

**CONTRA COSTA COUNTY
FLOOD CONTROL & WATER CONSERVATION DISTRICT
FLOOD CONTROL EXPENDITURE POLICY**

June 21, 2005

This policy shall be known as the Flood Control Expenditure Policy. It will provide overall direction for fiscal programming and budgeting for the revenue the District receives, and guides the development of the Contra Costa County Flood Control and Water Conservation District (District) Flood Control Capital Improvement Plan (FCCIP). The FCCIP shall incorporate the plans of improvement for each of the Flood Control Zones (FCZ) and Drainage Areas (DA) established by the Board of Supervisors pursuant to the Contra Costa County Flood Control and Water Conservation District Act (Flood Control Act).

The Board of Supervisors, as the Governing Board of the District, FINDS and DECLARES as follows:

1. The Flood Control Act authorizes the Board of Supervisors to have plans developed for the control and conservation of flood and storm waters, and the protection of water courses and watersheds from such waters, throughout the District.
2. The District implements flood control works to provide for the control and conservation of flood and storm waters and the protection of watercourses, watersheds, harbors, public highways, life and property from damage or destruction from such waters.
3. The District operates and maintains 72 miles of flood control channels throughout the county. The value of these facilities is estimated to be \$500,000,000.
4. Upon the passage of Proposition 13 (1978), District annual tax revenue was reduced by 58%. Special District Augmentation Funds were provided to the County to backfill some of the loss but in 1992 these funds were eliminated and the Education Revenue Augmentation Fund was instituted resulting in an additional 15% reduction in tax revenue to the District. As revenue has been systematically reduced over time, regulatory requirements have significantly increased construction and maintenance costs. This fiscal year (2004-2005) and next fiscal year the State will make a further diversion of property tax revenue that will result in an additional 10% reduction in District tax revenue.
5. Deferred maintenance in FCZ and DA entities has created a \$21 million backlog of storm drainage facility repair and restoration work. The deferred work results in reduced storm water conveyance capacity and compromised structural integrity of major drainage facilities.
6. New storm water management facilities will be required to mitigate the effects of impervious surfaces from development and redevelopment projects to meet federal clean water requirements. New impervious surfaces increase storm water runoff volumes, decrease storm water quality and diminish opportunities for water conservation.

7. Consistent and logical development of storm water management facilities requires coordination and cooperation between Federal, State, regional and local governments as well as developers and landowners. It is the intention of the Board of Supervisors to work collaboratively with the cities, the County, State and Federal regulators, developers and landowners so that the FCCIP will coordinate the implementation of regional drainage and water quality improvements.
8. The science and practice of stormwater management has advanced to include concepts of comprehensive watershed management and design of sustainable channels within dedicated floodplains. These concepts typically lead to facilities that reflect the structure, function and appearance of natural streams. To the extent feasible, these concepts should be incorporated into the planning, financing, design, implementation, maintenance and replacement of projects and facilities reflected in the FCCIP.
9. FCZs have been established over entire watersheds to fund the design, construction and maintenance of flood control and water conservation facilities. However, FCZ funding is not sufficient to maintain existing improvements and to construct the additional drainage facilities needed to provide reasonable flood protection to all property. Nor is there funding to restore traditionally designed and built flood control channels to a sustainable natural system. Funding resources vary from Zone to Zone with some Zones having no operating funds.
10. Drainage Areas have been formed, as sub-watersheds of FCZs, to provide funding for the construction of drainage improvements needed to mitigate increased storm runoff resulting from development within the sub-watershed area. Most Drainage Areas do not provide funding for ongoing maintenance of the DA improvements. However, a few DAs are funded by property assessments or taxes to provide ongoing maintenance services.
11. Most FCZs and DAs extend over several jurisdictions.
12. Many older built-out communities have flood control facilities that are inadequate to meet the demand caused by subsequent development upstream, and no funding mechanism to support needed improvements. In general, funding for the construction of new drainage facilities depends on impact fees from new development.
13. The District maintains expertise in storm water management and provides technical assistance to cities and other agencies for their regional drainage infrastructure.
14. The District recognizes that many people are interested in District projects and that District projects can impact a wide variety of stakeholders. Therefore, the District is committed to developing projects in an open, community-based planning process.
15. The District is currently not setting aside reserve funds that will be needed to repair, reconstruct or replace existing drainage facilities, or to restore traditional flood control facilities to a sustainable natural system, as they reach the end of their useful life.

