

# Local Assistance for Stormwater Infrastructure Investments (LASII) Stormwater Program Questions and Answers

Last updated Sept. 1, 2022

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## **Background**

This document was generated from questions posted during the August 16, 2022 LASII webinar presented by the NC Dept. of Environmental Quality's Division of Water Infrastructure, and from questions emailed to the Division. This document will be updated periodically to address additional questions that may be received by the Division.

All materials needed for applying for funds through the LASII Stormwater Program are posted on the [Division's website](#).

Applicants are strongly encouraged to watch the "How to Apply" [training video](#) recorded on August 10, 2022 for detailed information about the LASII program and completing application materials. Note that all applications must be submitted electronically to be considered for funding.

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**QUESTION 1:** Could a city or county apply for stormwater LASII funds and via Interlocal Agreement with a water/sewer authority allow funds to be used on stormwater infrastructure owned by the water/sewer authority?

**ANSWER:** Yes. A water/sewer authority is a unit of local government and can work collaboratively with a city or a county on a regional stormwater project. The city or county must be the Applicant. Via Interlocal Agreement, the LASII funds can be used on stormwater infrastructure owned by the water/sewer authority. The Interlocal Agreement must specify which unit of local government is responsible for ownership and on-going maintenance of the stormwater infrastructure. If both units of local government (the city or county and the water/sewer authority) actively collaborate on the project, the maximum amount of construction funds for which the application would be eligible is \$7.5 million.

**QUESTION 2:** Is culvert replacement under NC Department of Transportation (NCDOT) roads eligible for funding? If a town maintains a NCDOT culvert and the town applies to repair/replace the culvert using a LASII grant, is this project eligible for LASII funds?

**ANSWER:** This is possible using one of two methods. First, if the application is submitted with formal documentation from NCDOT that the proposed construction work is approved, the project is eligible for LASII funding. Second, if the application is submitted with some form of NCDOT documentation that clearly states that the NCDOT agrees in principle with the proposed construction project, would agree that that Applicant may perform construction work on the stormwater infrastructure owned by the NCDOT, and that NCDOT would agree to provide formal documentation approving the proposed project during its review of the plans and specifications, the project is eligible for LASII funding.

**QUESTION 3:** If two local government units partner together for a stormwater construction application, they are eligible for up to \$7.5 million maximum in LASII funding. If a council of government or a non-profit partners with a local government unit, is the construction funding limit also \$7.5 million?

**ANSWER:** No. The Priority Rating System Guidance and Form for the Stormwater Funding Program through LASII Funds ([available here](#)) makes clear on Page 4 that a maximum of \$7.5 million is only available if two or more local government units work together. If a council of government or a non-profit partners with a local government unit, the maximum amount of construction funds the application would be eligible for is \$5 million.

**QUESTION 4:** Does a city and a county working together count as collaboration?

**ANSWER:** Yes, this meets the definition of collaboration between two units of local government.

**QUESTION 5:** Can a housing authority and a non-profit partner and receive LASII funding for a project within the limits of a city?

**ANSWER:** No. The non-profit would need to partner with the city to be considered for LASII funding.

**QUESTION 6:** Is North Carolina State University an eligible applicant?

**ANSWER:** No. Universities are not a city or county and are not eligible for LASII funding.

**QUESTION 7:** Are “green streets” eligible for LASII funding? Green streets are bioretention areas spattered through a neighborhood to treat runoff from the neighborhood streets.

**ANSWER:** Yes, as long as the proposed project addresses stormwater quality and quantity. More information about green streets is available from the [US Environmental Protection Agency](#).

**QUESTION 8:** A project will restore a non-functional wetland and “dam”. Will the dam be eligible for funding as it was mentioned as non-eligible? Stream restoration may also be part of the project.

**ANSWER:** The Priority Rating System Guidance and Form for the Stormwater Funding Program through LASII Funds makes clear on Page 7 that constructing or repairing dams or other structures designed to retain waters within a stream channel is not eligible for funding. If the dam mentioned in the question is designed to retain waters within a stream channel, that portion of the project is not eligible for funding. If the project will create a berm needed to create the functional wetland, but not retain waters within a stream channel, the berm is an eligible part of the project. The stream restoration project should be a separate application from an application for a stormwater wetland, which is considered an SCM.

**QUESTION 9:** How do you determine if the infrastructure is critical that is being protected by the stormwater infrastructure?

