

Ag Land Preservation (Conservation of Natural Resources)

(FY 23-28 Full CIP - OMB Review)

OMB Analyst Derrick Harrigan OMB Meeting Date 09/29/2021 DH Meeting Date 10/04/2021 CE Meeting Date 10/15/2021

COUNTY EXECUTIVE PRIORITY OUTCOME(S)

✻ A Greener County

OVERARCHING ISSUES

The Office of Agriculture is a publicly funded Easement Program. The question remains whether the volatility of the Agriculture Transfer Tax is sustainable program funding. The Agricultural Transfer Tax can range from as low as \$13,000 in one year to \$940,000 in another year.

Bill 5-21, Agricultural Land Preservation - Solar Collection System - Dedication of Business Personal Property Tax Revenue; ZTA 20-01 - Solar Collection System - AR Zone Standards. This would allow for the construction of solar collection systems in the Agricultural Reserve, supporting the County's effort to transition to more eco-friendly and renewable methods for providing energy to Montgomery County residents. Bill 5-21 allows the County to allocate a portion of tax proceeds generated from the solar collection systems to support the Agricultural Preservation Fund. The estimated amount of funding generated from this allocation is unknown.

- There could be new money dedicated to Ag Preservation. OMB in conjunction with the Department of Finance is trying to determine if any funds currently going to the General Fund would be diverted to Agricultural Preservation activities.

Racial Equity and Social Justice (RESJ). Bill 5-21 has a negative RESJ impact and will primarily benefit farmers and landowners in the Agricultural Reserve. The Office of Agriculture is attempting to address the issue of land access for Black Indigenous People of Color (BIPOC) farmers. To help improve access to land for BIPOC farmers, Chapter 2B of the County Code allows for properties less than 50 acres to be encumbered by an agricultural preservation easement. By accepting applications on properties less than 50 acres, this program could be utilized to increase access to land to farmers of color. There are a total of 1,026 Producers/Farmers in the County. 22 (2.1%) are Black farmers, mostly consisting of new farmers.

Personnel in the CIP. Office of Ag is again requesting that some costs currently budgeted in the CIP be moved to the Operating Budget, increasing support for Ag activities.

Summary (\$000s)

Project	FY 23-28 Recommended	FY21-26 Amended	Total	GO/ PAYGO	CR	Other	IS	Issue/Update	Change	Change	OMB Recommendation

Total SubCategory Amounts (including beyond 6 years)

Total	16,346	15,351	995	-	-	995
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Existing Projects with Issues

Ag Land Pres Easements (P788911)	16,346	15,351	995	-	-	995	<p>Fund Balance Update. OAG shows that the FY22 fund balance is \$3,245,443 (\$3,352,010 rounded up). From this amount, OAG indicates that nearly \$1,749,245 of the funds (Investment income, Partial BLT Fund, and State Aid) are designated to pay for staffing costs (approximately \$229,186) in FY22 for three staff and the annual cost for weed control, deer donation, and administrative support to the University of Maryland Cooperative Extension (about \$112K for FY22). The remaining amount of fund balance remains for easement acquisitions. State Aid Update. OAG applied for Rural Legacy Program (RLP) funds and expects to receive approximately \$3M. An FY23 supplemental budget appropriation will need to be processed when and if there is excess in Ag Transfer Tax, and award of the Rural Legacy Program funds. If awarded RLP funds, this will be helpful to the department as they seek to purchase more easements. The department is often left with little resources to achieve the purchase of easements, and they rely very heavily on State aid to do this.</p>
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KEY POINTS

- * The Phase II Goal is to target farmland encumbered with Transferable Development Rights (TDR) easements, but which have retained development rights. The goal is set for 1000 Building Lot Terminations (BLTs). Subtracting the public and private BLTs acquired since FY12, OAG estimates that the County still needs to acquire 894 BLTs in FY22 and beyond to achieve the Phase II Goal. The average cost per BLT is \$245K. Since FY12, 1,258 acres of agricultural land have been protected by the County through BLTs and 1,028 acres by private BLT easements, totaling 2,286 acres.

