



Montgomery
County Council

Committee: PHED
Committee Review: Completed
Staff: Gene Smith, Legislative Analyst
Purpose: To receive testimony/final action - vote expected
Keywords: Ag, FY20 Budget

AGENDA ITEM #10
February 25, 2020
Public Hearing/Action

SUBJECT

Supplemental appropriation and FY19-24 CIP amendment - \$3,448,231 for Ag Land Preservation Easement (Source of Funds: State aid and Ag Transfer Tax)

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- The committee's recommendation will be available the afternoon of Monday, February 24, 2020, following its review of this item.

DESCRIPTION/ISSUE

The County received additional funding for the purchase of agricultural easements. The proposed resolution amends the current project description form (PDF) and appropriates the additional funding to allow the County to proceed with the purchase of certain easements (see ©1-5).

SUMMARY OF KEY DISCUSSION POINTS

- The County received an additional \$743,731 in Agricultural Transfer Tax and \$2,704,500 from a State grant.
- The approved PDF does not include an appropriation and expenditure schedule for these new resources – the Council must amend the PDF and appropriate the funding so that the resources may be utilized in the purchasing of agricultural easements.

This report contains:

Executive memo
Proposed resolution
Amended PDF

© #1
© #2
© #4

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MEMORANDUM

February 20, 2020

TO: County Council

FROM: Gene Smith, Legislative Analyst

SUBJECT: Supplemental Appropriation to the FY20 Capital Budget and amendment to the FY19-24 Capital Improvements Program (CIP) for Agricultural Land Preservation Easement Project

PURPOSE: Receive testimony, vote on committee recommendation

The Executive recommends a supplemental appropriation in the amount of \$3,448,231 and an amendment to the FY19-24 CIP for the Agricultural Land Preservation Easement (the "Project") (see ©1-5). The County received additional funding, and a supplemental appropriation and amendment to the CIP is necessary to utilize the funds. **The Planning, Housing, and Economic Development (PHED) Committee is scheduled to review this item on February 24, 2020. Should new information be presented at the public hearing today, the committee can determine if additional review is required.**

The PHED Committee's recommendation will be posted on the afternoon of February 24, 2020.

I. Background

The project provides funds for the purchase of agricultural and conservation easements under the County Agricultural Land Preservation legislation.¹ The purchasing of easements restricts certain uses on a property to ensure it is preserved for agricultural and rural uses for future generations.

The primary source of funding to purchase easements is the agricultural transfer tax. This tax is levied on agricultural properties that are sold or removed from agricultural use (e.g., commercial or residential development). The County receives 75% of the agricultural transfer tax receipts for properties in the County; the funding must be used for agricultural land preservation.

¹ Section 2B of the County Code.

II. Executive Recommendation

The County received additional State aid and agricultural transfer taxes; therefore, the Council must amend and approve a supplemental appropriation to the Project for the OAG to utilize the funds. Below are the changes to the expenditure schedule and funding schedule to the FY19-24 CIP for the Project based on the Executive's recommendation.

Changes in the FY19-24 Expenditure Schedule based on Executive Recommendation (\$000s)

Cost Elements	Total 6 Years	FY19	FY20	FY21	FY22	FY23	FY24
Planning, Design and Supervision	+ 122	0	+ 122	0	0	0	0
Land	+ 3,327	0	+ 3,327	0	0	0	0
Total	+ 3,449	0	+ 3,449	0	0	0	0

Changes in the FY19-24 Funding Schedule based on the Executive Recommendation (\$000s)

Funding Source	Total 6 Years	FY19	FY20	FY21	FY22	FY23	FY24
Agricultural Transfer Tax	+ 744	0	+ 744	0	0	0	0
State aid	+ 2,705	0	+ 2,705	0	0	0	0
Total	+ 3,449	0	+ 3,449	0	0	0	0

The Project's funding schedule includes an annual average for the agricultural transfer tax during the six years because it is difficult to predict when the tax will be levied. **The additional funding from the agricultural transfer tax was from the sale of one property; this additional funding is a one-time increase.**

The State aid is from the Rural Legacy Program. This program preserves large, contiguous tracts of land to enhance natural resources or retain agricultural use. The OAG applied for this grant in FY19 and was granted it by the State Board of Public Works in January 2020. **This funding is also a one-time increase.**

The OAG intends to purchase easements totaling approximately 438 acres with the additional funding. There are multiple property owners involved, and the OAG expects to finalize the transactions in 2020.