**ANSWER:** The Priority Rating System Guidance and Form for the Stormwater Funding Program through LASII Funds guidance for Construction Priority Rating System Line Item 2.B.1 states that the following is required in the narrative: Description of the infrastructure and why the Applicant considers it qualified as critical infrastructure. It is the responsibility of the Applicant to demonstrate that the infrastructure is critical.

**QUESTION 10:** If we have adopted a Stormwater Management Plan under a town ordinance that the Mayor signs instead of a resolution or board meeting minutes, are we eligible for points for a Stormwater Management Plan?

**ANSWER:** Providing a Town Ordinance with the application is an acceptable alternative to providing a “resolution or board meeting minutes...”. All other information that is required to support points for the applicable line item must be provided.

**QUESTION 11:** If we are applying for a stormwater planning grant to do both the development of a stormwater utility and also master planning/capital improvement plan (CIP) and rate study, are two different applications required: one for the master planning/CIP/rate study, and a separate application for the development of the utility? Or can we roll it all into one application? Are the limits \$400,000 for all planning activities for stormwater or do you get an additional \$400,000 if developing a utility?

**ANSWER:** Either approach is fine. The Applicant should be aware that there are different Resolutions required and different funding caps based on whether the application is to develop and implement a stormwater utility with stormwater enterprise fund or other planning grant activities.

If one stormwater planning grant application is submitted for master planning/CIP/rate study work and the development and implementation of a stormwater utility with stormwater enterprise fund, the following maximum amounts would be available:

- \$400,000, **OR**
- \$500,000 if the master planning/CIP/rate study portion of the work is a collaborative effort with other local government units, **OR**
- \$500,000 if developing and implementing a stormwater utility with stormwater enterprise fund and three or more of the Applicant’s Local Government Unit Indicators are worse than the state benchmarks.

If separate stormwater grant applications are submitted for master planning/CIP/rate study work and the development and implementation of a stormwater utility with stormwater enterprise fund, the following maximum amounts would be available:

- \$400,000 or \$500,000 if the master planning/CIP/rate study work is a collaborative effort with other local government units, and
- \$400,000 or \$500,000 if developing and implementing a stormwater utility with stormwater enterprise fund, depending on the number of Local Government Unit (LGU) indicators that are worse than the state benchmarks.
- However, the scopes of work to be completed for the master planning/CIP/rate study work and the work to develop and implement a stormwater utility with stormwater enterprise fund must be different. In other words, if the Applicant intends to complete the same scope of work under each application, then only one application will be considered for funding.

The resolution of the governing body of the Applicant that is submitted with the application(s) will be used to determine if the grant funds are paid from the LASII construction funds or the LASII planning funds.

**QUESTION 12:** Under “Activities that are NOT eligible for stormwater construction or stormwater planning grants on Page 7 of the Priority Rating System Guidance and Form for the Stormwater Funding Program through LASII Funds, Number 17 states that “costs to comply with NPDES MS4 permit requirements” are not eligible. Can you clarify this?

**ANSWER:** LASII funds cannot be used to pay for costs associated with a NPDES Municipal Separate Storm Sewer System (MS4) permit for program administration, annual reporting, regular operation and maintenance of the stormwater system, routine sampling, and staff salaries. A construction project to address a Total Maximum Daily Load (TMDL) is eligible for LASII funds. Under the Priority Rating System Guidance and Form for the Stormwater Funding Program through LASII Funds Planning Grant Line Item 1.C, LASII funds are available for planning activities to support the six Minimum Control Measures (MCMs).

**QUESTION 13:** In the Construction Priority Rating System, the project cost “for compliance with MS4 permit” is not eligible (for points) but you give points in the Planning Priority Rating System to plan for implementation of MS4 Minimum Control Measures (MCMs)?

**ANSWER:** Any Applicant, whether or not it holds a NPDES MS4 permit, is eligible for points under the Priority Rating System Guidance and Form for the Stormwater Funding Program through LASII Funds Planning Priority Rating System Line Item 1.C.

**QUESTION 14:** Ineligible activities include removal or construction of levees. Is there a clear definition of levees that will be used for this funding program?

**ANSWER:** For this program, the definition of levee will be as defined by the US Army Corps of Engineers<sup>1</sup> as follows: an earth embankment, floodwall, or structure along a water course whose purpose is flood damage reduction or water conveyance.

**QUESTION 15:** If we have two or more planning projects, should we have a separate application for each? Likewise for construction?