EXISTING PROJECTS WITH ISSUES

Ag Land Pres Easements P788911

EXPENDITURE CHANGE SUMMARY (\$000s)

Version	Total	Thru FY21	Est FY22	Total 6 Years	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	Beyond 6 Years	FY 23 Approp.
CE Recommended	16,346	10,563	2,582	3,201	526	529	532	535	538	541	-	526
Prior Year Council Approved (Rolled)	15,351	12,600	545	2,206	547	550	553	556	-	-	-	-
DELTA	995	(2,037)	2,037	995	(21)	(21)	(21)	(21)	538	541	-	526

PROJECT CHANGES EXPLANATION

The projected expenditure changes are due to less PDS expenses. A .25 FTE retired in 2020 and due to this fact, the expenditures are lower than previously projected. This includes the addition of FY27 and 28 amounts.

PURPOSE/NEED OF PROJECT

This project provides funds for the purchase of agricultural and conservation easements under the County Agricultural Land Preservation legislation for local participation in Maryland's agricultural and conservation programs. The County's Agricultural Reserve encompasses 93,000 acres. Landowners can choose from seven separate agricultural land preservation programs (see below) that place an easement on the property within the Agricultural Reserve to restrict commercial, residential or industrial development of the land.

State:

1. Maryland Agricultural Land Preservation Foundation Program (MALPF)
2. Maryland Environmental Trust Program (MET)

County:

1. Agricultural Easements Program (AEP)
2. Local Transferable Development Right Program (TDR)
3. Rural Legacy Program (RLP)
4. M-NCPPC Legacy Open Space Program
5. Building Lot Termination Program (BLT)

SUMMARY OF REQUEST AND ISSUES

☼ Funding Source(s): Agricultural Transfer Tax, Contributions, Developer Payments, Federal Aid, G.O. Bonds, Investment Income, State Aid

✳ Project Stage: Ongoing

✳ POR Status: NA

RECOMMENDATION

OMB recommends the following:

1. Waiting to see how much in excess is collected for the Agricultural Transfer Tax and the Rural Legacy Program (RLP) funds (\$3M State grant in FY22);
and
2. Flattening the FY23 budget at \$526K



Ag Land Pres Easements (P788911)

Category	Conservation of Natural Resources	Date Last Modified	10/13/21
SubCategory	Ag Land Preservation	Administering Agency	Agriculture
Planning Area	Countywide	Status	Ongoing

Total	Thru FY21	Est FY22	Total 6 Years	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	Beyond 6 Years
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EXPENDITURE SCHEDULE (\$000s)

	Total	Thru FY21	Est FY22	Total 6 Years	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	Beyond 6 Years
Planning, Design and Supervision	5,139	1,831	1,127	2,181	356	359	362	365	368	371	-
Land	11,170	8,695	1,455	1,020	170	170	170	170	170	170	-
Other	37	37	-	-	-	-	-	-	-	-	-
TOTAL EXPENDITURES	16,346	10,563	2,582	3,201	526	529	532	535	538	541	-

FUNDING SCHEDULE (\$000s)

	Total	Thru FY21	Est FY22	Total 6 Years	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	Beyond 6 Years
Agricultural Transfer Tax	3,821	1,244	1,377	1,200	200	200	200	200	200	200	-
Contributions	546	-	-	546	-	42	332	172	-	-	-
Developer Payments	6,359	4,982	535	842	-	-	-	163	338	341	-
Federal Aid	545	479	43	23	23	-	-	-	-	-	-
G.O. Bonds	308	308	-	-	-	-	-	-	-	-	-
Investment Income	1,275	392	395	488	201	287	-	-	-	-	-
State Aid	3,492	3,158	232	102	102	-	-	-	-	-	-
TOTAL FUNDING SOURCES	16,346	10,563	2,582	3,201	526	529	532	535	538	541	-

APPROPRIATION AND EXPENDITURE DATA (\$000s)

Appropriation FY 23 Request	526	Year First Appropriation	FY89
Appropriation FY 24 Request	529	Last FY's Cost Estimate	15,351
Cumulative Appropriation	13,145		
Expenditure / Encumbrances	10,595		
Unencumbered Balance	2,550		

PROJECT 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 and through Executive Regulation 3-09 AM, adopted July 27, 2010. 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 entirely protected by Transferable Development Rights (TDR) 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 proffered voluntarily by the farmland owner. The project receives funding from the Agricultural 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. In FY10, the Building Lot Termination (BLT) program was initiated. This program represents an enhanced farmland preservation program tool to further protect land where development rights have been retained in the Agricultural Reserve-AR zone. This program utilizes a variety of revenue sources that include: Agricultural Transfer Tax revenues, Contributions, Developer Payments, Investment Income, and State Aid.

