



**Southern Sandoval County Arroyo
Flood Control Authority**

DRAINAGE POLICY

Adopted June 20, 2008

Preface

The Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA) adopted the first drainage policy in 1994. The policy served the Authority well; however, there was a desire by the development community to bring SSSCAFCA's policy in line with regional drainage requirements. To address this issue, SSSCAFCA organized a committee to revise the policy and drainage requirements. The committee first met in January, 2007 to begin this process. Members of the committee were:

David Stoliker, Executive Director, SSSCAFCA
Robert Foglesong, Drainage Engineer, SSSCAFCA
Trevor Alsop, Field/Drainage Engineer, SSSCAFCA
Fred Aguirre, former City Engineer of the City of Albuquerque
Randall Carroll, Floodplain Administrator, City of Rio Rancho

The committee met on a bi-weekly basis and on October 19, 2007 the revised policy was presented to the SSSCAFCA Board of Directors. At this meeting, the Board remanded the policy to the Executive Committee for review. The Executive Committee met four times during January, 2008 to review and revise the proposed policy. Members of the Executive Committee were:

John Chaney, Chairman of the Board, SSSCAFCA
Mark Conkling, Vice Chairman, SSSCAFCA
Bernard Metzgar, SSSCAFCA Attorney
David Stoliker, Executive Director, SSSCAFCA

Also in attendance were Fred Aguirre and Robert Foglesong.

After completing revisions requested by the Executive Committee, a Special Meeting of the Board of Directors was held on April 4, 2008. At that meeting, the Board authorized SSSCAFCA staff to release the policy for public comment. On May 7, 2008 the policy was published in the Albuquerque Journal, with a deadline for submission of written comments of June 6, 2008. All written comments received were addressed.

The policy was presented to the Board of Directors on June 20, 2008 and was adopted unanimously as approved by the Executive Committee.

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§ 1 SHORT TITLE.

Sections 1 et seq. may be cited as "The Drainage Policy" and is referred to elsewhere herein as "§§ 1 et seq."

§ 2 GENERAL STATEMENT.

The Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA) will serve a public use and will promote the health, safety, prosperity, security and general welfare of the inhabitants within its territory.

The protection of life and property from flood damage is the primary objective in the planning, design, construction and maintenance of storm drainage facilities. The second major objective is the public use of drainage facilities and land with park like features.

Other concerns, not limited to the following, include watershed characteristics, watershed park characteristics, sediment control, maintenance, multiple use, and appearance. The needs of the community in transportation, utility service, recreation, trails and open space shall be considered in the selection of watercourse and floodplain treatments. SSCAFCA encourages consideration of alternatives to lined storm drainage facilities such as watershed management, natural or semi-natural watercourses, the preservation of the Lateral Erosion Envelope (LEE) line and stabilized flood zones.

SSCAFCA recognizes the interactions within the hydrologic system. Human activities such as storm drainage, irrigation, groundwater usage and recharge, and urban development may influence one another. SSCAFCA will pursue its objectives from a comprehensive hydrologic perspective.

In general, both public and privately-built storm drainage facilities will be designed to accommodate the 100-year storm. However, the Board of Directors may require a more conservative design where the consequence of failure could be severe. Minor storm drainage facilities, such as storm sewers, streets and detention basins having inadequate downstream capacity, may be designed to accommodate less than the 100-year storm, in accordance with criteria adopted by public entities within their respective jurisdictions, and by the Executive Engineer of SSCAFCA.

SSCAFCA commits itself to cooperate with other public entities and with private developers to the end that urbanization proceeds in a responsible manner without unnecessary economic burden. SSCAFCA encourages a preliminary meeting with SSCAFCA, in accordance with the development process manual, as part of the due diligence required to develop projects.

SSCAFCA will develop and update a schedule of SSCAFCA's funded projects and encourages other public agencies to do likewise.

The standards set forth in this policy are intended to protect the capacity of existing watercourses, and to insure storm drainage facility capacity under full development.

§ 3 BOUNDARIES.

SSCAFCA's territory is the following described area known as being the area within Sandoval County, New Mexico enclosed by the following boundary:

A portion of southern Sandoval County bounded on the east by the Rio Grande on the south by the Bernalillo and Sandoval County lines, on the west by the top of the Rio Puerco drainage and on the north by the top of the drainage that lies on the southern boundary of the Zia Indian reservation and State Highway 550.

The boundary of SSCAFCA is more particularly described as follows: beginning at the intersection of the west bank of the Rio Grande and the Sandoval county line, that point also being the southeast corner of herein described boundary: thence proceeding in a westerly direction along the Sandoval county line for approximately fourteen and one-half miles to the top of the Rio Puerco drainage in section 32, township 12 north, range 1 east: thence, in a northerly direction along the top of the Rio Puerco drainage for approximately fourteen miles to a point in the southeast corner of section 21, township 14 north, range 1 east: thence, south for approximately one mile along the west boundary of the Zia Indian reservation to a point in the southeast corner of section 28, township 14 north, range 1 east: thence, in an easterly direction along the southern boundary of the Zia Indian reservation for approximately seven miles to a point, in the southeast corner of section 33, township 14 north, range 2 east thence, west for approximately 3 miles to the southeast corner of section 36, township 14 north, range 2 east; thence south for approximately 1 mile to the southwest corner of section 6, township 13 north, range 3 east; thence east for approximately 2.2 miles to a point on the south section line of section 4, township 13 north, range 3 east; thence south for approximately 1 mile to a point of the south section line of section 9, township 13 north, range 3 east; thence east for approximately one half mile to a point on the south side of state highway 550 in section 9, township 13 north, range 3 east: thence, in a southeasterly direction along the south side of state highway 550 for approximately five miles to a point on the west bank of the Rio Grande in the northeast corner of section 31, township 13 north, range 4 east: thence in a southwesterly direction along the west bank of the Rio Grande for a distance of approximately eleven miles, which point is the southeast corner and point of beginning of the authority.

