoff factor of 0.4 and an area of 0.25-acre minimum
- Fees for parcels are collected on the Alameda County Tax Roll
  - Utility-owned properties, e.g., BART sites with housing, must be invoiced separately

# Storm Water Fees, Revenue FY 2022/2023

| Land Use Category | No. of Parcels | %    | Acres | %    | SW Fees     | %    |
|-------------------|----------------|------|-------|------|-------------|------|
| Residential       | 19,434         | 78%  | 2,768 | 32%  | \$512,305   | 49%  |
| Apt./Condo        | 3,217          | 13%  | 1,161 | 13%  | \$81,814    | 8%   |
| Non-Res           | 1,882          | 8%   | 2,387 | 27%  | \$441,962   | 43%  |
| Exempt            | 477            | 2%   | 2,465 | 28%  | \$0         | 0%   |
| TOTALS            | 25,010         | 100% | 8,781 | 100% | \$1,036,081 | 100% |

- Revenue from other than tax roll (directly invoiced): \$70,000

# Stormwater Fee Expenditures

- Services Provided
  - Street Sweeping (mandated by State)
  - Graffiti Abatement
  - Removal of Illegal Dumping/Hazardous Materials in ROW
  - Clean-up of Encampments
- Budgeted Expenditures
  - Salaries/Benefits/PERS/Overtime (5.29 FTE)
  - Alameda County Clean Water Program Fees
  - Information Technology (new ISF charge added in FY 2018)
  - Fleet Maintenance/Replacement (ISF charge)
  - Disposal bills paid to ACI related to clean-up of encampments

# Fiscal Year 2022-2023 O&M and Capital Budgets

## **Operations & Maintenance**

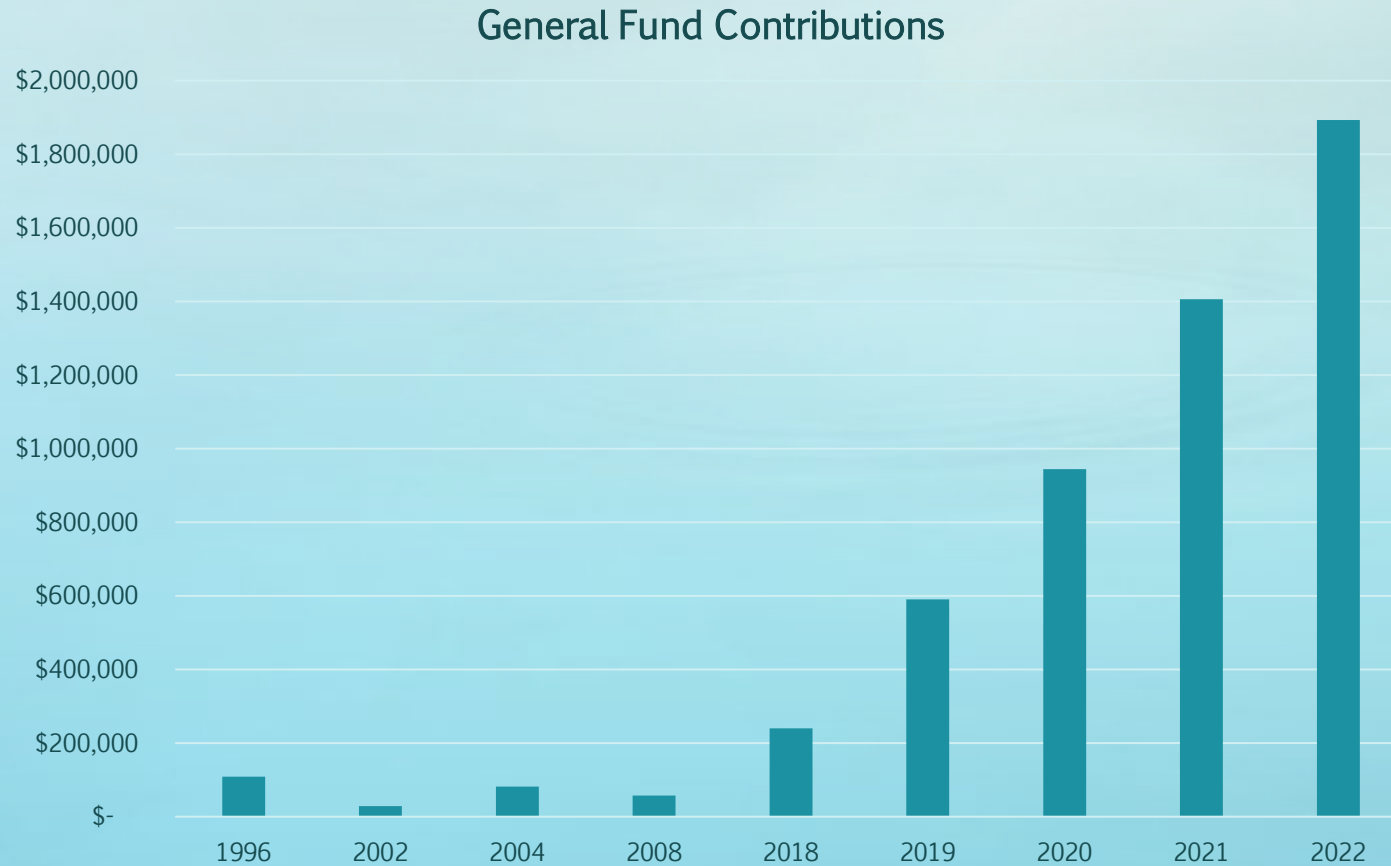
|                      |             |
|----------------------|-------------|
| Storm drainage O&M   | \$297,931   |
| SWRCB Regulatory Fee | 30,000      |
| Street Cleaning      | 1,271,530   |
| O&M Subtotal         | \$1,599,461 |

