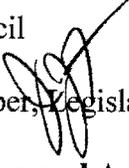


**MEMORANDUM**

November 5, 2009

TO: County Council

FROM: Justina J. Ferber,  Legislative Analyst

SUBJECT: **Public Hearing and Action:** Supplemental Appropriation #6-A10-CMCG-3  
FY10 Capital Budget – MCG Department of Economic Development  
Agricultural Land Preservation Easements – PDF No. 788911  
\$5,000,000

The County Executive recommends a supplemental appropriation to the FY10 Capital Budget in the amount of \$5,000,000 for the Agricultural Land Preservation Easements project. The appropriation will fund the new Building Lot Termination Program (BLT).

This supplemental request for funds is a result of HB 1517, which was passed during the 2009 Maryland General Assembly. The approved bill provides a transfer of ALARF funds from the Maryland-National Capital Park and Planning Commission (M-NCPPC) to Montgomery County in the amount of \$5,000,000 to be used specifically for the Building Lot Termination (BLT) Program as authorized under Chapter 2B of the Montgomery County Code. The M-NCPPC has completed the transfer of the \$5,000,000 in ALARF funds to the County, and the funding must now be appropriated within the project to implement the program.

Executive Regulation 03-09 to implement the BLT program will be reviewed by the Planning, Housing and Economic Development (PHED) Committee in January.

**Background**

The County's Agricultural Land Preservation Easements Capital Program is administered by the County's Agricultural Services Division in the Department of Economic Development. The Agricultural Land Preservation Easements Program protects and preserves agricultural land from development with the goal of retaining a significant farming sector. In 2009, Montgomery County achieved its farmland preservation goal of protecting over 70,000 acres of farmland. Preservation of agricultural land is accomplished under five separate programs: MC Agricultural Easements Program, MD Ag Land Preservation Foundation Program, MC Transferable Development Rights Program, Maryland Environmental Trust Program, and Rural Legacy

Program. The BLT program will now be added once funding and regulations are complete. Bill 39-07, Agricultural Land Preservation – Amendments, enacted November 18, 2008, authorizes easements for the BLT program.

**Staff Recommendation:** Approve the supplemental appropriation to the FY10 Capital Budget in the amount of \$5,000,000 for the Ag Land Preservation Easements project to fund the new Building Lot Termination Program.

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OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

October 15, 2009

TO: Phil Andrews, President, County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Supplemental Appropriation #6-A10-CMCG-3 to the FY10 Capital Budget  
Montgomery County Government  
Department of Economic Development  
Ag Land Pres Easements (No.788911), \$5,000,000

I am recommending a supplemental appropriation to the FY10 Capital Budget in the amount of \$5,000,000 for the Ag Land Pres Easements project (No.788911). The appropriation is needed to fund the Building Lot Termination Program (BLT).

This supplemental request for funds is a result of HB 1517, which was passed during the 2009 Maryland General Assembly. The approved bill requires a transfer of ALARF funds from the Maryland National Capital Park and Planning Commission (M-NCPPC) to Montgomery County in the amount of \$5,000,000, and will be used specifically for the Building Lot Termination (BLT) Program as authorized under Chapter 2B of the Montgomery County Code. The M-NCPPC has completed the transfer of the \$5,000,000 in ALARF funds to the County, and the funding must now be appropriated within the project to allow the department to implement the BLT program.

I recommend that the County Council approve this supplemental appropriation in the amount of \$5,000,000 and specify the source of funds as M-NCPPC Contributions.

I appreciate your prompt consideration of this action.

IL:jz

Attachment: Supplemental Appropriation #6-A10-CMCG-3

c: Steven A. Silverman, Director, Department of Economic Development  
Joseph Beach, Director, Office of Management and Budget  
Alison Dollar, Office of Management and Budget  
Jeremy Criss, Department of Economic Development  
Jennifer Shovlin, Department of Economic Development

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RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

①

Resolution No: \_\_\_\_\_

Introduced: \_\_\_\_\_

Adopted: \_\_\_\_\_

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

SUBJECT: Supplemental Appropriation #6-A10-CMCG-3 to the FY09-14 Capital Budget  
Montgomery County Government  
Department of Economic Development  
Ag Land Pres Easements – (No.788911), \$5,000,000

Background

1. Section 307 of the Montgomery County Charter provides that any supplemental appropriation shall be recommended by the County Executive who shall specify the source of funds to finance it. The Council shall hold a public hearing on each proposed supplemental appropriation after at least one week's notice. A supplemental appropriation that would comply with, avail the County of, or put into effect a grant or a Federal, State or County law or regulation, or one that is approved after January 1 of any fiscal year, requires an affirmative vote of five Councilmembers. A supplemental appropriation for any other purpose that is approved before January 1 of any fiscal year requires an affirmative vote of six Councilmembers. The Council may, in a single action, approve more than one supplemental appropriation. The Executive may disapprove or reduce a supplemental appropriation, and the Council may reapprove the appropriation, as if it were an item in the annual budget.