§ 4 DEFINITIONS.

For the purpose of §§ 1 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning:

10-YEAR DESIGN STORM means that storm whose precipitation within a six-hour period and resulting runoff has a 10% chance of being equaled or exceeded in any given year;

100-YEAR DESIGN STORM means that storm whose precipitation within a six-hour period and resulting runoff has a 1% chance of being equaled or exceeded in any given year.

500-YEAR DESIGN STORM means that storm whose precipitation within a six-hour period and resulting runoff has a 0.2% chance of being equaled or exceeded in any given year.

AMAFCA means the Albuquerque Metropolitan Arroyo Flood Control Authority;

AUTHORITY means the Southern Sandoval County Arroyo Flood Control Authority;

BOARD OF DIRECTORS means the Board of Directors of the Authority;

CHANNEL means arroyo, stream, swale, ditch, diversion, or watercourse that conveys stormwater runoff, including manmade facilities;

CHANNEL STABILITY means a condition in which a channel neither degrades to the degree that structures, utilities or private property are endangered, nor aggrades to the degree that flow capacity is significantly diminished as a result of one or more storm runoff events or moves laterally to the degree that adjacent property is endangered;

CHANNEL TREATMENT MEASURE means a physical alteration of a channel for any purpose;

CIP means the City's or SSCAFCA's Capital Improvement Program;

CITY means the City of Rio Rancho, Village of Corrales or the Town of Bernalillo and Sandoval County;

CITY ATTORNEY means the chief legal counsel for the City or his/her designee;

CITY ENGINEER means the chief engineer of the Engineering Division of the Department of Public Works or his/her designee;

COMPREHENSIVE PLAN means plans prepared by the City/County or SSCAFCA;

CONCEPTUAL GRADING AND DRAINAGE PLAN means a plan prepared in graphical format showing existing and proposed grading, drainage control, flood control and erosion control information in sufficient detail to determine project feasibility;

COUNTY means Sandoval County;

DESIGN STORM means a storm which deposits a stated amount of precipitation within a stated period over a defined area and which is used in calculating storm runoff and in designing drainage control, flood control and erosion control measures;

DESIGNEE means an individual designated under provisions of this regulation hereof to act on behalf of the Executive Engineer;

DEVELOPED LAND means any lot or parcel of land with any structure intended for human occupation, including structures intended for commercial enterprise;

DEVELOPER means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity engaging in the platting, subdivision, filling, grading, excavating, or construction of structures;

DOWNSTREAM CAPACITY means the ability of downstream major facilities to accept and safely convey runoff generated upstream from the 100-year storm;

DRAINAGE means stormwater drainage;

DRAINAGE CONTROL means the treatment and/or management of surface runoff from all storms up to and including a 100-year storm;

DRAINAGE REPORT means a comprehensive engineering analysis of the drainage, flood control and erosion control constraints on and impacts resulting from a proposed platting, development or construction project totaling five acres or more;

DRAINAGE RIGHT-OF-WAY means a public right-of-way owned in fee simple or by easement, by the City, County, SSCAFCA, or the state for the primary purpose of handling storm drainage;

ENGINEER means a professional engineer registered in New Mexico competent in surface hydrology and drainage;

EXECUTIVE ENGINEER means the Executive Engineer of the Authority;

EROSION CONTROL means treatment measures for the prevention of damages due to soil movement and to deposition from the 100-year storm;

EROSION CONTROL PLAN means a plan for the mitigation of damages due to soil erosion and to deposition from the 100-year storm;

FLOOD CONTROL means the treatment measures necessary to protect life and property from the 100-year storm;

FLOOD HAZARD AREA means an area subject to inundation from the 100-year storm;

FLOODPLAIN means the watercourse and adjacent land areas required to safely transport or store the design runoff;

FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year storm without cumulatively increasing the water surface elevation more than a designated height;

FREEBOARD means that part of a drainage channel that is designed to contain the wave action of the 100-year design storm;

FULLY DEVELOPED WATERSHED means the hydrologic condition in which all areas upstream and downstream of a point are assumed to be completely developed areas, including any undeveloped areas which are yet to be developed. Calculations for undeveloped areas are done in accordance with mid-range development densities as established by the current comprehensive plan for the area and/or a public body's population and development projections and guidelines;

GRADING AND DRAINAGE PLAN means a short detailed plan prepared in graphical format with or on a detailed grading plan addressing on-site and off-site drainage control, flood control and erosion control issues for lots or parcels totaling less than five acres;

GRADING PLAN means a plan describing the existing topography and proposed grading, including retaining wall locations and details, interfaces with adjacent properties, streets, alleys and channels, referenced to mean sea level based on a City bench mark, and showing sufficient contours, spot elevations, adjacent structures/facilities and cross-sections to allow a clear understanding by reviewers, contractors and inspectors;

GREY WATER means water from the bathroom (hand basin, shower, and bath) and laundry excluding water from the kitchen and from toilets;

GROUNDWATER CLEANUP means the process necessary to remove contaminants, as defined by state and/or federal groundwater standards, from groundwater for the purpose of restoring the water quality of the aquifer;

IMPROVED ACCESS means to cover with a hard, smooth surface that will bear travel;