## **Capital Improvement Program**

|  |             |
|--|-------------|
| Conduit & Pipe                                   | \$754,286   |
| Inlets/Access Structures/Gates                   | 72,000      |
| Pump Stations                                    |             |
| Green Infrastructure/Trash Capture               |             |
| Capital Improvement Program Subtotal             | \$826,286   |
| Total Annual Revenue Requirement                 | \$2,425,747 |
| Total Annual Revenue Requirement, <i>rounded</i> | \$2,426,000 |

**\$2.426M > \$1.030M**

# General Fund Contributions





# How We Got Here

- Existing stormwater fee established in 1994 without an inflation factor
- Unfunded Mandates
  - State-mandated clean water requirements, including installation/maintenance of Trash Capture Devices (TCDs)
  - Increasing annual technical reporting of data to County (new Municipal Regional Permit implemented this year)
  - Infrastructure in ‘run to failure’ mode, with point repair projects funded from GF/CIP program (original fee provides for O&M only; doesn’t include a CIP portion)
    - Under-sized pipes
    - Nuisance flooding
    - Tidal impacts



# New Fee Process - Part 1

- Proposition 218 Procedural Requirements
  - California Constitution, Article XIII D, Sec. 6. Property Related Fees and Charges
  - (c) Voter Approval for New or Increased Fees and Charges. *Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a **majority vote of the property owners of the property subject to the fee or charge** or, at the option of the agency, by a **two-thirds vote of the electorate residing in the affected area**. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.*

# New Fee Process - Part 2A (the fine print)

- Proposition 218 Substantive Requirements

- California Constitution, Article XIII D, Sec. 6. Property Related Fees and Charges
- *(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:*
  - (1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.*
  - (2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.*
  - (3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.*
  - (4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.*
  - (5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.*

# New Fee Process - Part 2B

- New or increased property-related fees submit to a 2-step process
  - A 45-day public ‘protest vote’ period culminating in a public hearing, AND
  - A ballot proceeding whereby it must be approved by a 50% simple majority of property owners
- Fee increases related to water, sewer and refuse aren’t subject to the ballot process (protest vote only)
- SB 231 (2018) defined ‘sewer’ to include storm waters
  - Test litigation coming
- City could hold general/special registered-voter election
  - 2/3 vote of the electorate
  - City pays cost of election

# New Fee Process - Part 3

- COSL Fee Resolution and Tax Roll Preparation
  - Calculate stormwater fees for each parcel using revised fee structure and unit costs adopted by Council.
  - Revise City Codes, Ordinances and Resolutions as necessary to affect implementation of updated fees.
  - Submit list of parcel fees to the Alameda County Assessor's Office (usually by early August) for inclusion on the Tax Roll

# Staff Recommendation

- Council direct staff to proceed with new Stormwater Fee process



# Next Steps

- Municipal Financial Services to finalize Rates Study
- HF&H to prepare marketing/public outreach information and coordinate on 2-part ballot process
- If new fees are voter-approved, it is anticipated that they would be submitted to County Assessor's Office in August 2024, with first payment due on November 2024 tax bill.

# Questions/Comments