



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

May 8, 2018

TO: Hans Riemer, President  
County Council

FROM: Isiah Leggett  
County Executive

SUBJECT: Recommend Approval of CIP Budget for Montgomery County's Clean Water  
And Permit Compliance Program

Last week, the Transportation, Infrastructure, Energy and Environment Committee (T&E), voted 2-1 to alter my recommended Capital Improvements Program (CIP) Budget for Montgomery County's Clean Water and Permit Compliance Program (MS4 Program or Program). It is incomprehensible to me how members of the Council, who purportedly have the best interests of our County taxpayers and environment in mind, can take an action so clearly against greater efficiencies and effectiveness in an important taxpayer-funded County program. I urge the Council to reverse the action of the T&E Committee and adopt my recommended CIP.

My proposal for achieving the requirements of the County's MS4 permit is specifically designed to move this vital environmental program forward in a more efficient and cost-effective way while allowing us to hold the line on property tax bills. I felt it was necessary to step back from the repeated increases of the Stormwater Management Charge that have taken place at an average rate of 16% per year. This type of increase is not sustainable for a taxpayer funded program.

That is why the CIP I submitted for the MS4 Program does not propose increasing the Stormwater Management Charge for FY19 or FY20 while still allowing us to meet our environmental goals. It is important to understand that this will be achievable only if we modify our approach to contracting out the design, construction and maintenance of our stormwater management facilities.

The current contracting approach relies on separate contracts for design, construction and maintenance, and the work is tasked on a project-by-project basis. This model has led to inefficiencies, delays, and therefore, greater costs.

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As you will remember, in 2015, the County failed to meet the requisite number of treated impervious acres under our MS4 Permit. As a result, I began an internal discussion of alternative methods on how to accomplish our shared environmental goals on time and on budget. I gave consideration to transferring the responsibility for construction of storm water management projects to the county's Department of Transportation, which has a demonstrated track record for delivering high quality construction projects on time. Ultimately, I decided to leave the program in the Department of Environmental Protection (DEP), but tasked them with finding efficiencies while avoiding delays. They met that challenge, and their work is embodied in the modified contracting approach in the CIP I sent to Council.

This new contracting proposal centers on having a large volume of impervious acre restoration with design, construction and maintenance achieved under one contract. This allows for a life-cycle approach for stormwater management facilities and also requires the contractor to share in the risk.

As you know, Montgomery County has been the pioneer for Maryland's MS4 program. We have led the region in reducing stormwater pollution from impervious areas such as parking lots, rooftops and buildings. Through the activities undertaken by DEP, as well as many other County agencies that address stormwater management issues, over 5,000 acres or close to 30% of impervious surface have been controlled in the County, over 8,600 trees have been planted producing enough oxygen to help over 4,300 families breathe better, and over 30 miles of streams have been restored creating improved habitats for wildlife and beautifying neighborhoods. I am proud of the accomplishments of the County and the leadership it has provided for other jurisdictions.

The Council's support for the full appropriation request and this modified contracting approach is critical for the County's ability to meet its MS4 permit requirements and achieve its larger environmental and green infrastructure objectives. The most prudent approach is to move forward with a Request For Proposal (RFP) for a design, build, maintenance contract that will allow for a lower unit cost for building stormwater management facilities and will provide greater assurance that the County is prepared to handle future restoration requirements.

This approach will allow the County to not only complete the impervious acre restoration requirements of the 2010 MS4 permit but it also sets the foundation to initiate the work required under an anticipated new MS4 permit. DEP will provide the Council updates on the modified contracting approach at key decision points including prior to contract award and on a frequent periodic basis through the duration of the contract.

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We cannot afford to delay action on this appropriation, divide it into tranches or continue the same contracting method. To do so will cause unnecessary delay and put our County at risk of failing to meet our next MS4 Permit requirement. Further, arguing that the Council should defer a decision until the next County Executive assumes office on the new contracting proposal is similar to the unfounded argument made by the U.S. Senate in justifying its failure to act on President Obama's Supreme Court nominee because it was the last year of the President's term. What other actions to improve County operations and services to our residents do the Councilmembers suggest my Administration forego because it is the last year of my term? I find this offensive and unacceptable.

I urge you to act now on behalf of the environment and on behalf of the taxpayers.

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