LATERAL EROSION ENVELOPE (LEE) means an identified envelope boundary, inside of which development may be at increased risk from flooding or damage due to lateral migration of the arroyo or channel. Designation of the LEE shall be determined by a registered engineer in accordance with SSCAFCA's *Erosion Design Guide* as may be amended;

MAINTENANCE means the cleaning, shaping, grading, repair and minor replacement of drainage, flood control and erosion control facilities needed to preserve the function of the facility to its original design;

MAJOR ARROYO means any watercourse whose watershed exceeds 320 acres, whether such watershed is in its natural or unaltered state or has been altered by development, runoff diversions, or detention facilities;

MAJOR FACILITY means any facility, including a street or alley, which collects, diverts or conveys a peak discharge of more than fifty cubic feet per second (50 cfs) or stores more than 2.0 acre-feet of runoff in the event of a 100-year design storm;

MAJOR SUBDIVISION means a subdivision of more than five (5) acres or five (5) lots;

MINOR SUBDIVISION means any subdivision that is not a major subdivision;

MASS GRADING means grading, cut, fill or importation of material in excess of 500 cubic yards or grading of any one acre or more;

MASTER PLANNED FACILITY means any drainage control, flood control or erosion control facility recommended in the comprehensive plan or adopted watershed management plans, watershed parks, amendments thereto, or any voter approved general obligation bond financed drainage control, flood control or erosion control facility;

MINOR FACILITY means any facility which collects, diverts or conveys a peak discharge of fifty cubic feet per second (50 cfs) or less or stores 2.0 acre feet or less runoff in the event of a 100-year design storm;

MULTIPLE USE FACILITY means a drainage control, flood control or erosion control facility in which other uses are planned or allowed, including but not limited to recreation, open space, trails, transportation, wild life habitat and utility location;

NATURAL ARROYO means an arroyo that exists solely in its natural state, without regrading or channelization, and which does not receive flows from developed areas;

NUISANCE WATERS means water leaving a site and entering a public street which does not result from precipitation, such as landscape over-watering, discharge from swimming pools, or car washing;

PLAYA means a nearly level area at the bottom of an undrained desert basin, sometimes temporarily covered with water;

PUBLIC BODY means any city, county or any instrumentality, agency or administrative body within the territory of the Authority;

SEDIMENT CONTROL means watershed management or watercourse treatment to reduce damage to the watercourse, storm drainage facilities or adjacent property due to lack of channel stability;

SEMI-NATURAL ARROYO means an arroyo that has been stabilized with naturalistic channel treatment and blends in visually with adjacent land. Naturalistic channel treatments which allow the growth of vegetation are preferred, including but not limited to ungrouted riprap, gabions and gabions weirs. Tinted concrete or soil cement may be used in limited applications such as low flow channels or as needed to control erosion at points where developed runoff enters the arroyo;

SSCAFCA means Southern Sandoval County Arroyo Flood Control Authority;

STABILIZED FLOOD ZONE means a portion of a natural watercourse flooded by the design runoff when protected by sediment control measures. It is the intent of the Authority to preserve the watercourse in its natural or naturalistic condition. Stabilization will provide sediment control over a period of thirty (30) years and will not be disturbed by design runoff occurring at any time during the thirty (30) year period. Stabilization includes freeboard required to contain the design runoff;

STORM DRAINAGE FACILITY means any watercourse, street, storm sewer, dam, diversion, dike or any other natural or man-made feature used in the collection, transport, impoundment, or disposition of storm surface waters, its associated sediment, or a combination thereof;

STORM DRAINAGE FACILITY CAPACITY means the ability of a storm drainage facility to intercept and convey the design runoff with appropriate freeboard. Capacity of streets (and associated borrow ditches) and storm sewers may be determined by public entities in their jurisdictions;

TEMPORARY DRAINAGE FACILITY means a nonpermanent drainage control, flood control or erosion control facility constructed as part of a phased project or to serve until such time that a permanent facility is in place, including but not limited to desilting ponds, berms, diversions, channels, detention ponds, bank protection and channel stabilization measures;

TRAFFIC MANAGER means the chief administrator of the City's Traffic Engineering Division or his/her authorized representative;

WATERCOURSE means any river, creek, arroyo, canyon, draw, or wash, or any other channel having definite banks and bed with visible evidence of the occasional flow of water;

WATERCOURSE TREATMENT means the physical alteration of a watercourse for any purpose;

WATER QUALITY FACILITY means engineered and constructed improvements necessary to comply with U.S. Environmental Protection Agency National Pollutant Discharge Elimination System requirements;

WATERSHED MANAGEMENT PLAN means a comprehensive study of the drainage characteristics of a watershed which establishes the plan for managing drainage within the watershed;

WATERSHED PARKS means a comprehensive and continuous system of trails, natural areas and recreational venues that is envisioned as New Mexico's largest urban park, as portrayed in the approved SSCAFCA Quality of Life Master Plan;

§ 5 JURISDICTION.

Sections 1 et seq. shall apply to all lands within SSCAFCA's jurisdiction, with respect to planning and platting matters. It shall also apply to all lands within the City's extraterritorial planning and platting jurisdiction. The City shares jurisdiction in matters of flood control.

§ 6 GENERAL PROVISIONS.

(A) SSCAFCA endorses the National Flood Insurance Program and its program goal of flood damage reduction through the regulation of development within flood hazard areas and the preservation of floodways. Sections 1 et seq. are intended to complement and supplement the City Flood Hazard Prevention Ordinance and shall be administered in concert therewith.