2. The County Executive recommends the following capital project appropriation increases:

<u>Project Name</u>	<u>Project Number</u>	<u>Cost Element</u>	<u>Amount</u>	<u>Source of Funds</u>
Ag Land Pres Easements	788911	Land	\$5,000,000	M-NCPPC Contributions

3. This supplemental request for funds is a result of HB 1517, which was passed during the 2009 Maryland General Assembly. The approved bill requires a transfer of ALARF funds from the Maryland National Capital Park and Planning Commission (M-NCPPC) to Montgomery County in the amount of \$5,000,000, and will be used specifically for the Building Lot Termination (BLT) Program as authorized under Chapter 2B of the Montgomery County Code. The M-NCPPC has completed the transfer of the \$5,000,000 in ALARF funds to the County, and the funding must now be appropriated within the project to allow the department to implement the BLT program.
4. The County Executive recommends a supplemental appropriation in the amount of \$5,000,000 for the Ag Land Pres Easements project (No. 788911), and specifies that the source of funds to be M-NCPPC Contributions.
5. Notice of public hearing was given and a public hearing was held.

Action

The County Council for Montgomery County, Maryland, approves the following action:

A supplemental appropriation to the FY09-14 Capital Budget is approved as follows:

<u>Name</u>	<u>Project Number</u>	<u>Project Element</u>	<u>Cost Amount</u>	<u>Source of Funds</u>
Ag Land Pres Easements	788911	Land	\$5,000,000	M-NCPPC Contributions

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

## SUPPLEMENTAL OR SPECIAL APPROPRIATION REQUEST SUMMARY

1. Please fill in the following table:

Agency	Montgomery County Government
Department	Department of Economic Development
Fund (County Government only)	Ag Preservation Easements #788911
Fiscal year	FY10
Supplemental or Special	Supplemental

2. What is the amount and source of funding?

Source of funding (Please list sources)	Amount
M-NCPPC Contributions	\$5,000,000
Total request	\$5,000,000

3. Please explain why you did not request this during the annual budget process.

During the 2009 Legislative session, the County Council proposed HB 1517 which provided for the disbursement of \$5,000,000.00 in ALARF funds from the Maryland National Capital Park and Planning Commission (MNCPPC) to Montgomery County to be used specifically for the Building Lot Termination (BLT) Program authorized under Chapter 2B of the Montgomery County Code. The HB 1517 required MNCPPC to transfer these funds to the County on or before October 2, 2009. The MNCPPC has completed the transfer of the \$5 million in ALARF funds to the County and this funding must now be appropriated for the DED to use of these funds for the BLT program.

# Ag Land Pres Easements -- No. 788911

Category  
Subcategory  
Administering Agency  
Planning Area

Conservation of Natural Resources  
Ag Land Preservation  
Economic Development  
Countywide

Date Last Modified  
Required Adequate Public Facility  
Relocation Impact  
Status

October 28, 2009  
No  
None.  
On-going

## EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY08	Rem. FY08	Total 6 Years	FY09	FY10	FY11	FY12	FY13	FY14	Beyond 6 Years
Planning, Design, and Supervision	2,573	0	0	2,573	280	432	445	458	472	486	0
Land	24,183	0	12,910	11,273	1,723	5,600	750	1,000	1,000	1,200	0
Site Improvements and Utilities	0	0	0	0	0	0	0	0	0	0	0
Construction	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>26,756</b>	<b>0</b>	<b>12,910</b>	<b>13,846</b>	<b>2,003</b>	<b>6,032</b>	<b>1,195</b>	<b>1,458</b>	<b>1,472</b>	<b>1,686</b>	<b>0</b>

## FUNDING SCHEDULE (\$000)

Agricultural Transfer Tax	16,415	0	10,142	6,273	1,723	600	750	1,000	1,000	1,200	0
Federal Aid	393	0	393	0	0	0	0	0	0	0	0
Investment Income	2,687	0	114	2,573	280	432	445	458	472	486	0
M-NCPPC Contributions	5,000	0	0	5,000	0	5,000	0	0	0	0	0
State Aid	2,261	0	2,261	0	0	0	0	0	0	0	0
<b>Total</b>	<b>26,756</b>	<b>0</b>	<b>12,910</b>	<b>13,846</b>	<b>2,003</b>	<b>6,032</b>	<b>1,195</b>	<b>1,458</b>	<b>1,472</b>	<b>1,686</b>	<b>0</b>

### DESCRIPTION

This project provides funds for the purchase of agricultural and conservation easements under the County Agricultural Land Preservation legislation, effective November 25, 2008, for local participation in Maryland's agricultural and conservation programs. The County Agricultural Easement Program (AEP) enables the County to purchase preservation easements on farmland in the agricultural zones and in other zones approved by the County Council to preserve farmland not already protected by Transferable Development Rights (TDRs) easements or State agricultural land preservation easements.