16. The County and its cities are working cooperatively to achieve increased quality of storm and drainage waters to preserve and improve the water resources in the county.
17. Many municipalities and the East Bay Regional Park District are interested in jointly using District lands and rights of way for recreational and other purposes for general public benefit.
18. There is a need to increase stable funding to meet the basic District needs of facility maintenance, reconstruction and capital improvements. Additional funding will be needed to restore traditional flood control facilities to sustainable natural systems where a community incorporates the restoration into their planning documents and supports acquiring the additional right of way needed.
19. Flood control improvement projects require years of advance planning, coordination and cooperation between various agencies and community stakeholders before construction.
20. The Contra Costa FCCIP and the regional planning efforts of the County and its cities are intended to complement each other to improve the quality of life, water quality and conservation, and to reduce the potential for erosion, flooding and resultant property damage in the county.
21. Projects that achieve and activities that facilitate multiple objectives typically have broad-based community support. A multi-objective goal should be an important criterion in developing the FCCIP.
22. Flood control facilities are a valuable element of the County's riverine habitat system. The District and the State and Federal resource and regulatory agencies must work together to ensure that District facilities can be maintained in an economical manner and to maintain or improve the quality of habitat in the District's right-of-way.
23. The planned improvements in some of the FCZ and DA plans, and the maintenance and capital replacement needed in all the FCZs, cannot be fully funded solely through FCZ or DA generated revenue. Additional source(s) of revenue will be needed to complete the planned improvements. The District shall work collaboratively with the cities, County and stakeholders to develop a financing/expenditure plan in those areas.

NOW, THEREFORE, The Board of Supervisors of the District RESOLVES as follows:

The Board of Supervisors hereby adopts the Flood Control Expenditure Policy, as set forth in this Resolution, to provide overall direction and guidance to staff in developing the District's budget and FCCIP. The Policy shall consist of the following elements: I) Program Priorities, II) Expenditure Priorities, III) Program Planning and IV) Program Procedure. These policy elements will be used by the District to prepare the FCCIP for Board of Supervisor's approval. All projects on the FCCIP are part of an adopted FCZ or DA plan.

I. PROGRAM PRIORITIES

Flood Control funding shall be budgeted and expended to maximize the use of Federal, State and local funds and shall be based generally on the following order of priorities:

A. System Preservation

1. Operation and maintenance of storm drainage facilities to preserve design capacity in accordance with established policy.
2. Repair, rehabilitation and reconstruction of storm drainage facilities to preserve functionality.
3. Restoration of the storm drain system to a more sustainable natural system where shown to be feasible and at no additional implementation or maintenance cost.

B. Public Safety

1. Repair or modification of existing facilities (e.g., fencing, rails, etc.) to ensure public safety and reduce liability.
2. Prepare drainage studies and infrastructure planning to assist communities in providing flood protection for the safe, logical, orderly and environmentally sensitive development of watersheds.
3. Modification of existing storm drainage facilities to provide a level of flood protection consistent with Federal, State, District and local standards and laws.

C. System Expansion

1. Planning, development and construction of new storm drainage facilities.
2. Modification of existing storm drainage facilities to a sustainable natural system.

II. EXPENDITURE PRIORITIES

Flood Control funds are derived from many sources. The following priorities and criteria shall generally be used in expending funds from each of the different sources noted below:

- A. Flood Control Zone Revenue (Property Tax) – There are 14 identified major watershed FCZ in the County. Ten FCZ have been formed but only five generate tax revenue. FCZ funds shall be spent to plan, administer, implement, operate, maintain, repair and replace elements of a FCZ plan in accordance with the following priorities in order of importance:

1. Operate and maintain improved storm drainage facilities.
2. Repair, rehabilitate and reconstruct storm drainage facilities.
3. Provide local share contributions to federal flood control projects.
4. Determine regional storm drainage needs and modify FCZ plans as necessary.
5. Construct locally funded storm drainage projects.
6. Plan and develop storm drainage projects.
7. Plan and construct environmental enhancements to storm drainage facilities to restore them to a more sustainable natural system.