(B) An application for new development within SSCAFCA's jurisdiction shall provide for adequate drainage control, flood control and erosion control facilities. The protection of life and property shall be considered the primary function in the planning, design, construction and maintenance of drainage control, flood control and erosion control facilities, but other concerns, not limited to the following, shall be addressed: channel capacity, watershed characteristics, channel stability, maintenance, transitions between treatment types, multiple use goals, and appearance. The needs of the community in transportation, utility services, recreation, and open space shall be considered in planning, design, construction, and maintenance especially in the selection

of channel treatment measures. These needs shall always be considered subordinate to the primary function of the drainage control, flood control and/or erosion control facility.

(C) The design, construction and maintenance of dams, levees and diversions that fall within the jurisdiction of the Office of the State Engineer shall meet or exceed standards established by the State Engineer.

(D) The design, construction and maintenance of flood control facilities shall be coordinated with all state, federal and local governments.

(E) All major facilities shall be constructed within dedicated rights-of-way or recorded drainage easements granted to and accepted by the proper public authority.

(F) All detention ponds defined as minor facilities shall be constructed on private property unless otherwise authorized by the City or SSCAFCA. Except as is necessary for the treatment of nuisance water, all ponds shall be designed and constructed to be emptied in 24 hours or less. The use of individual lot ponding shall be governed by the standards established by the City or SSCAFCA.

(G) Wherever flood control, drainage or erosion control improvements are necessary within dedicated public open space, such improvements shall be designed and constructed in a manner reasonably consistent with the natural surroundings. All construction and maintenance activities in dedicated open space/lateral erosion envelope areas shall be performed so as to minimize the disruption and destruction of vegetation and adjacent land forms. Where such disturbance or destruction is unavoidable, revegetation shall be performed at the earliest time by those responsible for such disturbance and/or destruction. Under no circumstances shall the ground be left barren for longer than fourteen (14) days.

(H) The Executive Engineer is responsible for establishing criteria, procedures and standards for design and construction of flood control, drainage control and erosion control improvements within SSCAFCA's jurisdiction. SSCAFCA may provide for variances from normal criteria and standards if a variance is requested. SSCAFCA shall document the justification for the variance and retain as public record such action and justifications. Appeals of SSCAFCA's variance decisions shall be made provided in § 15.

(I) The introduction of groundwater/grey water cleanup flow to either natural or constructed storm drainage and flood control facilities shall be prohibited without a special agreement in accordance with rules established by the City and Executive Engineer.

(J) A Development Agreement will be required for all new development.

§ 7 SURFACE USE OF STREETS FOR DRAINAGE AND FLOOD CONTROL PURPOSES.

(A) The surface of streets may be used for drainage and flood control purposes, to the extent such use does not interfere with the safe transportation of people and vehicles.

(B) The 100-year design storm runoff shall not exceed curb height and shall be contained within the street right-of-way.

(C) Flow depths in the event of the 10-year design discharge may not exceed 0.33 feet in any collector or arterial street. One lane free of flowing or standing water in each traffic direction must be preserved on arterial streets.

(D) The product of depth times velocity shall not exceed 6.5 at any location in any street in the event of a 10-year design storm (with velocity calculated as the average velocity measured in feet per second and depth measured at the gutter flowline in feet).

(E) The discharge of nuisance waters to public streets shall be discouraged. Arterial and collector streets shall be protected from damages to the pavement surface and from the safety hazards created by surface flow of nuisance waters across them.

(F) All developed land within the City shall be served by at least one improved access that shall be an all-weather facility during a 100-year design storm, with all channel-crossing structures beneath the roadway being able to pass a 100-year storm runoff event.

(G) Rural street section. The design flow depth and velocity in the borrow ditch shall be such that the integrity of the street surface shall not be endangered. Design and construction of the borrow ditch shall include provisions for erosion control.

§ 8 CROSSINGS.

(A) Channel crossing structures shall be provided on all arterial and collector streets to safely pass the 100-year storm runoff assuming a fully developed watershed.

(B) Streets other than arterial, collector and sole access streets may cross major arroyos and other water-courses by means of a "dip section" or "overflow section" provided depth times velocity (with velocity calculated as the average velocity measured in feet per second and depth measured in feet at the upstream edge of the roadway including sidewalk) does not exceed 6.5 for that portion of the 10-year storm runoff crossing on the street.

(C) Temporary crossings when approved by the City and SSCAFCA shall be designed so they may be incorporated into the future permanent crossing structure and so that they meet street design standards established by the City.

(D) Temporary crossings required for access, including those on arterials and collectors, shall be constructed at developer expense.

§ 9 FINANCIAL RESPONSIBILITY.

(A) SSCAFCA may participate in the construction of permanent flood control facilities to the extent that public benefits are derived from such construction and consistent with capital improvements program priorities. Reimbursement for private funding of such projects may also be available under these conditions.

(B) SSCAFCA shall not participate in the funding of flood control facilities whose sole intent is the reclamation of undeveloped land located within a flood hazard area for private development purposes.

(C) All drainage control and flood control facilities which directly result from a proposed land use change are the responsibility of the developer. For new subdivisions, a Development Agreement is required. A Performance/Warranty Bond and a Labor and Material Payment Bond may be required pursuant to the Development Agreement, and shall be posted by the developer or subdivider, and shall remain in effect for at least one (1) year following a letter of infrastructure construction completion from the City and SSCAFCA. Developer financed facilities include all those within the boundaries of the development, those required for development adjacent to a major arroyo or within a flood hazard area and all temporary and permanent off-site drainage facilities. Master planned facilities shall be the responsibility of SSCAFCA and in some instances the City. However, if such facilities are not programmed and funded at the time of development, the developer shall construct the master planned facilities or provide for temporary facilities, constructed to the SSCAFCA/City standards within a temporary or permanent drainage easement until such time that the City or SSCAFCA constructed facilities are in place. If the construction of such facilities is a condition of plat approval or building permit issuance, then financial guarantees of such construction satisfactory to the City /SSCAFCA shall also be provided as a prerequisite. The City Engineer shall coordinate the construction and location of temporary facilities with SSCAFCA and other City departments. If the ultimate on-site drainage control, flood control and/ or erosion control facilities require permanent rights-of-way or easements, such rights-of-way or easements shall be dedicated at the time of platting or building permit issuance whichever occurs first.

