



# Howard County


## Internal Memorandum

Subject: Testimony & Fiscal Impact Statement

**Council Resolution No. X-2021:** A RESOLUTION approving a Financial Assurance Plan for Howard County's National Pollutant Discharge Elimination System, Municipal Separate Storm Sewer System permit programs, in accordance with Section 4-202.1 of the Environmental Article of the Annotated Code of Maryland

To: Lonnie R. Robbins,  
Chief Administrative Officer

From: Tom Meunier, Director  
Department of Public Works

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Date: February 12, 2021

The Department of Public Works has been designated coordinator for the preparation of testimony relative to CR-~~XX~~-2021. In accordance with Section 4-202.1 of the Environment Article of the Annotated Code of Maryland (the "State Law") a National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit was issued to Howard County on December 18, 2014. The permit mandated that the County implement restoration efforts for 20% of its total impervious surface to the maximum extent practicable by December 17, 2019. As part of the impervious area accounting and restoration process, the Maryland Department of the Environment (MDE) allowed each Phase I MS4 municipality to periodically update and refine the impervious area baseline for consideration during the permit term. MDE acknowledged the untreated impervious area baseline for Howard County was 11,020 acres. Applying the 20% factor to the untreated area yields a restoration target of 2,204 acres. At the close of the permit in December of 2019, Howard County exceeded the State requirement by treating 2,208 acres.

Since January 2020, the County's permit has been in an administrative continuance, but we expect to receive a formal permit from MDE during the first half on 2021 covering the period between 2020 and 2025. We anticipate a new impervious acre restoration goal of 10% or 1,102 acres. This impervious acre restoration goal will be based on the same impervious area baseline of 11,020 acres. We also anticipate permit requirements other than impervious acre restoration. However, until we receive the permit we cannot effectively plan the revenues and expenditures needed to complete these new permit requirements.

State law requires that the County approve and file a Financial Assurance Plan (Plan) with MDE every two years. The Plan must describe the actions, revenues, and costs required to meet the prescribed restoration requirement. Based on Article 4-202.1(j)(2) of the Environment Article of the Annotated Code of Maryland, the county must demonstrate it has sufficient funding in the current fiscal year and subsequent fiscal year budgets to meet its estimated cost for the 2-year period immediately following the filing date of the Plan (2020). The law also requires that the County Executive

certify that a public hearing was held on the Plan and that the local governing body approved the Plan.

Howard County implemented its stormwater utility fee, the Watershed Protection and Restoration Fee (WPRF), on July 1, 2013, as required by State law. Upon implementation of the Fee and the Watershed Protection and Restoration Fund, the County increased existing efforts to plan, design, construct and monitor restoration projects necessary to meet the past, current and future NPDES MS4 permit restoration goals.

The County will continue to implement the numerous programs required by the MS4 permit. Best management practices (BMPs) will continue to be utilized to complete the restoration work and improve water quality, including stream restoration, outfall stabilization, tree planting, construction of new BMPs, retrofitting existing BMPs, street sweeping, inlet cleaning, and septic system upgrades, pump-outs, and connections to the sanitary sewer system. The County also continues to research and develop the voluminous electronic data necessary to meet the ever-expanding Geodatabase reporting requirements of the MS4 permit.

#### **Fiscal Analysis:**

The County appreciates the importance of working to meet the restoration requirement of its permit. Utilizing completed project costs of \$56,836,251 to achieve the 20% restoration requirement from the previous permit, the County believes a 10% restoration requirement of its MS4 permit will cost approximately \$30,000,000 beginning in Fiscal Year (FY) 2020 through FY 2025. Over the next two fiscal years, FY 2021 and FY 2022, the County has programmed a sufficient number of projects to meet the overall 10% restoration requirement and has budgeted approximately \$12,000,000 to ensure that the requirement is met. These cost estimates include the engineering design, construction, and monitoring costs associated with commencing and completing the 10% restoration requirement.

The County will use the following revenue sources for FY 2021 and FY 2022 in funding the costs of the MS4 permit over the next two fiscal years:

*Watershed Protection and Restoration Fee-* The County currently collects approximately \$10.8 million from the Watershed Protection and Restoration Fee. This amount has decreased over the last few years since the Fee from commercial properties declined, as specified in Council Resolution 37-2016. The County will also utilize this Fund to absorb a portion of the operating costs in administering stormwater restoration projects and to provide debt service for General Obligation or Stormwater Bonds issued to fund the stormwater restoration projects.

*Grants-* The County typically receives funding from various State and Federal grant programs to conduct stormwater restoration work. There is also the potential to work with private entities in conducting stormwater restoration work.

*Stormwater Bonds –* The County will issue stormwater bonds to fund necessary stormwater restoration projects required by the MS4 permit

*General Fund-* The County will utilize its General Fund to absorb a portion of the operating costs in administering stormwater restoration projects.

*General Obligation Bonds-* The County will issue General Obligation Bonds, if necessary, to fund necessary stormwater restoration projects required by the MS4 permit.

### **Future Considerations**

The Plan describes projected actions, revenues, and costs to meet stormwater management requirements based on the current policy and regulatory environment established by MDE. As the County moves forward in its program, it continues to gain a better understanding of the costs associated with completing the necessary stormwater restoration work. In addition, the County expects that several factors yet to be determined at the State level may influence the costs of meeting our next MS4 permit.