**ANSWER:** Yes. A separate application is required for each planning project and for each construction project. Each application is considered as a stand-alone application and must contain all of the documents required in each application package.

**QUESTION 16:** Can Councils of Government apply for a regional effort to implement top priorities in several town's stormwater inventories?

**ANSWER:** There are three considerations in this question. First, any entity partnering with a council of government (COG) must itself be an eligible municipality or county. Second, if a COG is working with each eligible town individually on a project that will address stormwater quality or stormwater quantity issues only within that town’s jurisdiction, then a separate application must be submitted for work with each individual town. Third, if the project is regional in scale, meaning that the project as a whole will address stormwater quality or stormwater quantity issues within the jurisdictions of more than one eligible town and that it is necessary for each town to participate in the project in order to accomplish the construction project or accomplish the goals of the planning study, then

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<sup>1</sup> [Levee Terms & Definitions \(army.mil\)](http://www.army.mil)

only one application needs to be submitted by the COG. Note however, that in accordance with the LASII Fund Entity Eligibility Certification Form (Stormwater Eligibility Form) Item 3.D, the application must contain a copy of the executed instrument used to establish each partnership arrangement between the COG and each individual eligible town.

**QUESTION 17:** Is a LASII Fund Entity Eligibility Certification Form (Stormwater Eligibility Form) required with each funding application?

**ANSWER:** Yes. Each application is considered as a stand-alone application and must contain all of the documents required in each application package.

**QUESTION 18:** Sometimes it takes 30 days to get an item on a local government's agenda. With seven (7) weeks to the deadline, this may not be able to be met?

**ANSWER:** As part of the funding application process, the Applicant is required to submit a resolution that must be approved by the governing board of the local government unit at the time of application.

**QUESTION 19:** Is there a sample resolution available?

**ANSWER:** Yes. Resolution templates are available on the [Division's website](#).

**QUESTION 20:** To apply to create a new stormwater utility with stormwater enterprise fund, is it correct to use the Planning Grant application and Priority Rating System?

**ANSWER:** Yes, that is correct. An eligible entity should file a Planning Grant application and follow the Planning Grant Priority Rating System to apply for funds to create a new stormwater utility with stormwater enterprise fund.

**QUESTION 21:** The Construction Priority Rating System Line Item 1.A provides Project Purpose points if more than 50 percent of the construction cost of the project is to address stormwater quality, and Line Item 1.C provides Project Purpose points if more than 50 percent of the construction cost of the project is to address stormwater quantity. The Guidance Document states that all parts of the project must meet the claimed Project Purpose. Please clarify.

**ANSWER:** The project will be evaluated under either Line Item 1.A or 1.C depending on whether the majority of the construction cost of the project is to address stormwater quality or to address stormwater quantity. For example, if 60 percent of the construction cost is to address stormwater quality issues and 40 percent of the construction cost is to address stormwater quantity issues, the project would be evaluated under Line Item 1.A.

**QUESTION 22:** Can the Project Resolution be modified?

**ANSWER:** Yes. The Project Resolution is a template and is provided as a suggested format for the Project Resolution and Certification. If an Applicant is willing to accept loan funds for stormwater quality projects, the language regarding loans and repayment of principal and interest should remain in the Resolution. If an Applicant is willing to accept only grant funds, the language regarding loans and repayment of principal and interest can be deleted from the Resolution.

Alternately, an Applicant may add wording such as “if applicable” after references to loans and repayments.

Also, as shown in the following paragraph of the Resolution, some version of the text highlighted in yellow must be included in the Resolution and may include replacing the word “system” with “project” as shown by the strikethrough and underline. Note that this modification is only allowed in the Resolution for stormwater funding.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the ~~system~~ project and the repayment of all principal and interest on the debt.

**QUESTION 23:** If an entity is not eligible for LASII funds, are other funds available for stormwater work?

**ANSWER:** Only if the project is eligible for both Clean Water State Revolving Funds (CWSRF) Green Project Reserve funds and Local Assistance for Stormwater Infrastructure Investments (LASII) funds. CWSRF funds are available for stormwater quality projects. The Applicant will need to apply for both CWSRF and LASII funding programs separately. If applying for CWSRF funding, please use the “Priority Rating System Guidance and Form for Division of Water Infrastructure Construction Funding Programs (Not including CDBG-I)” and other applicable application requirements posted on the [Division's website](#).