



Gregory J. Swain, County Attorney

MEMORANDUM

Attorney-Client/Work-Product Privileged Communication

To: Members, Anne Arundel County Council

Through: Gregory J. Swain, County Attorney /s/

From: Kelly Phillips Kenney, Supervising County Attorney /s/

Date: September 6, 2022

Subject: Resolution No. 37-22 – Resolution approving Anne Arundel County’s 2022 Financial Assurance Plan for compliance with the National Pollutant Discharge Elimination Phase I Municipal Separate Storm Sewer System Permit

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Resolution No. 37-22. The summary is intended to explain the purposes and legal effects of the resolution.

Purpose and Background. The primary purpose of the Resolution is to approve the Anne Arundel County’s 2022 Financial Assurance Plan (“FAP”) for compliance with the National Pollutant Discharge Elimination System Phase I Municipal Separate Storm Sewer System Permit (“NPDES MS4 Permit”).

Summary. The NPDES MS4 Permit requires the County to regulate point sources that discharge pollutants into waters of the United States and contains various requirements, including one to complete impervious surface restoration efforts within certain timeframes. Section 4-202.1(j)(1) of the Environment Article of the State Code requires the County to submit a Financial Assurance Plan (“FAP”) to the Maryland Department of the Environment (“MDE”) every two years on the anniversary date of the issuance of its NPDES MS4 Permit. The County’s NPDES MS4 Permit anniversary date is November 5, 2022.

Note: This Legislative Summary provides a synopsis of the resolution as introduced. It does not address subsequent amendments to the resolution.

The FAP must demonstrate that the County has sufficient funding for 100% of the projected costs of compliance with the impervious surface restoration plan requirements under the NPDES MS4 permit. The specific requirements for the FAP are listed in the Resolution.

The FAP has been prepared by the Department of Public Works and is incorporated into the Resolution and a certified copy must be maintained by the Department of Public Works. The State law requires that the FAP may not be filed with MDE until the “local governing body” of the county holds a public hearing on and approves the FAP. Section 1014 of the County Charter provides that, when State law “refers to the ‘local governing body’ or by similar language, any action required of the County shall be taken by the County Executive and then referred to the County Council for confirmation.” The County Executive approves the FAP.

The Office of Law is available to answer any additional questions regarding this Resolution. Thank you very much.

cc: Honorable Steuart Pittman, County Executive
Matthew Power, Chief Administrative Officer
Peter Baron, Director of Governmental Affairs
Lori Rhodes, Deputy Chief Administrative Officer for Land Use
Christopher J. Phipps, Director, Department of Public Works
Karen Henry, Assistant Director, Department of Public Works
Erik Michelsen, Watershed Protection and Restoration Plan Program Manager
Chris Trumbauer, Budget Officer