
SUBJECT: COUNTY SALES TAX FOR FLOOD RISK REDUCTION AND RECOVERY
PROJECTS

ADOPTED DATE: DECEMBER 4, 2017

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PURPOSE

The purpose of this policy is to provide guidance for the administration and funding of projects with Cass County Flood Control Sales Tax funds.

GENERAL PROVISIONS

As passed during the 2010 election and extended in the 2016 election, the voters approved the following: The Cass County Home Rule Charter be amended to extend the existing flood-protection-related sales, use, and gross receipts tax of one-half of one percent (1/2%) to be used solely for the engineering, land purchase, construction, and maintenance of flood control measures including the Metro Flood Diversion Project including associated special assessments and indebtedness, through December 31, 2084, and shall be rescinded when all of the costs, obligations, and debt for said project have been paid in full and satisfied, whichever event occurs first as provide in Resolution #2016-20.

Cass County Commission Policy 38.23 outlines Ordinance #2010-2 Amended (Flood Control Sales Tax) which serves as the ordinance for the establishment and regulation of the Cass County Flood Control Sales Tax.

This policy governs expenditures of funds from a one half percent County sales tax that started in 2011 and will end in 2084 to fund flood risk reduction projects. The primary purpose of the sales tax measure is to fund local costs associated with a planned Fargo Moorhead Area Flood Diversion project in either Minnesota or North Dakota. The planned diversion project will not address all flood damage risks in Cass County. Additional measures are necessary to reduce risk to areas within and outside of the diversion perimeter. Sales tax proceeds may also be expended for the Diversion and other flood risk reduction or recovery projects subject to funding availability and approval by the County Commission. The County sales tax proceeds should be used to leverage other sources of funding when possible.

County sales tax funds expended within incorporated cities: The County Commission through the Flood Sales Tax Committee may consider requests for flood risk reduction and recovery funding from cities within Cass County. The city will be responsible for planning and engineering costs associated with the project. Plans and specifications should be prepared by a professional engineer registered within the State of North Dakota. Projects won't be considered if they are strictly for new city development, especially cases where a developer would be shifting their cost to the County Flood Sales Tax. The city should also be able to demonstrate that other revenue sources for the project have been actively sought out. The preferred funding split is that City funds match the County sales tax proceeds on a 1:1 basis. Other funding splits may be considered by the Commission on a case by case basis to allow consideration to be given to unique circumstances and the ability of the City to pay 50% of the local cost share.

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County sales tax funds expended outside of incorporated cities: The County Commission, through the Flood Sales Tax Committee, may also consider flood risk reduction and recovery projects recommended by the County Engineer or requested by townships, neighborhood groups, or individuals for areas within and outside of the diversion protected area. Projects won't be considered if they are strictly for new rural development, especially cases where a developer would be shifting their cost to the County Flood Sales Tax. Special assessments may be considered as a local match to County sales tax funds. Funds may be expended for projects that provide benefit to Cass County residents but are physically constructed outside of the County boundaries such as retention projects. Funds may also be spent to assist property owners downstream from the diversion channel in offsetting diversion project impacts.

ADMINISTRATION

The Cass County Commission will organize and appoint members to a Flood Sales Tax Committee. This will be a six-member committee made up of the following members:

1. Two members of the Cass County Commission
2. Cass County Auditor
3. Cass County Administrator
4. Cass County Engineer
5. One member from either the Southeast Cass, Maple River, Rush River, or North Cass Water Resource District.

The Flood Sales Tax Committee will solicit project requests on a bi-annual basis. Meetings to review project requests will generally be held with one meeting in the fall (October-November) and one meeting in the spring (March-April). Requests received from political subdivisions and county staff for cost effective projects will be prioritized and considered for funding by the County Commission as funds available allow.

FUNDING ELIGIBILITY

Entities eligible for funding: Funding should generally be for flood protection for communities or individuals that live outside of the Diversion protected area or those within the Diversion protected area that do not receive a significant benefit from the Diversion. This includes:

1. Cities
2. Townships
3. Water Resource Districts
4. Farmsteads and Homesteads

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Types of projects eligible for funding:

1. Levee construction or recertification for cities or rural subdivisions. Generally levee projects should be constructed to FEMA and/or US Army Corps of Engineer standards and be able to bring the benefited area out of the 1% chance (100 year) floodplain. These levees would also need to be maintained at that standard by either the city or township that is a member of the National Flood Insurance Program. Rural subdivisions seeking this funding would need to complete an agreement with the township and form an assessment district for the long term maintenance of the levee.
2. Flood control projects.
3. Water retention or detention projects.
4. Dam construction or maintenance.
5. Lift Stations for removing storm water from within a levee protected area.
6. Rural Farmstead Ring Levees (in conjunction with the ND State Water Commission 50% cost share) as outlined on the ND State Water Commission website under "Cost Share" at http://www.swc.state.nd.us/project_development/cost_share.html. Generally levee projects should be constructed to FEMA and/or US Army Corps of Engineer standards. However, individual rural farmsteads cannot be "certified" by FEMA or the US Army Corps of Engineers as they not maintained by either a city or township that is a member of the National Flood Insurance Program.
7. Road Projects that provide infrastructure protection to prevent significant future flood damage. These requests may be standalone projects or in conjunction with post-flood damage repair with or without FEMA cost share.
8. Road access (road raises or other infrastructure improvements that will allow access to a city, subdivision, or rural residence/farmstead).
9. Embankment slumping along the Red River, Wild Rice River, Sheyenne River, Maple River, Rush and Lower Rush Rivers, and Legal Drains. River slumping projects may include road and infrastructure repair, home buyouts, and repair to legal drains.
10. Home buyouts for flooding and bank slumping.
11. Flood Recovery projects to include: Levee repair, road repair, bridge repair, and other infrastructure related repair projects. None infrastructure flood recovery such as debris removal and sandbag cleanup will not be eligible.

Cass County Sales Tax Cost Share:

1. Generally the cost share will be 50% of the "local" share of the non-retention projects, i.e. if a \$100,000 project had a 50% state cost share, the local share would be \$50,000 and the County cost share would be \$25,000.
2. Policy for Retention Projects: Cost share is 75% of the "local" share if they are approved by the Red River Joint Water Resource District.
3. Home buyouts for flooding and bank slumping: Cost share is 90% of the "local" cost with the homeowner paying 10% of the "local" cost.

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4. If significant funds are available compared to the project requests, the County may authorize a cost share above 50% for non-retention projects and above 75% for Retention Projects.

PROJECT PRIORITIES

Priority of projects will be based on the following:

1. Population benefited by the project
2. Distribution of funds by location
3. Disbursement percentage determined by the number of people benefited
4. Cost effectiveness of the project
5. Permanency of the project
6. Effect of the diversion on the project
7. Does the project have long-term merit (benefits extend beyond 10 years)
8. Other sources of funding from local, state, or federal cost share programs.

Evaluation Criteria: The County Commission and/or Flood Sales Tax Committee may use some or all of the following criteria in determining funding priorities:

1. Benefit cost ratio
2. Land area benefited
3. Population benefited
4. Downstream flood reduction
5. Total acre-feet of retention storage

HISTORICAL REFERENCE: AUGUST 2, 2010