This packet contains:

	<u>Circle #</u>
Executive Memo	1
Proposed Resolution	2
Amended PDF	4

Bud. Fin. & Econ. Dev.



ROCKVILLE, MARYLAND

MEMORANDUM

January 15, 2020

PD
CC
MM
NS → SS
GO

TO: Sidney A. Katz, President, County Council
FROM: Marc Elrich, County Executive *Marc Elrich*
SUBJECT: Amendment to the FY19-24 Capital Improvements Program and Supplemental Appropriation #10-S20-CMCG-2 to the FY20 Capital Budget
Montgomery County Government
Office of Agriculture
Ag Land Preservation (No. 788911), \$3,448,231

I am recommending a supplemental appropriation to the FY20 Capital Budget and amendment to the FY19-24 Capital Improvements Program in the amount of \$3,448,231 for Ag Land Preservation Easement (No. 788911). Appropriation for this project will fund agricultural preservation easements in accordance with 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 on July 27, 2010.

This increase is needed because additional, non-budgeted FY19 Agricultural Transfer Tax revenues were received in FY19 (\$743,731) and a Rural Legacy Program State grant (\$2,704,500) was awarded in FY20. The recommended amendment is consistent with the criteria for amending the CIP because the Office of Agriculture has several significant opportunities to acquire additional easements in the Ag Reserve which may be lost if not acted upon at this time, and the supplemental leverages significant non-County sources of funds.

I recommend that the County Council approve this supplemental appropriation and amendment to the FY19-24 Capital Improvements Program in the total amount of \$3,448,231 and specify the sources of funds as Agricultural Transfer Taxes (\$743,731) and State Aid (\$2,704,500).

I appreciate your prompt consideration of this action.

ME:jm

Attachment: Amendment to the FY19-24 Capital Improvements Program and Supplemental Appropriation #10-S20-CMCG-2

c: Jeremy Criss, Director, Office of Agriculture
Richard S. Madaleno, Director, Office of Management and Budget

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Resolution: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

SUBJECT: Amendment to the FY19-24 Capital Improvements Program and
Supplemental Appropriation #10-S20-CMCG-2 to the FY20 Capital Budget
Montgomery County Government
Office of Agriculture
Ag Land Preservation (No. 788911), \$3,448,231

Background

1. Section 307 of the Montgomery County Charter provides that any supplemental appropriation shall be recommended by the County Executive who shall specify the source of funds to finance it. The Council shall hold a public hearing on each proposed supplemental appropriation after at least one week's notice. A supplemental appropriation that would comply with, avail the County of, or put into effect a grant or a Federal, State or County law or regulation, or one that is approved after January 1 of any fiscal year, requires an affirmative vote of five Councilmembers. A supplemental appropriation for any other purpose that is approved before January 1 of any fiscal year requires an affirmative vote of six Councilmembers. The Council may, in a single action, approve more than one supplemental appropriation. The Executive may disapprove or reduce a supplemental appropriation, and the Council may reapprove the appropriation, as if it were an item in the annual budget.
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. The County Executive recommends the following capital project appropriation increases:

<u>Project Name</u>	<u>Project Number</u>	<u>Cost Element</u>	<u>Amount</u>	<u>Source of Funds</u>
Ag Land Preservation	788911	PDS	\$ 121,000	State Aid
		Land	\$ 743,731	Ag Transfer Tax
		Land	<u>\$2,583,500</u>	State Aid
<u>TOTAL:</u>			<u>\$3,448,231</u>	

Amendment to the FY19-24 Capital Improvements Program and Supplemental Appropriation #10-S20-CMCG-2
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4. This increase is needed because additional, non-budgeted FY19 Agricultural Transfer Tax revenues were received in FY19 (\$743,731) and a Rural Legacy Program State grant (\$2,704,500) was awarded in FY20. The recommended amendment is consistent with the criteria for amending the CIP because the Office of Agriculture has several significant opportunities to acquire additional easements in the Ag Reserve which may be lost if not acted upon at this time, and the supplemental leverages significant non-County sources of funds.
5. The County Executive recommends an amendment to the FY19-24 Capital Improvements Program and a supplemental appropriation in the total amount of \$3,448,231 for Ag Land Preservation (No. 0788911) and specifies that the source of funds will be Agricultural Transfer Taxes (\$743,731) and a Rural Legacy Program State Aid grant (\$2,704,500) awarded in January 2020.
6. Notice of public hearing was given and a public hearing was held.

