

**Category: 100 – GENERAL/ADMINISTRATIVE**

**Number: 122**

**Subject: INTELLECTUAL PROPERTY POLICY**

1. **PURPOSE:** This policy is intended to cover all types of intellectual property regardless of whether such is protected by patent, copyright, trademark, trade secret or other law.
2. **AUTHORITY:** St. Clair County Board of Commissioners.
3. **APPLICATION:** This Policy applies to all County employees and anyone using County facilities under the supervision of County personnel.
4. **RESPONSIBILITY:** The Administrator/Controller and Department Heads shall be responsible for the implementation and administration of this policy.

5. **DEFINITIONS:**

**Intellectual Property**

The term “intellectual property” as used herein means the particular expression, outcome, or result of a creative endeavor which broadly includes, but is not limited to inventions, copyrightable works, and the tangible products of research.

**(a). Inventions.**

“Inventions” includes, but is not limited to anything that is patentable under the laws of the United States (35 USC § 1, et seq.), and any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof, that is novel and non-obvious.

**(b). Copyrightable Works**

“Copyrightable works” includes, but is not limited to any material which is copyrightable under the laws of the United States (17 USC § 101, et seq.), and all other “original works of authorship” including literary, dramatic, musical, artistic, and certain other intellectual works, both published and unpublished, all scholarly works, creative/artistic works, and copyrightable software.

**(c). Tangible Products of Research**

The “tangible products of research” are such items as are generated during the process of research. This includes, but is not limited to, all data gathered, analyses of any data gathered, research notebooks, biological materials, engineering drawings, computer software, integrated circuit chips, computer databases, prototype devices, circuit diagrams, and equipment.

**Creator**

“Creator” means an individual or group of individuals who make, conceive, and reduce to practice, or otherwise substantially contribute to the creation of intellectual property.

“Creator” encompasses, but is not limited to, the definitions of “inventor” and “author” found within federal patent and copyright law. This term only applies to County employees and anyone using County facilities under the supervision of County personnel.

6. **POLICY:**

**County Ownership of Intellectual Property**

The County, or a limited liability company established by it, shall own all rights in any intellectual property created by a County employee within the scope of their employment; created or developed on County time; and/or created or developed with the use of County facilities or County financial support. For purposes of this policy “work within the scope of employment” shall include any work related to an employee’s job responsibilities, even if he or she is not specifically requested to create the work. When this policy refers to shall be owned by the County, this means the employee shall be obligated to assign to the County or a limited liability company it establishes all intellectual property rights, including but not limited to, patents issued to the employee.

**Employee Ownership of Intellectual Property**

A County employee shall own all rights in intellectual property the employee created, provided the intellectual property is unrelated to the employee’s job responsibilities **AND** the employee did not use County resources to produce or develop the intellectual property or develop the intellectual property on County time in whole or in part.

Before a County employee shall disclose to any party outside of the County, any intellectual property to which the employee asserts an ownership interest, the employee shall submit a reasonably complete and detailed confidential disclosure of such intellectual property to the County Board of Commissioners. The County Board of Commissioners shall have 30 days to review the submission and determine whether the County will assert any interest in the intellectual property. If the County Board of Commissioners concludes it has no ownership interest or elects not to assert and exploit the intellectual property disclosed, the creator shall be notified and be free to obtain and exploit a patent or other intellectual property protection in his or her own right and the County shall not have any further rights, obligations, or duties.

**Reimbursement of Licensing Costs and Allocation of Income**

In those instances where the County licenses rights in intellectual property to third parties, the costs of licensing, including, but not limited to, the costs to create and/or develop the intellectual property and the costs of obtaining protection for the intellectual property on behalf of the County, must first be recaptured from any royalties or other license payments received by the County before the remainder of such income (including but not limited to license fees, prepaid royalties, minimum royalties, running royalties, milestone payments, and sublicense payments) shall be divided as follows:

20% to Creator  
80% to County.

The Board of Commissioners may adjust the allocation of royalties set forth herein for all its creators as the County Board of Commissioners in its sole discretion deems appropriate. Any such adjustment must be by written agreement approved by the County Board of Commissioners.

7. **ADMINISTRATIVE PROCEDURES:**

Any employee that asserts an ownership interest in any intellectual property shall contact the Administrator/Controller prior to disclosing to any outside party. The Administrator/Controller shall present to the Board of Commissioners for review and they shall have a determination of action in 30 days.

8. **ADMINISTRATOR/CONTROLLER AND LEGAL COUNSEL REVIEW:** The Administrator/Controller shall sign off on all new and amended policies as to substance. The County Legal Counsel shall sign off on all new and amended policies as to legal content. These signoffs shall accompany and be completed prior to submission to the Board of Commissioners for consideration and approval.

**Adopted: June 20, 2008**