COST CHANGE

The cost reduction is due to personnel cost savings.

PROJECT JUSTIFICATION

Annotated Code of Maryland Agriculture Article 2-501 to 2-515, Maryland Agricultural Land Preservation Foundation; Annotated Code of Maryland Tax-Property Article 13-301 to 13-308, Agricultural Land Transfer Tax; and Montgomery County Code, Chapter 2B, Agricultural Land Preservation; and Executive Regulation 3-09 AM.

OTHER

FY23 estimated Planning, Design and Supervision expenditures are \$356,000, with \$30,000 of these annual costs funded by Agricultural Transfer Tax revenues as authorized by State law. The amount includes funding for 1.0 FTE Business Development Specialist; \$25,000 for the Deer Donation Program; \$15,000 for the Montgomery Weed Control Program; and \$75,000 for the Cooperative Extension Partnership. 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 Transfer Tax funds and State Aid to purchase agricultural easements, contributions from the Crown Farm Annexation Agreement, and partial BLT payments made by developers for additional density in BLT receiving areas. The Agricultural Transfer Taxes

are deposited into an investment income fund, the interest from which is used to fund direct administrative expenses, the purchase of easements, and other agricultural initiatives carried out by the Office of Agriculture. 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 three percent for direct administrative costs such as appraisals, title searches, surveys, and legal fees. Easement acquisition opportunities will be considered on a case-by-case approach while alternative funding sources are identified.

FISCAL NOTE

Land costs are for the purchasing of easements. An FY20 supplemental appropriation was approved to recognize the availability of additional FY19 Agricultural Transfer Tax revenue (\$744,000) and an FY20 Rural Legacy State grant (\$2,705,000). The Office of Agriculture was able to settle easements from the Rural Legacy State Grant received in FY21, of which, \$2,497,047.65 has been spent.

The Office of Agriculture also applied for an FY22 Rural Legacy Grant. We have yet to receive notification from the State if our application was selected for funding.

The Office of Agriculture is in the process with the Montgomery Parks department of a potential acquisition of a farm encumbered by a County Ag Preservation Easement. If this proposal occurs, the Office of Agriculture will be reimbursed for the easement. The reimbursement will be used for future easement purchases. The Office of Agriculture is not able to project what the reimbursement will be, or when it will take place.

