



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Marc Elrich  
County Executive

Adam Ortiz  
Director

February 15, 2019

Mr. Benjamin Grumbles, Secretary  
Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore, Maryland 21230

Dear Mr. Grumbles:

I am pleased to submit Montgomery County's FY2018 Financial Assurance Plan (FAP). This submission fulfills the requirements of the 2015 revisions of the Annotated Code of Maryland, Section 4202.1 of the Maryland Environmental Article, *Watershed Protection and Restoration Programs*.

The 2015 revisions to Section 4-202.1 of the Environment Article, *Watershed Protection and Restoration Programs*, require all Maryland Phase I National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit jurisdictions to submit a Financial Assurance Plan (FAP) demonstrating that each jurisdiction will have adequate funding to meet their permit requirement for impervious surface restoration. The jurisdictions 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 their MS4 Permit, that details the following:

- All actions required to meet MS4 Permit requirements.
- Annual and projected five-year costs necessary to meet the "impervious surface restoration plan" (ISRP) requirement, more commonly known as the 20 percent restoration requirement in current permits.
- Annual and projected five-year revenues that will be used toward meeting the 20 percent restoration requirement.
- Any and all sources of funds used toward meeting MS4 permit requirements.
- All specific actions and expenditures undertaken in the previous fiscal years to meet the 20 percent restoration requirement.

Maryland law (Md. Code Ann., Envir. § 4-202.1 (j) (4) (ii)) states that funding in the FAP is sufficient as long as it demonstrates that the County has dedicated revenues, funds, or sources of funds to meet 75 percent of the projected costs of the County's MS4 Permit required impervious surface restoration plan for the two-year period immediately following the filing date of the FAP (FY2019 and FY2020).

The FAP demonstrates that the County has sufficient funding in the current fiscal year and subsequent fiscal year budgets to meet 100 percent of the estimated costs of its impervious surfaces restoration plan for the two-year period following the filing of this plan.



Montgomery County's FAP format is an excel workbook developed by MDE to capture most of the information needed to meet the requirements of the law. The workbook does not capture "All actions required to meet MS4 Permit requirements", which are detailed in the executive summary of Montgomery County's FY2018 NPDES MS4 Annual Report which is being submitted in conjunction with this plan.

The County's MS4 Permit was issued on February 16, 2010 with the requirement that the 20 percent impervious surface restoration (ISR) plan be completed by the end of the Permit term (February 15, 2015). When the County's Permit expired in 2015, only 1,774 acres had been restored, meaning that the County was out of compliance. The County and MDE signed a consent decree in April 2018 requiring completion of the ISR plan by December 31, 2020, as well as a penalty of \$300,000 that could be put towards implementation of supplemental environmental projects (SEPs) completed no later than December 31, 2020. The County's expired Permit remains in effect until a new Permit is issued, which MDE has indicated will be in December 2019.

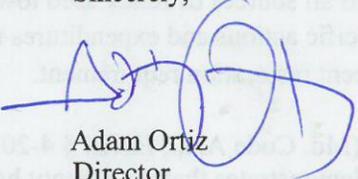
The County completed the required SEPs in October 2018 and the 20% ISR plan by December 31, 2018. A major tenet of the FAP is to demonstrate the financial wherewithal for meeting MS4 Permit ISR requirements. Because the County will have satisfied its consent decree and completed the 2010 Permit's ISR requirements by the end of calendar year 2018, this FAP only includes costs for projects completed through FY2019. It does not include costs for any projects that are currently in design or in construction, nor does it project any additional CIP project implementation beyond FY2019. Ongoing costs for operational programs (including street sweeping, inlet cleaning and septic pumping) and debt service will continue and are projected beyond FY2019.

Section 4-202.1 requires that a jurisdiction's local governing body must hold a public hearing and approve the FAP before it can be submitted to MDE. The FAP was introduced by Resolution to Council on January 15, 2019. A public hearing was held on January 29, 2019. The FAP was approved by full Council on February 5, 2019. Please find the approved Resolution 19-35 attached.

Following County Council approval, Montgomery County's County Executive, Mark Elrich, executed the attached Certification page.

If you have any questions concerning this regulation or require additional information, please contact Steven Shofar, Chief of the Watershed Management Operations Division, at 240-777-7736.

Sincerely,



Adam Ortiz  
Director

Enclosures: Montgomery County's 2018 Financial Assurance Plan  
Resolution 19-35 Approval of Montgomery County's 2018 Financial Assurance Plan  
Overview of the County's FY2018 NPDES MS4 Permit Annual Report  
FAP Certification Page

cc: Andrew Kleine, Assistant Chief Administrative Officer, Montgomery County  
Richard Madaleno, Director, Office of Management and Budget, Montgomery County  
Marc Hansen, Montgomery County Attorney  
Alex Espinosa, Director, Department of Finance, Montgomery County