

Resolution No.:	<u>20-83</u>
Introduced:	<u>February 7, 2023</u>
Adopted:	<u>March 14, 2023</u>

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Council President at the Request of the County Executive

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**SUBJECT:** Financial Assurance Plan to Meet the Requirements of the National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit

**Background**

1. The Financial Assurance Plan (FAP) is required by amendments to Section 4-202.1 (*Watershed protection and restoration program*) of the Environment Article, Annotated Code of Maryland, which were added in 2015 to ensure that each National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) jurisdiction will have adequate funding to meet its Phase I MS4 permit requirement for impervious surface restoration.
2. Each NPDES Phase I MS4 jurisdiction must submit a FAP to the Maryland Department of the Environment (MDE) by July 1, 2016, and every two years thereafter on the anniversary date of its MS4 permit, that details the following:
  - a. Actions required to meet MS4 permit requirements;
  - b. Annual and projected 5-year costs to meet the impervious surface restoration plan (ISRP) requirement, more commonly known as the restoration requirement in the County's current permit;
  - c. Annual and projected 5-year revenues or other funds that will be used toward meeting the restoration requirement;
  - d. Any and all sources of funds used toward meeting MS4 permit requirements; and
  - e. All specific actions and expenditures undertaken in the previous fiscal years to meet the restoration requirement.
3. The County is required to submit the information for the FAP using a template provided by MDE.
4. The Montgomery County Department of Environmental Protection completed the FY22 FAP using the FY19-FY22 expenditures, approved FY23 operating budget and the approved and amended FY23-28 CIP budget.

5. MDE will determine whether the FAP demonstrates sufficient funding within 90 days after County filing.
6. The first FAP was filed on June 30, 2016, as required by law, and showed sufficient funding to meet the projected costs of compliance with the impervious surface restoration requirements under the County's 2010 MS4 permit.
7. Subsequent FAPs are filed biennially by December 31<sup>st</sup>, the annual report deadline in the County's 2021 MS4 Permit.
8. This FAP demonstrates sufficient funding to meet the Impervious Surface Restoration Plan (ISRP) requirements under the County's 2021 MS4 permit.
9. This FAP demonstrates that the County has dedicated revenues, funds, or sources of funds to continue to meet requirements associated with improving water quality in the County.
10. The County Executive transmitted the draft FY22 FAP to the Council on February 1, 2023.
11. A public hearing was held on February 28, 2023.
12. The Council's Transportation and Environment Committee discussed the FY22 FAP on March 6, 2023.

**Action**

The County Council for Montgomery County, Maryland approves the FY22 Financial Assurance Plan, which shows the County has met the ISRP requirements under the 2021 MS4 Permit.

This is a correct copy of Council action.

  
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Judy Rupp  
Clerk of the Council