

Resolution No.:	<u>18-1184</u>
Introduced:	<u>June 19, 2018</u>
Adopted:	<u>July 17, 2018</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President

SUBJECT: Special Appropriation to the FY19 Capital Budget and Amendment to the FY19-24 Capital Improvements Program 1-E19-CMCG-1
Montgomery County Government
Department of Environmental Protection
SM Design/Build/Maintain Contract (No. 801901)

Background

1. Article 3, Section 308, of the Charter of Montgomery County, Maryland provides that a special appropriation: (a) may be made at any time after public notice by news release to meet an unforeseen disaster or other emergency, or to act without delay in the public interest; (b) must specify the revenues to finance it; and (c) must be approved by no fewer than six members of the Council.
2. Section 302 of the Montgomery County Charter provides that the Council may amend an approved capital improvements program at any time by an affirmative vote of no fewer than six members of the Council.
3. On June 14, 2018, the County Executive transmitted his support for a new SM Design/Build/Maintain Contract project with revisions based on discussions between Council and Executive staff. The special appropriation and amendment shown on the attached project description form in combination with Resolution 18-1185 is intended to implement the County Executive's recommendation to create this new stormwater management project.
4. This special appropriation and amendment in combination with Resolution 18-1185 is needed to increase the efficiency, cost-effectiveness, and scalability of the stormwater management program to improve the County's ability to meet its future MS4 permit requirements and larger environmental objectives. The recommended amendment is consistent with the criteria for amending the CIP because the project offers a significant opportunity for cost-savings and improved project implementation, resulting in more timely environmental benefits which will be lost if action is not taken at this time.

5. This amendment would create a new project, SM Design/Build/Maintain Contract (No. 801901), previously recommended by the County Executive. The project description form includes revised language from the previous recommendation noting that the Department of Environmental Protection will provide quarterly updates to the Council on the County's stormwater management program and will meet regularly with an environmental advisory group for input and feedback on project issues.
6. The County Executive also agreed to revise the contract language for this project to address Councilmember concerns, most notably: to require that the new contractor include in their proposal at least 10-12 projects currently under design in DEP, that at least 60 percent of the projects (or project acreage) will meet DEP's green infrastructure definition, that 5% of acreage or 10% of costs will be for low impact development (LID) work, and that DEP must approve or disapprove projects proposed by the contractor and can add or substitute projects (subject to availability of funding).
7. An FY19 appropriation for this project of \$20 million is needed, with \$10,557,000 to be transferred to the project per Resolution 18-1185 and the balance being new appropriation as noted below:

<u>Project Name</u>	<u>Project Number</u>	<u>Amount</u>	<u>Source of Funds</u>
SM Design/Build/Maintain Contract	801901	\$9,443,000	Long-Term Financing
TOTAL		\$9,443,000	

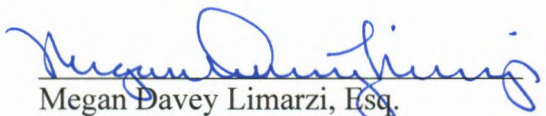
Action

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

An FY19 Special Appropriation is approved as shown below and the FY19-24 Capital Improvements Program of the Montgomery County Government is amended as described above and as reflected on the attached project description form.

<u>Project Name</u>	<u>Project Number</u>	<u>Amount</u>	<u>Source of Funds</u>
SM Design/Build/Maintain Contract	801901	\$9,443,000	Long-Term Financing
TOTAL		\$9,443,000	

This is a correct copy of Council action.


 Megan Davey Limarzi, Esq.
 Clerk of the Council



SM Design/Build/Maintain Contract (P801901)

Category	Conservation of Natural Resources	Date Last Modified	06/14/18
SubCategory	Stormwater Management	Administering Agency	Environmental Protection
Planning Area	Countywide	Status	Ongoing

Total	Thru FY17	Est FY18	Total 6 Years	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	Beyond 6 Years
-------	-----------	----------	------------------	-------	-------	-------	-------	-------	-------	-------------------

EXPENDITURE SCHEDULE (\$000s)

Planning, Design and Supervision	12,250	12,250	1,830	2,160	2,410	2,430	2,430	990		
Construction	34,050	34,050		6,560	6,360	6,710	7,210	7,210		
TOTAL EXPENDITURES	46,300	46,300	1,830	8,720	8,770	9,140	9,640	8,200		

