

Johnson County, Kansas Stormwater Management Program Policy

Adopted: September 18, 2003

I. General Provisions

101: General Statement of Purpose

This policy, adopted by the Board of County Commissioners (Board) for the County Stormwater Management Program (Program), is intended to promote interlocal cooperation in stormwater management activities between the County Government and the Cities. This policy establishes a structure through which the County Government may provide financial and other assistance to the Cities and the County for planning, design, and construction of stormwater management projects to provide an adequate, safe, and integrated stormwater management system throughout the County and the neighboring communities.

Pursuant to Resolution No. 76-90, the Board created a Stormwater Management Advisory Council (SMAC) to identify and recommend projects to be funded by the Program. The Board encourages, to the extent practical, review, analysis, design, and construction of stormwater management projects. Annually, Program staff shall prepare and present to SMAC the subsequent fiscal year's program and budget for the Board's consideration in accordance with the Program's Administrative Procedures. This annual program will be the basis for funding allocations.

102: Application of Policy

This Policy shall be effective and shall apply from the date of its adoption to all actions of the Board which relate to the expenditure of funds from the Stormwater Management and Flood Control Fund for the planning or review, analysis, design, and construction of stormwater management projects and facilities.

Nothing contained in this Policy shall affect any interlocal agreement or authorization of expenditures that were approved and effective prior to the adoption of this Policy.

103: Board Responsibilities

Annually, the Program staff will prepare, present to SMAC, and recommend for the Board's consideration the subsequent fiscal year's program and budget in accordance with the Program's Administrative Procedures. The Board shall review, modify, and adopt the annual program to guide the subsequent fiscal year's expenditures; define the terms, conditions, and qualifications of all interlocal agreements; and establish and authorize policies for the Program.

The County Manager, under the direction and supervision of the Board, shall be responsible for establishing Administrative Procedures for the County's Public Works Department to ensure, to the extent practical, consistent administration of the Program.

104: Policy Review, Revision, and Authority

The Board shall review the Program's Policy and Administrative Procedures and may change or supplement the policy or procedures as necessary. This Policy is adopted pursuant to the authority of the Board of County Commissioners under K.S.A. 19-101 and other statutory provisions.

II. Project Eligibility

201: Eligible Participants

Any City located within Johnson County, having signed the Stormwater Management and Flood Control Interlocal Agreement, is eligible to participate with the Program. The County shall be eligible for funding of projects which are in the unincorporated areas of the county. The Program can fully fund projects which are associated with regional stormwater management activities and efforts.

202. Eligible Projects

Projects must be included in the annual Program budget to be eligible for funding. Cities and the County must submit information necessary to determine project scope and costs as provided in the Administrative Procedures.

III. Funding Provisions

301: Funding Sources

It is the policy of the Board to establish and maintain the Program on a "pay-as-you-go" cash basis, without the use of debt financing. Without limiting the Board's authority to establish alternative or supplementary funding mechanisms, annual cash funding for the Program shall be provided through the levy of a County-wide, one-tenth of one percent sales tax to support Stormwater Management and Flood Control as provided by Resolution No. 38-90. The Program's annual authorized expenditure shall not be more than the amount of revenue estimated to be derived from the County-wide sales tax, the associated compensating use tax, and all interest derived from the investment of stormwater management funds; any grants, contributions or fees associated with the Program; and any unused balance from prior years' annual program.

Funding for the Program will be contingent upon an annual budget appropriation by the Board, and all appropriations or authorization of expenditures shall be strictly contingent on the availability of funds to the County.

302: Funding Participation

The Board may provide financial assistance for eligible Stormwater Management Program projects, through interlocal agreements, for a percentage of the local share of estimated project costs. The participation percentage may be any amount but, in general, shall be seventy-five percent (75%) for stormwater management projects and ninety percent (90%) for detailed studies. The eligible local share of such costs shall be defined in the Administrative Procedures.

In an effort to maintain flexibility in implementing projects and to avoid overburdening the Board with requests for changes to projects, the Stormwater Management Program shall have the authority to fund change orders to projects in an amount not to exceed \$100,000 total project cost, or 10% of the total project cost, whichever is greater. Any change order in excess of this amount must be approved by the express action of the Board.

In no event shall the Program be obligated to pay any amount which exceeds the authorized expenditure or budget appropriation or for which funds are not available to the County.

303: Use of Funds and Unexpended Funds

Funding provided for a stormwater management project through an Interlocal Agreement shall be used to finance the study, planning, design, and construction of that specific project and for no other purpose. Any funds allocated for a project through an Interlocal Agreement but which are not expended for eligible project costs shall accrue and be

credited for the benefit of the County and no City shall have any entitlement to the use or reappropriation of such unexpended funds.

IV. Administrative Provisions

401: Program Administration

The Stormwater Management Program shall be managed by the Program Manager who shall be appointed by the Director of Infrastructure and Transportation. The Manager will administer the Program in accordance with all applicable policies, procedures, and directives of the Board.

The Program Manager shall submit reports to the Board, when requested, concerning the status of all ongoing projects and the projected revenues and expenditures under the Program, and shall meet with the Stormwater Management Advisory Council to receive that body's recommendations for the subsequent year's Program and annual budget.

402: Standards and Specifications

The minimum standards and specifications to be used for the analysis, design, and construction of Program-funded projects shall be those developed by the Kansas City Metropolitan Chapter of the American Public Works Association (APWA Standards) and adopted by the Program. Standards adopted by the Program shall take precedence over the current APWA Standards.

403: Interlocal Agreements

Interlocal Agreements between the Board and the participating cities, in the standard form and with the contents to be established by the Administrative Procedures, shall be executed for all projects funded by the Program. The Program shall not participate in the funding of any project with a City for which an appropriate agreement has not been executed.

The Chairman of the Board of County Commissioners is authorized to execute Interlocal Agreements on behalf of the Board, without separate action or approval of the Board, for any approved project included in the annual program. All executed Interlocal Agreements shall be filed with the Board and recorded in the Board's official Minutes and Journal.

404: Indemnification and Hold Harmless

The City administering any projects approved and authorized under the Program shall be designated the Project Administrator and shall agree to indemnify and hold the County and its officials and agents harmless for and from any cost, expense, or liability not expressly agreed to by the County, or which result from acts or omissions of the City, its contractors, or agents or from compliance with this Policy or the Administrative Procedures.