(D) The dedication of land for public purposes does not relieve a developer of responsibilities for the construction of drainage control, flood control and erosion control facilities that would otherwise be necessary. The dedication of rights-of-way or easements for drainage control, flood control or erosion control facilities does not relieve a developer of responsibilities that would otherwise exist for the construction of other public infrastructure.

(E) Introduction of groundwater cleanup flows shall not normally be permitted, however, when such introduction of groundwater cleanup flow is permitted by special agreement, the entity responsible for such groundwater cleanup flow introduction

(hereinafter termed "the discharger") shall also be responsible for all costs of installing, operating and removing the means of such introduction and shall provide public liability protection as required. The discharger of such groundwater cleanup flows shall also be responsible for payment of such permit fees.

§ 10 MULTIPLE USE RIGHTS-OF-WAY AND EASEMENTS.

Multiple use is required for drainage rights-of-way and drainage easements including, but not limited to, utility corridors, wild life habitat and recreation trails. Where multiple use is planned by the City, another public agency, or a public utility, the City and SSCAFCA may require that dedication statements include language which permits said specified multiple uses and Watershed Parks amenities in addition to the drainage function. Land required to be dedicated for drainage rights-of-way shall include those land areas necessary for drainage control, flood control, erosion control, Watershed Park amenities and necessary appurtenances. All drainage rights-of-way/drainage easements dedicated/granted to SSCAFCA must be in accordance with the Development Process Manual and approved by the Executive Engineer.

§ 11 MAINTENANCE RESPONSIBILITY.

(A) Except as otherwise noted herein, all permanent major facilities shall be maintained by SSCAFCA or other public body. The maintenance of multiple use facilities to which the general public is denied access shall be the responsibility of the owners and shall be performed to City /SSCAFCA standards.

The maintenance of multiple use facilities to which the general public is provided access shall be the responsibility, as follows:

- (1) Recreation facilities are the City's responsibility.
- (2) All roadway facilities are the responsibility of the City.
- (3) Drainage or flood control facilities outside the roadway system are the responsibility of the City/SSCAFCA.

(B) Long term maintenance responsibilities and inspections of minor facilities shall be maintained in accordance with the following conditions:

(1) Responsibilities

(a) All storm water management measures and facilities shall be maintained by the owner of the property or a homeowners association, unless a dedication of the storm water management system has been required and accepted by SSCAFCA/City, in which case, SSCAFCA/City shall be responsible for maintenance.

(b) For new subdivisions, a Performance/Warranty Bond and a Labor and Material Payment Bond shall be posted by the developer or subdivider pursuant to the development agreement, and shall remain in effect for at least one (1) -year following a letter of infrastructure construction completion from the City/SSCAFCA.

1. The bond must be in an amount sufficient to defray all anticipated maintenance and repair costs during the one (1) -year period.

2. In the event that any responsible developer, subdivider, homeowner, homeowners association, or other property owner does not perform necessary maintenance and repair in a timely manner as determined by the City/SSCAFCA, the City/SSCAFCA may perform all necessary work to place the facility in proper working condition. The responsible party shall be assessed the associated costs of the work. The City/SSCAFCA may utilize all or a portion of the performance/warranty bond for the purpose of defraying such assessed costs.

(c) The storm water management system shall be maintained in the original condition and promptly repaired by the developer or other responsible party or parties.

(d) Maintenance shall include the repair and restoration of all grade surfaces, walls, swales, drains, dams, ponds, basins, site restoration measures, associated vegetation, and any other storm water measure constructed on site.

(2) City/SSCAFCA Inspections-The City/SSCAFCA or its authorized agent may enter upon any property which is subject to this section, at reasonable times to access the storm water management system to ensure that the system is maintained in proper working condition to meet the approved storm water management plans and the objectives and minimum standards of this section.

(3) Maintenance Violations-If, after notice by the City/SSCAFCA to correct a violation requiring maintenance work under this Drainage Policy, satisfactory corrections are not made by the owner(s) or responsible party within 30 days the City/SSCAFCA may:

(a) Perform or cause to be performed the maintenance and repairs and recover its costs from any bond provided;

(b) Assess against the owner(s) or responsible party a penalty of up to \$500.00 per day for each day that the violation remains in effect; and

(c) Pursue any other legal remedy available in the sole discretion of the City/SSCAFCA.

(C) The maintenance of temporary facilities constructed at private expense (except crossing structures) is the responsibility of the developer until permanent facilities are in place.

(D) Maintenance and operation of any groundwater cleanup flow connection to any public storm drainage or flood control facility shall be the responsibility of the originator

of such a connection. Groundwater cleanup flow connection shall only be allowed by special agreement according to rules established by the City/Executive Engineer.

§ 12 GENERAL ADMINISTRATION.

(A) The design, construction and maintenance of all drainage control, flood control and erosion control facilities shall be performed in accordance with procedures, criteria and standards formulated by the Executive Engineer /City and in accordance with the policies established in §§ 1 et seq.