Action

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

The FY19-24 Capital Improvements Program of the Montgomery County Government is amended as reflected on the attached project description form and a supplemental appropriation is approved as follows:

<u>Project Name</u>	<u>Project Number</u>	<u>Cost Element</u>	<u>Amount</u>	<u>Source of Funds</u>
Ag Land Preservation	788911	PDS	\$ 121,000	State Aid
		Land	\$ 743,731	Ag Transfer Tax
		Land	<u>\$2,583,500</u>	State Aid
<u>TOTAL:</u>			<u>\$3,448,231</u>	

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council

Ag Land Pres Easements (P700011)

Category	Conservation of Natural Resources	Date Last Modified	01/11/10
SubCategory	Ag Land Preservation	Administering Agency	Agriculture
Planning Area	Countywide	Status	Ongoing

EXPENDITURE SCHEDULE (\$000s)

Planning, Design and Supervision	2,715	6,283	1,098	253	2,362	308	470	372	375	377	380
Land	10,490	3,405	5,776	367	1,000	170	170	170	170	170	170
Other		37	37		3,347		3,347				
TOTAL EXPENDITURES	14,242	6,911	6,911	630	3,362	638	640	642	645	647	650

FUNDING SCHEDULE (\$000s)

Agricultural Transfer Tax	3,021	6,283	988	111	1,944	200	200	200	200	200	200
Developer Payments		6,180	4,862	217	1,291	150	150	150	150	341	350
Federal Aid		222	200	282							
G.O. Bonds		308	308								
Investment Income		841	68	2	771	188	180	182	185	6	
State Aid	3,590	-600	657	26	2,705	2,705					
TOTAL FUNDING SOURCES	14,242	6,911	6,911	639	3,362	638	640	642	645	647	650

APPROPRIATION AND EXPENDITURE DATA (\$000s)

Appropriation EY 20 Request	540	Year First Appropriation	FY88
Cumulative Appropriation	8,069	Last FY's Cost Estimate	10,783
Expenditure / Encumbrances	6,065		
Unencumbered Balance	1,104		

Supplemental \$3,449

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 profited 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, Montgomery National Capital Park and Planning Commission (MNCPPC) Contributions, Developer Contributions, and G.O. Bonds to purchase the development rights and the corresponding TDRs retained on these properties.

COST CHANGE

Expenditures and funding schedules reflect the revised estimates for Agricultural Transfer Tax revenues. In addition, expenditures and funding have been added to FY23 and FY24, as well as, FY20 related to \$2,704,500 Rural Legacy Program State grant and FY19 Agricultural Transfer Tax receipts in excess to FY19 approved budget (\$743,731).

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

FY19 estimated Planning, Design and Supervision expenditures are \$368,000, with \$30,000 of these actual costs funded by Agricultural Transfer Tax revenues as authorized by State law. The amount includes funding for 1.0 FTE Sr. Business Development Specialist; 1.5 FTE administrative staff; \$20,000 for the Deer Donation Program; \$15,000 for the Montgomery Weed Control Program; and \$68,000 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, private contributions from the Crown Farm Annexation Agreement, and partial BLT payments made by developers for additional density in BLT

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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. The traditional funding sources for this project are no longer sustainable. Easement acquisition opportunities will be considered on a case-by-case approach while alternative funding sources are identified.

FISCAL NOTE

Expenditures do not reflect additional authorized payments made from the Agricultural Land Preservation Fund balance to increase financial incentives for landowners. An FY17 supplemental of \$634,000 was approved. Funding included: \$112,000 in Agricultural Transfer tax and reinstated \$522,000 in Federal Aid funding that was erroneously eliminated from this project. Land costs are for the purchasing of easements. Intergovernmental and Contribution funding were combined and renamed "Developer Payments" in FY19. Developer Payments include \$191,000 in FY23 and \$200,000 in FY24 from the Crown Farm Annexation agreement.

A FY20 Supplemental appropriation was approved to recognize the availability of additional Agricultural Transfer tax revenue (\$743,731) and a FY20 Rural Legacy Program State grant (\$2,704,500)

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.