FUNDING SCHEDULE (\$000s)

Long-Term Financing	27,265	27,265	1,830	8,720	5,130	4,380	4,450	2,775		
State Aid	11,500	11,500			2,500	3,000	3,000	3,000		
Current Revenue: Water Quality Protection	7,535	7,535			1,140	1,780	2,190	2,425		
TOTAL FUNDING SOURCES	46,300	46,300	1,830	8,720	8,770	9,140	9,640	8,200		

APPROPRIATION AND EXPENDITURE DATA (\$000s)

Appropriation FY 19 Request	Year First Appropriation	FY19
Appropriation FY 20 Request	Last FY's Cost Estimate	
Cumulative Appropriation	Supplemental	9,443
Expenditure / Encumbrances		
Unencumbered Balance		

PROJECT DESCRIPTION

This project provides for the use of a Design/Build/Maintain (DBM) contract for the design and construction of new and/or upgrades of existing under-performing stormwater management facilities or stream restorations throughout the County to meet the requirements of the County's Municipal Separate Storm Sewer System (MS4) Permit. Compliance with the MS4 Permit requires the control of impervious surfaces not currently treated to the maximum extent practicable. Any stormwater management facility type(s) or stream restoration, deemed creditable per the Maryland Department of the Environment regulations, can be implemented per this project.

PROJECT JUSTIFICATION

This project is needed to comply with the County's MS4 permitting requirements in a cost-effective manner, to implement the County's adopted water quality goals (Chapter 19, Article IV), and to protect habitat conditions in local streams.

OTHER

The Montgomery Parks Department of the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Montgomery Department of Environmental Protection (DEP) have agreed that M-NCPPC will serve as the lead agency for implementing stream restoration projects including long term monitoring and maintenance, that are located wholly or mostly on parks property in support of the County's MS4 permit. Previously, DEP had begun design work on the following stream restoration projects which meet these criteria: Clearspring Manor, Glenallan, Stoneybrook (Beach Drive to Montrose Avenue), and Grosvenor (Beach Drive to Rockville Pike). In FY18, DEP will provide all design work for these projects to M-NCPPC for design completion, permitting, and construction under M-NCPPC's Stream Protection: SVP (P818571) project. M-NCPPC has agreed that all MS4 credits generated from these projects will be credited towards the County's future MS4 permit with delivery of the restored impervious acres no later than Dec. 31, 2023. M-NCPPC will provide appropriate updates at key project milestones to ensure that impervious acreage credits are achieved in the timeframe required, in addition to providing the long-term monitoring and maintenance required for the County to maintain the impervious acreage credit. These projects are currently estimated to have a combined cost of \$2.4M and will provide approximately 44 acres of credit. Parks will provide updated schedule and cost information on all projects in FY19 for construction allocation funding beginning in FY20, based on MDE's Water Quality Revolving Loan Fund cycle timeframes. M-NCPPC and DEP will immediately begin developing a Memorandum of Understanding that details how projects completed by M-NCPPC, funded with WQPF dollars, with MS4 credits going to DEP will be handled. M-NCPPC will document all MS4 credits created through these projects in accordance with MDE requirements to obtain State approval for the permit credits. M-NCPPC recognizes that stream restoration projects with relatively small segments located on parks property may be selected by the County's DBM contractor. If selected by the County's contractor and approved by DEP with concurrence by M-NCPPC, the contractor will need to obtain a Park Permit and comply with all M-NCPPC requirements.

DEP will provide quarterly program status updates to the Council under this contract. The annual work program will be based on permit requirements, an assessment of priority needs, community input including feedback from a stormwater program advisory group, and partnership agreements.

FISCAL NOTE

This project assumes the award of Maryland Water Quality Revolving Loan Funds (Long-Term Financing) over the six-year period, which would replace Water Quality Protection Bonds as the primary source of funding for the program. Expenditures in the outyears include expected costs to meet the requirements of the County's next MS4 permit. The scope of the next MS4 permit is subject to negotiation with the Maryland Department of Environment. The FY20 appropriation will be determined as part of the FY20 Capital Budget Process.

DISCLOSURES

Expenditures will continue indefinitely. The County Executive asserts that this project conforms to the requirement of relevant local plans, as required by the Maryland Economic Growth, Resource Protection and Planning Act.

COORDINATION

Maryland National Capital Park and Planning Commission, Department of Permitting Services, Maryland Department of the Environment