(B) All construction activities within the jurisdiction of SSCAFCA shall conform to the requirements of the City/SSCAFCA with respect to drainage control, flood control and erosion control. Original construction and modifications and/or additions to existing structures constituting less than 500 square feet, in plan view, are excluded.

(1) Construction, grading or paving on any lot or tract shall not increase the damage potential to upstream, downstream or adjacent properties or public facilities. Damages shall be defined as those caused by flooding from the 100-year design storm and all smaller storms and from erosion and sedimentation resulting from the 10-year design storm and all smaller storms.

(2) During the months of June, July, August or September, any grading within or adjacent to a watercourse defined as a major facility shall provide for erosion control and the safe passage of the 100-year storm during the construction phase.

(3) Grading, cut, fill or importation of material in excess of 500 cubic yards or grading of any area of one acre or more shall conform to drainage control, flood control and erosion control policies and to standards, criteria and procedures established by the City/SSCAFCA with respect to drainage, flood control and erosion control. A grading permit, issued by the City, shall be required for projects involving more than 500 cubic yards of material or one acre or more in area. Under no circumstances shall the ground be left barren for greater than fourteen (14) days. Applications for development of areas known to have been sanitary landfills, superfund sites or sites known to have hazardous waste materials, shall be accompanied by a report which discusses potential health and soil mechanics problems and their solutions. Such reports shall be prepared by a New Mexico Professional Engineer competent in soil mechanics. Under no circumstances shall the ground be left barren for greater than fourteen (14) days.

(4) Paving an area larger than 1,000 square feet shall require prior approval from the City. Applications for paving approval shall be accompanied by a grading and drainage plan. Repaving of existing paved areas in which no grading is planned is excluded.

(5) The City shall not issue a grading or paving permit unless the proposed grading or paving is in compliance with §§ 1 et seq. and the standards and criteria provided for by § 13.

(C) SSCAFCA may participate in the funding, design or construction of drainage facilities with the private sector, other public bodies and agencies operating within the jurisdiction of this policy as adopted and to the extent public benefits are derived. This includes, but shall not be limited to, the development and adoption of master plans, participation in the construction of projects and exercising control through the planning, platting, zoning, and permitting processes. Projects involving SSCAFCA funding shall be prioritized, funded and scheduled within the guidelines of the capital improvement programs.

(D) It shall be the responsibility of the City/SSCAFCA to produce, approve, make and retain records of all drainage plans, drainage reports, design analyses, design drawings, as-built drawings, and maintenance schedules related to all drainage control, flood control and erosion control facilities constructed within public rights-of-way or easements.

(E) Applications for all land use changes shall address drainage control, flood control and erosion control in terms of the interactions of these parameters with other requirements and needs produced by the proposed land use changes.

(F) Requests for the platting of land for the purpose of subdivision or development shall be accompanied by appropriate drainage control, flood control and erosion control information.

(G) (1) The City/SSCAFCA shall not approve any plan or report pertaining to proposed construction, platting or other development where the proposed activity or change in the land affected would result in downstream capacity being exceeded.

(2) (a) Downstream capacity is determined based on the assumption of fully developed watersheds in accordance with existing zoning and platting. This assumption prevents "the first come, first served" approach where downstream development unduly constrains upstream development. Parameters used in the determination of downstream capacity include, but are not limited to:

1. Channel Stability.
2. Crossing Structure Hydraulic Capacity.
3. Reservoir Capacity.
4. Hydraulic Capacity of Street, Storm Sewer, or Channel.
5. Public Safety.
6. Maintenance Constraints.
7. Water Quality Compliance.

(b) Planned public storm drainage facilities are assumed as in place in determining downstream capacity at the discretion of the City/SSCAFCA, provided that construction funds and rights-of-way are available and design has progressed to the point where capacity can be ascertained.

(H) Temporary facilities are discouraged and are only allowed and/or required on a case-by-case basis as determined by the City/SSCAFCA. The level of protection to be provided by temporary facilities shall be determined by considering:

- (1) The likelihood and consequences of a failure.
- (2) Length of time until permanent facilities will be in place.
- (3) The acceptance of maintenance responsibilities and legal liabilities.

(I) Requests for approvals of development and/or platting proposals to the City shall be accompanied by drainage control, flood control and erosion control information and/or commitments. The particular nature, location and scope of the proposed development defines the degree of detail. One or more of the following levels of submittal may be required based on the following:

(1) **Conceptual Grading and Drainage Plan.** A graphic representation of existing and proposed grading, drainage, flood control and erosion control information. The information should be of sufficient detail to determine project feasibility. The purposes of this plan are to check the compatibility of the proposed development within grading, drainage, flood hazard and erosion control constraints as dictated by on-site physical features as well as adjacent properties, streets, alleys and channels. Modifications to the comprehensive plan and the development of area plans, sector plans, site development plans and landscaping plans on tracts of five acres or more are appropriate applications of conceptual grading and drainage plans.

(2) **Grading and Drainage Plan.** A short detailed presentation required for approval of small, simple development approvals. Grading and Drainage information shall appear on a detailed grading plan and address both on-site and off-site drainage control, flood control and erosion control issues. Grading and Drainage Plans are required for building permits, site development plans and landscaping plans for developments involving less than five acres.

(3) **Drainage Report.**

(a) A drainage report is a comprehensive analysis of the drainage control, flood control and erosion control constraints on and impacts resulting from a proposed platting, development or construction project.

(b) Drainage reports are required for subdivisions and/or developments containing more than five lots or constituting five acres or more, and/or platting or construction within a LEE line.