In preparing the FCCIP for FCZs, the priority of planning, developing and constructing FCZ projects will be determined by consideration of the following criteria, (not listed in any order of importance):

- a. Availability of Federal, State or local funding.
 - b. The number of residences and businesses protected from flood hazard by the project.
 - c. The average annual economic loss from flooding avoided by implementation of the project, considering current development and general plan build-out.
 - d. The state of readiness of the project for construction.
 - e. Funding commitments from DAs, outside agencies, grants and other sources.
 - f. Proportion of FCZ funding required to support the project.
 - g. Integration with a project from another agency, organization or developer resulting in a cost savings or increased benefit to the public.
 - h. Assurance of perpetual maintenance – responsible entity identified and funding available to maintain the project improvements.
 - i. The level of stakeholder support and the number of stakeholders benefited by the multiple objectives of the project.
 - j. The positive impact the project will have on the environment.
- B. Drainage Area Fee Revenue (Drainage Fees) – There are 180 Drainage Areas identified in the County representing small watersheds or sub-watersheds. Sixty-three of the

Drainage Areas have been formed and have an adopted plan. These are in areas where development has, is, or will be occurring. Drainage Fees shall be spent to plan, develop, revise, administer and implement a DA plan in accordance with the following priorities in order of importance:

1. Provide local share contributions to federal flood control projects.
2. Construct locally funded elements of the DA plan.
3. Provide interim operation, maintenance and repair of DA plan facilities only until acceptance by the city or the County. DA funds shall not be expended for these activities after the facilities have been transferred to the city or County.
4. Reimburse developers for construction of DA plan elements in accordance with the Flood Control District's "Drainage Area Credit and Reimbursement Policy".
5. Develop Drainage Area plan revisions to reflect current constructibility and where feasible, to implement sustainable natural systems.

In preparing the FCCIP for DAs, the priority of planning, development and construction of Drainage Area projects will be determined by consideration of the following criteria (not listed in any order of importance):

- a. Funding availability to plan, design, permit and construct the project.
 - b. The number of residences and businesses protected from flood hazard by the project.
 - c. The average annual economic loss from flooding avoided by implementation of the project, considering current development and general plan build-out.
 - d. The state of readiness of the project for construction.
 - e. Proportion of DA funding required to support the project.
 - f. Assurance of perpetual maintenance – responsible entity identified and funding available to maintain the project improvements.
 - g. Contribution to the safe, logical and orderly development of the drainage area.
 - h. The level of stakeholder support and the number of stakeholders benefited by the multiple objectives of the project.
- C. Drainage Area Assessment Revenue (Benefit Assessments) – DA assessments shall be spent on operation, maintenance and repair of storm drainage facilities in the drainage benefit assessment area in accordance with the following priorities:

1. Storm drainage facility operation and maintenance.

2. Repair, rehabilitate and reconstruct storm drainage facilities.

D. Drainage Area Tax Revenue (Property Tax) – Six of the 63 formed Drainage Areas receive a small portion of tax revenue in addition to, or instead of, developer fees. DA property tax revenue shall be spent on the design, construction, operation, maintenance, repair, rehabilitation and reconstruction of storm drainage facilities within the DA in accordance with the following priorities in order of importance:

1. Operation and maintenance of storm drainage facilities.

2. Repair, rehabilitation and reconstruction of storm drainage facilities.

3. Provide local share contributions to federal storm drainage projects.

4. Construct locally funded storm drainage projects.

5. Plan and develop storm drainage projects.

6. Construct environmental enhancements to storm drainage facilities to restore them to a more sustainable natural system.

The priority of planning, development and construction of locally funded projects will be determined by consideration of the following criteria (not listed in any order of importance):

- a. Funding availability to plan, design, permit and construct the project.

- b. The number of residences and businesses protected from flood hazard by the project.

- c. The average annual economic loss from flooding avoided by implementation of the project, considering current development and general plan build-out.

- d. The state of readiness of the project for construction.

- e. Funding commitments from outside agencies, grants and other sources.

- f. Proportion of DA tax revenue required to support the project.

- g. Assurance of perpetual maintenance – responsible entity identified and funding available to maintain the project improvements.

- h. The level of stakeholder support and the number of stakeholders benefited by the multiple objectives of the project.