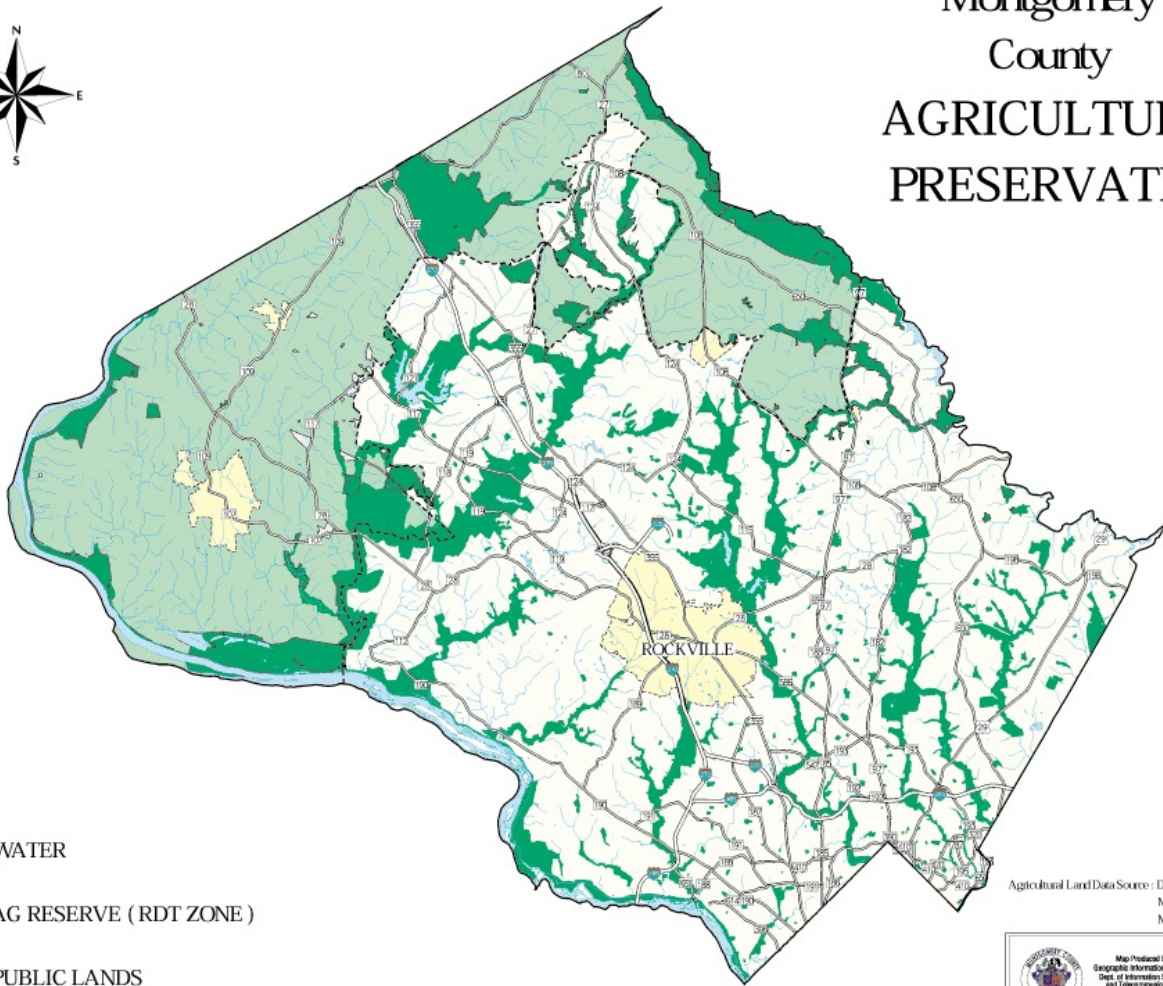
DISCLOSURES




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

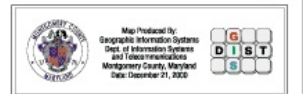
Montgomery County Office of Agriculture, State of Maryland Agricultural Land Preservation Foundation, State of Maryland Department of Natural Resources, Maryland-National Capital Park and Planning Commission, and Landowners.

Montgomery County AGRICULTURAL PRESERVATION



-  WATER
-  AG RESERVE (RDT ZONE)
-  PUBLIC LANDS

Agricultural Land Data Source : DED Agricultural Services
MNCP& PC
MD Office of Planning





Recommended Less Prior Year Approved Funding Changes

Recommended Less Prior Year Approved Funding Changes (\$000s)

	Total	Cum. PY Change	6 Yr Total	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	Beyond 6 Yrs
AG LAND PRESERVATION										
AG LAND PRES EASEMENTS (P788911)										
Agricultural Transfer Tax	400	-	400	-	-	-	-	200	200	-
Contributions	46	-	46	(70)	(158)	190	84	-	-	-
Developer Payments	(64)	-	(64)	(277)	(150)	(211)	(105)	338	341	-
Federal Aid	23	-	23	23	-	-	-	-	-	-
Investment Income	488	-	488	201	287	-	-	-	-	-
State Aid	102	-	102	102	-	-	-	-	-	-
TOTAL FUNDING	995	-	995	(21)	(21)	(21)	(21)	538	541	-
Change Explanation: The projected expenditure changes are due to less PDS expenses. A .25 FTE retired in 2020 and due to this fact, the expenditures are lower than previously projected. This includes the addition of FY27 and 28 amounts.										
AG LAND PRESERVATION TOTAL	995	-	995	(21)	(21)	(21)	(21)	538	541	-



Expenditure Detail

Expenditure Detail (\$000s)

	Total	Thru FY21	Est FY22	6 Yr Total	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	Beyond 6 Yrs	FY 23 Approp.
AG LAND PRESERVATION												
Ag Land Pres Easements (P788911)	16,346	10,563	2,582	3,201	526	529	532	535	538	541	-	526
AG LAND PRESERVATION TOTAL	16,346	10,563	2,582	3,201	526	529	532	535	538	541	-	526