



Committee: Directly to Council
Committee Review: N/A
Staff: Gene Smith, Legislative Analyst
Purpose: To receive testimony/final action - vote expected
Keywords: CIP, Agriculture

AGENDA ITEM #13
February 8, 2022
Public Hearing/Action

SUBJECT

Amendment to the FY21-26 Capital Improvements Program and Supplemental Appropriation to the FY22 Capital Budget, Montgomery County Government, Office of Agriculture, Agricultural Land Preservation Easements (P788911), \$3,675,816

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A

DESCRIPTION/ISSUE

The Executive requests the subject appropriation and Capital Improvements Program (CIP) amendment to program additional resources received by the County in FY22 (see ©1-6). These additional resources will support the purchase of agricultural easements in the County's agricultural reserve. The source of the funds is State aid through the Rural Legacy Program and non-budgeted transaction from the Maryland-National Capital Park and Planning Commission.

SUMMARY OF KEY DISCUSSION POINTS

- The requested amendment and appropriation are fully funded from State or other contributions.
- Action is tentatively scheduled immediately following the public hearing.

This report contains:

Executive memorandum	©1
Proposed resolution	©3
Proposed project description form	©5

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OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

January 18, 2022

TO: Gabe Albornoz, President, County Council

FROM: Marc Elrich, County Executive *Marc Elrich*

SUBJECT: Amendment to the FY21-26 Capital Improvements Program and Supplemental Appropriation #22-53 to the FY22 Capital Budget
Montgomery County Government - Office of Agriculture
Agricultural Land Preservation Easements (P788911), \$3,675,816

I am recommending a supplemental appropriation to the FY22 Capital Budget and amendment to the FY21-26 Capital Improvements Program in the amount of \$3,675,816 for Agricultural Land Preservation Easement (P788911). 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 July 27, 2010.

This increase is needed because a non-budgeted transaction occurred between M-NCPPC and the County wherein the County received \$953,055 in contributions and a Rural Legacy Program State grant of \$2,722,761 was awarded in FY22. 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 Agricultural 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 FY21-26 Capital Improvements Program in the amount of \$3,675,816 and specify the sources of funds as Contributions from MNCPPC (\$953,055) and State Aid (\$2,722,761).

I appreciate your prompt consideration of this action.

ME: jm

Amendment to the FY21-26 Capital Improvements Program and Supplemental Appropriation #22-53 to the FY22 Capital Budget Montgomery County Government - Office of Agriculture
Agricultural Land Preservation Easements (P788911), \$3,675,816
January 18, 2022
Page 2 of 2

Enclosure: Amendment to the FY21-26 Capital Improvements Program and Supplemental Appropriation # 22-53

cc: Richard Madaleno, Chief Administrative Officer, Office of the County Executive
Fariba Kassiri, Deputy Chief Administrative Officer, Office of the County Executive
Jennifer Bryant, Director, Office of Management and Budget
Mary Beck, Capital Budget Manager, Office of Management and Budget
Derrick Harrigan, Fiscal and Policy Analyst, Office of Management and Budget
Jeremy Criss, Director, Office of Agricultural Services

Resolution No.: _____
 Introduced: _____
 Adopted: _____

COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

SUBJECT: Amendment to the FY21-26 Capital Improvements Program and Supplemental Appropriation to the FY22 Capital Budget, Montgomery County Government, Office of Agriculture, Agricultural Land Preservation Easements (P788911), \$3,675,816

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 increase:

<u>Project Name</u>	<u>Project Number</u>	<u>Cost Element</u>	<u>Amount</u>	<u>Source of Funds</u>
Ag Land Preservation Easements	P788911	PDS	\$ 77,774	State Aid
		Land	\$ 953,055	Contributions
		Land	<u>\$ 2,644,987</u>	State Aid
TOTAL			\$ 3,675,816	

4. This increase is needed because a non-budgeted transaction occurred between M-NCPPC and the County wherein the County received \$953,055 in contributions and a Rural Legacy Program State grant of \$2,722,761 was awarded in FY22. 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 Agricultural 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 FY21-26 Capital Improvements Program and a supplemental appropriation in the amount of \$3,675,816 for Agricultural Land Preservation (P788911) and specifies that the source of funds will be Contributions (\$953,055) and a Rural Legacy Program State Aid grant (\$2,722,761).
6. Notice of public hearing was given and a public hearing was held.

Action

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

The FY21-26 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 Easements	P788911	PDS	\$ 77,774	State Aid
		Land	\$ 953,055	Contributions
		Land	<u>\$ 2,644,987</u>	State Aid
TOTAL			<u>\$ 3,675,816</u>	

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council



Ag Land Pres Easements (P788911)

Category	Conservation of Natural Resources	Date Last Modified	11/10/20
SubCategory	Ag Land Preservation	Administering Agency	Agriculture
Planning Area	Countywide	Status	Ongoing

	Total	Thru FY20	Rem FY20	Total 6 Years	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	Beyond 6 Years
EXPENDITURE SCHEDULE (\$000s)											
Planning, Design and Supervision	4,562	1,617	594	2,351	372	453	377	380	383	386	-
Land	14,428	5,884	3,926	4,618	170	3,768	170	170	170	170	-
Other	37	37	-	-	-	-	-	-	-	-	-
TOTAL EXPENDITURES	19,027	7,538	4,520	6,969	542	4,221	547	550	553	556	-

FUNDING SCHEDULE (\$000s)											
Agricultural Transfer Tax	3,421	967	1,254	1,200	200	200	200	200	200	200	-
Contributions	1,453	-	-	1,453	-	953	70	200	142	88	-
Developer Payments	6,423	4,848	321	1,254	150	198	277	150	211	268	-
Federal Aid	522	479	43	-	-	-	-	-	-	-	-
G.O. Bonds	308	308	-	-	-	-	-	-	-	-	-
Investment Income	787	275	173	339	192	147	-	-	-	-	-
State Aid	6,113	661	2,729	2,723	-	2,723	-	-	-	-	-
TOTAL FUNDING SOURCES	19,027	7,538	4,520	6,969	542	4,221	547	550	553	556	-

APPROPRIATION AND EXPENDITURE DATA (\$000s)				
Appropriation FY 22 Request		545	Year First Appropriation	FY89
Supplemental Appropriation Request		3,676	Last FY's Cost Estimate	15,351
Cumulative Appropriation		12,600		
Expenditure / Encumbrances		7,591		
Unencumbered Balance		5,009		

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

Costs for FY25 and FY26 have been added to the project, as well as, FY20 funds related to a \$2,705,000 Rural Legacy Program State grant and FY19 Agricultural Transfer Tax receipts in excess of the approved FY19 budget. Added FY22 funds related to a \$2,722,761 Rural Legacy Program State grant and Contributions from MNCPPC of \$953,055.

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

FY22 estimated Planning, Design and Supervision expenditures are \$375,000, 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; 1.25 FTE administrative staff; \$25,000 for the Deer Donation Program; \$15,000 for the Montgomery Weed Control Program; and \$72,000 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. 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

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). FY22 supplemental in Contributions for the amount of \$953,000, State Aid for the amount of \$2,722,761.

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.