III. PROGRAM PLANNING

The Board of Supervisors recognizes that existing sources of funding in some DAs and FCZs are inadequate to support the perpetual maintenance of existing and planned drainage improvements and establishing a capital replacement reserve fund would be prudent. The Chief Engineer is hereby directed to pursue the following:

- A. Develop additional stable funding sources for maintenance of storm drainage facilities.
- B. Work with the cities and the County to establish drainage maintenance benefit assessment districts in appropriate watersheds.
- C. Recommend, as a condition of development for all projects, that the developer be required to annex to a drainage maintenance benefit assessment district.
- D. Work with the cities and the County to analyze the feasibility and develop the funding to convert traditional flood control infrastructure to sustainable natural systems.
- E. Work with the cities and the County on clear understanding and agreement on Drainage Area fees, fee collection and maintenance responsibility for Drainage Area infrastructure, and the level of service provided for District owned flood control infrastructure.
- F. Establish a capital replacement reserve for District storm drainage facilities.
- G. Explore the need to establish Flood Control Zone Advisory Committees, working with the cities and other interested parties. Any proposed process to establish an Advisory Committee shall be reviewed by the Transportation, Water and Infrastructure Committee and distributed for comment to parties of interest prior to board approval.
- H. Work with the cities to clarify what facilities are owned and maintained by the District and what level of maintenance is performed.
- I. Work with the cities and the County to identify the needs for funding, planning, implementing and maintaining all levels of drainage infrastructure (local or regional), and clean water activities and infrastructure (local, group, and regional) and to develop the best way to meet those needs.

IV. PROGRAM PROCEDURE

- A. FCZs and DAs are formed in accordance with the Flood Control Act. The establishment of FCZ and DA plans is integral to the formation of the FCZs and DAs. The FCZ and DA plans represent the long range FCCIP for the watersheds. FCZ plans were

established years ago and their limits are not expected to expand without additional revenue, which would require a Proposition 218 vote. DA plans have been and will continue to be created in response to the storm drainage mitigation needs of development as it occurs throughout the County.

- B. Revenue received by a FCZ or DA shall only be spent for activities or projects within that FCZ or DA and in accordance with this policy and the Flood Control Act.
- C. A seven-year FCCIP shall be used to guide the orderly short-term implementation of the FCZ and DA plans. The following procedure shall be used to develop the seven-year FCCIP:
 - 1. To ensure the effectiveness of drainage facilities, the FCZ and DA plans need to be managed to adapt to changing patterns of land use. FCZ and DA plans shall be reviewed periodically, at a maximum of every five years in areas undergoing significant development or at the request of a municipality in a FCZ or DA, to confirm that the level of development assumed in a flood control plan is consistent with the current municipal general plan(s) within the FCZ or DA boundary and to determine the constructibility and adequate funding of the planned improvements.
 - 2. All drainage fee ordinances shall include provisions for annual adjustment of project cost estimates and drainage fee schedules to account for inflation using the Engineering News Record Construction Cost Index or other suitable generally accepted cost index. In addition, DA project costs and fee schedules shall be reviewed and adjusted periodically to reflect changes in DA plans. The cost to revise/update DA plans shall be included as an “administrative cost” of the drainage area.
 - 3. Every two years, District staff shall propose the capital improvements needed to best realize the long range plans in each FCZ and DA based on the funding priorities and criteria set forth in Sections I and II of this policy. District staff will send a notice to interested parties for input in developing the proposed capital improvements program. The proposed FCCIP shall include the estimated funding required for each project. The District will then prepare a draft Expenditure Report that will include the following:
 - a. The draft seven-year FCCIP.
 - b. A comparison of the current and prior year’s project delivery schedule against the current FCCIP.
 - c. Identification of the shortfalls in funding in the FCZs and DAs.
 - d. Information about the progress in development of additional funding sources.

4. Every two years, before January 1, the Chief Engineer shall submit the draft Expenditure Report to the Transportation, Water and Infrastructure Committee (TWIC) of the Board of Supervisors, or such other committee as the Board of Supervisors may designate, for review and comment.
5. The draft Expenditure Report shall be circulated for stakeholder comment and review after review by the TWIC, to the City/County Engineering Advisory Committee for comment by the cities, and to groups such as, the Fish and Wildlife Committee and Contra Costa Watershed Forum for comments at a community and interest-group level.
6. The District will conduct at least one workshop with stakeholders to solicit watershed specific comments on the draft Expenditure Report.
7. The TWIC shall hold a public hearing on the draft FCCIP and Expenditure Report at the conclusion of the public review period.
8. The TWIC shall present the findings and recommendations on the FCCIP and Expenditure Report to the Board of Supervisors for their action no later than March 1st