(4) Erosion Control Plan. An erosion control plan is usually incorporated into the drainage plan or drainage report. Erosion control plans address all phases of each project from initial grading through and including final occupancy. Phased projects require special attention. All construction projects, both public and private, within the jurisdiction of §§ 1 et seq. unless specifically excluded require an approved erosion control plan prior to start of construction.

(5) As an Environmental Protection Agency requirement, post construction controls must be included to minimize the discharge of storm water pollutants from areas of new development and significant redevelopment in accordance with the DPM.

(J) Drainage control considerations specifically address safety, convenience and economics for both private property and public facilities.

(K) (1) The 100-year design storm is the 100-year 6-hour storm as defined by the National Oceanic Atmospheric Administration (NOAA) and by the storm distributions for time and areas as developed by the City/SSCAFCA. The 100-year storm has a 1% probability of occurring in any year. Watersheds with times of concentration greater than six hours will require the use of the 100-year 24-hour storm volumes and distributions. Detention basins with longer than six-hour evacuation times shall use a 24-hour or longer storm volume and distribution.

(2) Design circumstances may require larger or smaller storm volumes; Examples are emergency spillways for dams and erosion control plans respectively. The sources for rainfall data are current NOAA publications. When the need for other design storms is apparent, the City /SSCAFCA will provide requirements concerning appropriate storms, frequencies and durations. The more stringent (conservative) will override, if disagreement exists.

(L) The City /SSCAFCA shall, after the submission in writing for the approval of a plat, development plan, drainage submittal or exemption, approve or deny the request and mail a copy of the decision to the applicant. If the request is denied, the reasons for such denial shall be stated in writing. Appeal of such decisions is as provided in § 15.

(M) Discharge of any groundwater cleanup flows to any public storm drainage or flood control facility, whether natural or constructed, shall only be allowed by means of special agreement according to rules established by the City/Executive Engineer.

§ 13 ADMINISTRATIVE PROCEDURES, CRITERIA AND STANDARDS.

(A) *Promulgation of Rules.*

(1) The Executive Engineer is responsible for the promulgation of rules necessary to fulfill the intent of this article. Authorized rules shall be published in the *Development Process Manual* and shall have the same effect as the provisions within this article. The following process shall be observed hereafter in rulemaking pursuant to this article.

(2) Prior to the adoption, amendment, or repeal of any rule, the Executive Engineer shall, at least 30 days prior to the proposed action:

(a) Publish notice of the proposed action in a daily newspaper of general circulation within the jurisdiction; and

(b) Notify any person or group filing written request, such request to be renewed yearly to assure notice of proposed action which may affect that person or group, notification being by mail or other method to the last address specified by the person or group. A fee may be charged those requesting notice to cover reasonable SSCAFCA costs.

(c) The notice of proposed action shall:

1. State the manner in which data, views, or arguments may be submitted to the Executive Engineer by any interested person;

2. Describe the substance of the proposed action or state the subjects and issues involved; and

3. Include specific reference to the section of this policy under which the rule is proposed.

(3) All interested persons shall be given reasonable opportunity to submit in writing data, views, and/or arguments concerning any proposed rule change. The Executive Engineer shall consider all submissions in writing related to the proposed rule change. All persons making a presentation in writing, shall promptly be given a copy of the decision, by mail or otherwise.

(B) *Effective Date of Rules.* Each rule or set of rules adopted is effective upon recording as an adopted rule and promulgated as an amendment of the *Development Process Manual* or as specified in the rule itself.

(C) *Filing of Rules; Copying.*

(1) The Executive Engineer shall promptly publish each final rule, or amendment, or repeal thereof, including all rules existing on the effective date of this article, as amendments to the *Development Process Manual*.

(2) SCAFCA shall maintain and update as necessary an index of adopted rules on record and shall make copies of this index available to the public. SCAFCA shall allow the public to make copies of rules. A reasonable fee may be charged for copies.

(D) *Development Process Manual.* The Executive Engineer shall set forth in the *Development Process Manual*:

(1) The nature and requirements of formal and informal administrative procedures and design criteria adopted pursuant to this policy, as well as all required or recommended submittal requirements relating to the subdivision process;

(2) A listing of the established places at which, and the methods whereby, the public may secure information or make submittals or requests concerning such administrative procedures and design criteria; and

(E) *Public Information and Records Related to Rulemaking.*

(1) SCAFCA files and records prepared for or received in rulemaking and decisions related to specific proposed subdivisions, except those subject to a legal privilege from discovery, shall be available for inspection by any person at all reasonable times.

(2) Copies of all documents subject to inspection under this section shall be made available upon request to any person upon payment of reasonable City costs.

(F) *Emergency Rules.* When the Executive Engineer determines that urgent and compelling reasons (danger to public health, life, safety and public welfare) require emergency modification (revision, addition, or deletion) of a rule, the Executive Engineer, notwithstanding any provision of this article, may adopt such modification and make them effective immediately. The Executive Engineer shall publish a notice in a newspaper of general circulation within the jurisdiction within five days, detailing the modification and the compelling and urgent reasons therefore.

(G) *Designee Appointment.* The Board of Directors of SCAFCA may, whenever requested, authorize such persons as may be designated by the Chief Executive Officer of any State or local governmental body, agency or commission to act in the name, place and stead of the Executive Engineer of the SCAFCA, in granting or denying approvals or waivers under this Regulation, provided that:

(1) Each person so authorized shall be a registered professional engineer, competent in surface hydrology and drainage, in the full time employment of the cooperating entity; and

(2) An agreement has been entered into between the SCAFCA and such cooperating entity under the provisions of Section 72-16-22, N.M.S.A., 1978 and the Joint Powers Agreement Act; and

(3) Copies of all decisions of such Designee and of drainage plans and reports approved, modified or rejected by him will be furnished to the Executive Engineer at the time of decision thereof; and

(4) Such Designee and the Executive Engineer shall coordinate their respective drainage related activities.