The Maryland Agricultural Land Preservation Foundation (MALPF) enables the State to purchase preservation easements on farmland jointly by the County and State.

The Rural Legacy Program (RLP) enables the State to purchase conservation easements to preserve large contiguous tracts of agricultural land. The sale of development rights easements are proposed voluntarily by the farmland owner. Project funding comes primarily from the Agricultural Land Transfer Tax, which is levied when farmland is sold and removed from agricultural status. Montgomery County is a State-certified county under the provisions of State legislation which enables the County to retain 75 percent of the taxes for local use. The County uses a portion of its share of the tax to provide matching funds for State easements.

Beginning in FY2010, a new Building Lot Termination (BLT) program will be initiated that represents an enhanced farmland preservation program tool to further protect land where development rights have been retained in the Rural Density Transfer Zone (RDT). This program will use Agricultural Transfer Tax revenue to purchase the development rights and corresponding TDRs retained on these properties.

### COST CHANGE

\$5,000,000 in M-NCPPC Contributions represents funds received from M-NCPPC for the BLT Program in accordance with Chapter 2B of the Montgomery County Code.

### JUSTIFICATION

Annotated Code of Maryland 2-501 to 2-515, Maryland Agricultural Land Preservation Foundation; Annotated Code of Maryland 13-301 to 13-308, Agricultural Land Transfer Tax; and Montgomery County Code, Chapter 2B, Agricultural Land Preservation.

### OTHER

Appropriations are based upon a projection of Montgomery County's portion of the total amount of Agricultural Transfer Tax, which has become available since the last appropriation and State Rural Legacy Program grant funding. Appropriations to this project represent a commitment of Agricultural Land Transfer Tax funds and State Aid to purchase agricultural easements. The Agricultural Transfer Taxes are deposited into an investment income fund, the interest from which is used to fund direct administrative expenses (3.0 workyears), the purchase of easements, and other agricultural initiatives carried out by the Agricultural Services Division. The program permits the County to take title to the TDRs. These TDRs are an asset that the County may sell in the future, generating revenues for the Agricultural Land Preservation Fund. The County can use unexpended appropriations for this project to pay its share (40 percent) of the cost of easements purchased by the State. Since FY99, the County has received State RLP grant funds to purchase easements for the State through the County. The State allows County reimbursement of 3 percent for direct administrative costs such as appraisals, title searches, surveys and legal fees.

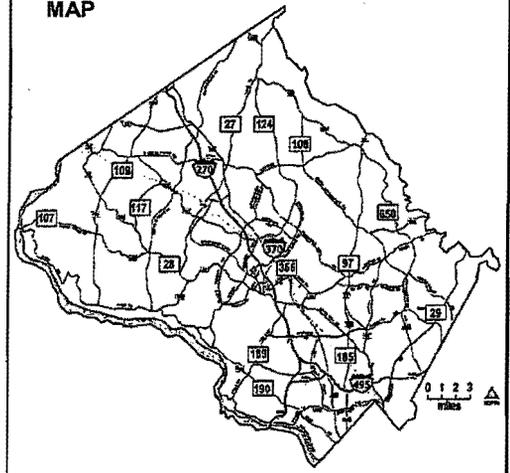
### APPROPRIATION AND EXPENDITURE DATA

Date First Appropriation	FY89	(\$000)
First Cost Estimate		
Current Scope	FY10	26,756
Last FY's Cost Estimate		21,756
Appropriation Request	FY10	1,033
Supplemental Appropriation Request		5,000
Transfer		0
Cumulative Appropriation		14,912
Expenditures / Encumbrances		9,395
Unencumbered Balance		5,517
Partial Closeout Thru	FY07	44,416
New Partial Closeout	FY08	5,286
Total Partial Closeout		49,702

### COORDINATION

State of Maryland Agricultural Land Preservation Foundation  
State of Maryland Department of Natural Resources  
Maryland-National Capital Park and Planning Commission  
Landowners

### MAP



## Ag Land Pres Easements -- No. 788911 (continued)

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Given changes to the Federal Program, Federal Aid funds are no longer programmed in this project.

### **FISCAL NOTE**

In FY10, \$5,000,000 in M-NCPPC Contributions was received from M-NCPPC for the BLT Program in accordance with Chapter 2B of the Montgomery County Code. Expenditures do not reflect additional, authorized payments made from the Agricultural Land Preservation Fund balance to increase financial incentives for landowners.

### **OTHER DISCLOSURES**

- The Executive asserts that this project conforms to the requirements of relevant local plans, as required by the Maryland Economic Growth, Resource Protection and Planning Act.