



Internal Memorandum

Subject: Proposed resolution related to the Financial Assurance Plan

Date: June 13, 2016

To: Lonnie R. Robbins
Chief Administrative Officer

From: Jim Caldwell
Director, Office of Community Sustainability

A handwritten signature in black ink, appearing to read "Jim Caldwell", is written over the printed name and title of the sender.

Summary:

The Administration has filed a resolution endorsing the Financial Assurance Plan (the "Plan"), so as to satisfy Section 4-202.1 of the Environment Article of the Annotated Code of Maryland that requires local jurisdictions, who received a National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit, to submit a plan that outlines what resources the jurisdiction will use in working to meet its NPDES MS4 permit.

The NPDES MS4 permit issued to Howard County, hereinafter "the County", on December 18, 2014, mandated that the County implement restoration efforts for 20% of its total impervious surface area, that has not already been restored to the maximum extent practicable (MEP), by December 17, 2019. In December 2015, the County submitted its Countywide Implementation Strategy (CIS) which included a detailed impervious surface area assessment and restoration plan that calculated the Countywide impervious surface area not restored to the MEP as 10,222 acres. Thus, the County's target 20% restoration requirement is 2,044 acres. State law requires that the County approve and file a financial assurance plan with the Maryland Department of the Environment (MDE) that describes actions, revenues, and costs required to meet the 20% restoration requirement.

The Plan was developed using the information from the CIS submitted to MDE in December 2015, which outlined the projected work the County must complete under the current regulatory and technological environment to meet its impervious surface restoration requirement of its NPDES MS4 permit. This Plan was also developed collaboratively with MDE to ensure that they were comfortable with the Plan, and the process that the County

was taking to have the Plan approved by a local legislative body. The Plan format requested by MDE has been repeatedly modified over the past several months. MDE has confirmed that the form of the Plan filed with the Resolution is acceptable.

In the day prior to filing the Plan with the County Council, the County received comments on the CIS from MDE. The County requested that MDE delay the deadline for the filing of the Plan so that the County could address MDE's comments on the CIS in the Plan, but MDE denied this request. The Plan has been developed based on the impervious surface area assessment and strategies outlined in the December 2015 CIS and MDE has assured the County that the development of its Plan has been laudatory.

Fiscal Impact:

The resolution presented for endorsement does not directly impact the General Fund. The resolution presents a projected spending plan that outlines potential sources of funding stormwater practices that will assist the County in working to meet its NPDES MS4 permit. However, at this time, the full extent of that impact is still unknown given the fluid regulatory environment surrounding the implementation of stormwater remediation practices, as well as the improving technology utilized in constructing stormwater remediation projects.

Overall, the funding that the County is projected to utilize in working toward meeting its NPDES MS4 permit over the next two Fiscal Years, Fiscal Year (FY) 2017 and FY 2018, is approximately \$40,760,000.00. The County will utilize the following funding sources over these two Fiscal Years:

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.

Watershed Protection and Restoration Fee- The County currently collects approximately \$10.8 million from the Watershed Protection and Restoration Fee. This amount will decrease steadily over the next three years, as the Fee for commercial properties begins to decline, as specified in Council Resolution 37-2016.

Transfer Tax- Of the transfer tax that the County currently collects, a quarter is awarded to the County's Agricultural Land Preservation Program. The County believes that this program is reaching its peak and the Agricultural Land Preservation Fund will grow a significant positive balance in the near future. The County believes that allocating \$1 million in FY 2018 to the Watershed Protection and Restoration Fund from the portion of the proceeds that the Agricultural Land Preservation Program currently receives is appropriate, but State legislation is required for this to occur.

General Fund- The County will utilize its General Fund to absorb operating costs in administering stormwater restoration projects and also to provide debt service for General Obligation Bonds issued to fund the stormwater restoration projects.

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

The presented 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 will continue to gain a better understanding of the costs associated with completing the necessary stormwater restoration work. In addition, the County expects that several factors to be determined at the State level will influence the costs of meeting the NPDES MS4 permit:

New Crediting Methods - There is an expectation that new crediting methods related to outfall stabilization, street sweeping, inlet cleaning, public education, and more will allow the County credits for treating impervious acres based on existing and developing programs.

Nutrient Trading Program- MDE and the Maryland Department of Agriculture are dedicating considerable resources to the expansion of existing nutrient trading programs that should allow nutrient trades that will help the County meet its 20% restoration requirement in a cost-effective manner.

As stated previously, the Plan presented for endorsement is a projected spending plan that only takes into the account stormwater management practices at the present moment. As the County moves forward in working toward its NPDES MS4 permit, the costs associated will change as a better understanding of the County's watersheds is gained, technology improves, regulations adapt, and new crediting methods are introduced. As the costs change, so will the funding. The County is expected to file its next Financial Assurance Plan in 2018, at which point the County will have an even better understanding of stormwater management in the County, and what will be required in working toward meeting its NPDES MS4 permit.