§ 14 ENFORCEMENT.

(A) (1) Whenever necessary to make an inspection to enforce any of the provisions of §§ 1 et seq., the Executive Engineer or his authorized representative may enter such premises at all reasonable times to inspect the same or to perform any duty imposed upon him by §§ 1 et seq.; provided that if such premises be occupied, he shall first present proper credentials and demand entry; and if such premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and demand entry. If entry is refused or if the owner or other responsible person is not found, the Executive Engineer or his authorized representative shall proceed to obtain a court order by filing a complaint made in the District Court upon oath or affirmation. The complaint shall:

(a) Set forth the particular premises or portion thereof sought to be inspected;

(b) State that the owner or occupant of the premises, or portion thereof, has refused entry;

(c) State that inspection of the premises, or portion thereof is necessary to determine whether it complies with the requirements of §§ 1 et seq.;

(d) Set forth the particular provisions of §§ 1 et seq. sought to be enforced;

(e) Set forth any other reason necessitating the inspection, including knowledge or belief that a particular condition exists in the premises, or portion thereof which constitutes a violation of §§ 1 et seq.; and

(f) State that the complainant is authorized by the SCAFCA to make the inspection.

(2) Each inspector shall be furnished with an identification card signed by the Executive Engineer and by the Chairman of the SCAFCA Board indicating his authority and must present same to the District Court for the purpose of this section (A) and to other persons, when requested to do so during the performance of his duty. No owner or occupant or any other person having charge, care or control of any premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein

by the authorized inspector for the purpose of inspection and examination pursuant to §§ 1 et seq.

(B) Where, after investigation, an order has been issued by the Executive Engineer to the owner of the property on which a violation has occurred and the order is not complied with, within such reasonable time as may be prescribed by the Executive Engineer, or if the responsible party or violator cannot be found or determined, SSCAFCA may cause such remedies as are necessary to be made. The reasonable cost of such remedies shall constitute a lien against the property on which the violation occurred and was remedied. The lien shall be imposed and foreclosed in the manner as provided by law.

§ 15 APPEALS; EXECUTIVE COMMITTEE.

(A) Any applicant aggrieved by a decision as to actions provided for in §§ 6, 12 and 13 of the Executive Engineer or absence of such decision, may appeal such decision to the Executive Committee of SSCAFCA. Such appeal shall be made by notice of appeal in writing addressed to the Chairperson of the Executive Committee and delivered to SSCAFCA within 30 days after the date the decision was mailed to the applicant. The Chairperson of the Executive Committee shall notify the applicant and the Executive Committee Members of the date, time, and place of the appeal hearing at least five days prior to the hearing date. Such hearing shall be conducted not earlier than ten days nor later than 30 days after the filing of the notice of appeal. At the hearing, the Executive Committee may consider such facts, exhibits, and engineering principles as may be presented by the appellant or the Executive Engineer or his designee, or of which the members may have knowledge or experience, and may affirm, reverse or modify the decision appealed from, and attach as conditions to their decision such requirements as in their opinion may be necessary or appropriate in compliance with the policies of §§ 1 et seq. to safeguard persons and property from storm water runoff. Each decision of the Executive Committee shall be in writing and shall state reasons therefore. A copy of the decision shall be promptly mailed to the applicant and to the Executive Engineer.

(B) The Executive Engineer or applicant aggrieved by any decision of the Executive Committee may appeal such decision to the SSCAFCA Board of Directors. Such appeal shall be requested by notice of appeal in writing addressed to the Chairman of the SSCAFCA Board of Directors within 30 days after the date a copy of the decision was mailed to the applicant. Such appeal shall be heard after notice at the first available meeting of the SSCAFCA Board of Directors. The SSCAFCA Board of Directors may affirm, reverse, or modify the decision of the Executive Committee. A copy of the decision shall be promptly mailed to the applicant and to the Executive Engineer.

§ 16 INTERPRETATION.

The provisions of this policy shall be held to be minimum requirements to meet the intent expressed in § 1. Where the provisions of this policy impose greater restrictions than those of any other ordinance or resolution adopted by any other governmental body or political subdivision the provisions of this policy shall prevail. Where the provisions of

any other ordinance, resolution, or covenant impose greater restrictions than those of this policy, the provisions of such other ordinance, resolution, or covenant shall prevail.

§ 17 WARNING AND DISCLAIMER OF LIABILITY.

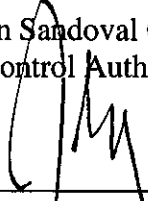
The degree of flood protection required by §§ 1 et seq. is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. Sections 1 et seq. do not imply that land outside flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. Sections 1 et seq. shall not create liability on the part of SSCAFCA or on any officer or employee thereof for any drainage, erosion and flood damages that result from reliance on §§ 1 et seq. or any administrative decision lawfully made thereunder.

§ 18 PENALTY.

Any person who violates any provision of §§ 1 et seq. for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$27,000 or by imprisonment not exceeding 90 days or both unless a different specific penalty is provided. Each separate violation shall constitute a separate offense and, upon conviction, each day of violation shall constitute a separate offense.

PASSED, ADOPTED AND SIGNED this 20th day of June 2008

Southern Sandoval County Arroyo
Flood Control Authority

By: 

JOHN CHANEY
Chairman, Board of Directors

(SEAL)



STEVEN HOUSE
Secretary