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BOARD OF COUNTY COMMISSIONERS

April 3, 2018

Agenda

- 07:00 A.M. STATE OF THE COUNTY PRESENTATION
Location: Fountain Head Country Club, 13316 Fountain Head Road, Hagerstown
HOSTED BY: HAGERSTOWN-WASHINGTON COUNTY CHAMBER OF COMMERCE
- 09:15 A.M. DEPART FOR 100 WEST WASHINGTON ST., SUITE 1113, HAGERSTOWN
- 10:00 A.M. INVOCATION AND PLEDGE OF ALLEGIANCE
CALL TO ORDER, *President Terry L. Baker*
APPROVAL OF MINUTES – March 27, 2018
- 10:05 A.M. COMMISSIONERS' REPORTS AND COMMENTS
- 10:15 A.M. REPORTS FROM COUNTY STAFF
- 10:25 A.M. CITIZENS PARTICIPATION
- 10:30 A.M. RECOGNITION OF THE SOUTH HAGERSTOWN HIGH SCHOOL ROBOTICS TEAM – *Danielle Crabb, Director, Public Relations and Marketing*
- 10:35 A.M. STATE HOMELAND SECURITY GRANT PROGRAM – APPROVAL TO SUBMIT APPLICATION AND ACCEPT AWARDED FUNDING – *Stephanie Lapole, Grant Manager, Office of Grant Management and Tom Brown, Emergency Management Specialist, Division of Emergency Services*
- 10:40 A.M. EMERGENCY MANAGEMENT PERFORMANCE GRANT – APPROVAL TO SUBMIT APPLICATION AND ACCEPT AWARDED FUNDING – *Stephanie Lapole, Grant Manager, Office of Grant Management and Tom Brown, Emergency Management Specialist, Division of Emergency Services*
- 10:45 A.M. PLANNING ASSISTANCE TO STATES PROGRAM GRANT PHASE 3 – APPROVAL TO ACCEPT AWARDED FUNDING - *Stephanie Lapole, Grant Manager, Office of Grant Management and Dave Mason, Deputy Director, Division of Environmental Management, Solid Waste*

- 10:50 A.M. CLEAN COUNTY INITIATIVE – CLEAN STREETS CLEAN STREAMS – *Scott Hobbs, Director of Engineering; Dave Mason, Deputy Director of Solid Waste and Watershed Programs; Alex Reed, Watershed Specialist; John Swauger, Stormwater Management Coordinator, Division of Environmental Management*
- 11:00 A.M. CONSTRUCTION BID AWARD: PAVEMENT MAINTENANCE & REHABILITATION PROGRAM FY' 18 CHIP SEAL APPLICATIONS, CONTRACT No. MS-PMP-256-28 – *Scott Hobbs, Director of Engineering*
- 11:05 A.M. REZONING APPLICATION SCHEDULE – *Steve Goodrich, Director, Department of Planning and Zoning*
- 11:10 A.M. GENERAL FUND BUDGET AND 2019 – 2028 CAPITAL IMPROVEMENT PLAN – *Sara Greaves, Chief Financial Officer and Kim Edlund, Director of Budget & Finance*
- 11:20 A.M. REVISION TO PR-5B TRANSIT DEPARTMENT, ALCOHOL MISUSE AND PROHIBITED DRUG USE – *Stephanie Stone, Director of Health and Human Services and Kevin Cerrone, Transit Director*
- 11:25 A.M. CLOSED SESSION
(To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals; and to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State.)
- 11:45 A.M. BREAK
- 07:00 P.M. STATE OF THE COUNTY PRESENTATION
Location: Kepler Theatre, 11400 Robinwood Drive, Hagerstown
HOSTED BY: WASHINGTON COUNTY BOARD OF COUNTY COMMISSIONERS



Agenda Report Form

Open Session Item

SUBJECT: Recognition of the South Hagerstown High School Robotics Team

PRESENTATION DATE: April 3, 2018

PRESENTATION BY: Danielle Crabb, Director, Public Relations & Marketing

RECOMMENDED MOTION: Informational purposes only, no motion required.

REPORT-IN-BRIEF: The South Hagerstown High School Robotics Team will be recognized for their significant achievements.

DISCUSSION: The South Hagerstown High School Robotics Team recently took the top score in a skills competition earning a ticket to the 2018 VEX Robotics World Championship. This event will run from April 24-28th in Louisville, Kentucky. The incredibly talented 4-member team consists of Catherine Ehmer, Arturo Bonilla, Brett Custer and Samantha Brammer. Don Custer serves as the Team Adviser. In addition to the top score in the skills competition, the team also took home the "Think Award," which is awarded to the team that displays excellence in programming their robot. We applaud these students for being an excellent representation of the County and championing exceptional dedication to the field of science and technology.

FISCAL IMPACT: N/A

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: None

AUDIO/VISUAL NEEDS: None



Agenda Report Form

Open Session Item

SUBJECT: State Homeland Security Grant Program– Approval to Submit Application and Accept Awarded Funding

PRESENTATION DATE: April 3, 2018

PRESENTATION BY: Stephanie Lapole, Grant Manger, Office of Grant Management and Tom Brown, Emergency Management Specialist, Division of Emergency Services

RECOMMENDED MOTION: Move to approve submission of the application to the Maryland Emergency Management Agency in the amount of \$116,615.00 and accept funding as awarded.

REPORT-IN-BRIEF: Emergency Services is requesting funding which will pay partial salary for the Emergency Management Specialist, the cost of the Washington County Citizen Notification Program, and other costs which include training, equipment, public outreach and response capabilities.

DISCUSSION: The performance period for this federal grant is September 1, 2018 through August 1, 2019. There is no matching fund requirement associated with this grant; however at least 25% of grant funds must be spent on law enforcement related tasks or equipment.

Wages & Benefits	\$40,000
Operational Expenses	<u>\$76,615</u>
Total	\$116,615

FISCAL IMPACT: Provides \$116,615 for Emergency Services related expenses which may otherwise be charged to the Emergency Services budget.

CONCURRENCES: Director, Office of Grant Management

ALTERNATIVES: Deny approval for submission of this request

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A



Agenda Report Form

Open Session Item

SUBJECT: Emergency Management Performance Grant– Approval to Submit Application and Accept Awarded Funding

PRESENTATION DATE: April 3, 2018

PRESENTATION BY: Stephanie Lapole, Grant Manager, Office of Grant Management and Tom Brown, Emergency Management Specialist, Division of Emergency Services

RECOMMENDED MOTION: Move to approve the submission of the application to the Maryland Emergency Management Agency in the amount of \$103,381.00 and accept funding as awarded.

REPORT-IN-BRIEF: The purpose of the Emergency Management Performance Grant (EMPG) Program is to provide federal funds to states to assist state, local, tribal and territorial emergency management agencies to obtain the resources required to support the National Preparedness Goals associated with the areas and core capabilities.

DISCUSSION: The performance period for this federal grant is October 1, 2018 through June 30, 2019. There is a 100% match requirement associated with this grant which is covered by the Emergency Services operating budget.

Wages & Benefits Match	\$103,381
Operational Expenses	<u>\$103,381</u>
Total	\$206,762

FISCAL IMPACT: Provides \$103,381 for Emergency Services related expenses which may otherwise be added to the Emergency Services budget. Matching funds will be in the form of budgeted salaries which is subject to approval in the County's operating budget for FY19.

CONCURRENCES: Director, Office of Grant Management

ALTERNATIVES: Deny approval for submission of this request

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A



Agenda Report Form

Open Session Item

SUBJECT: Planning Assistance to States Program Grant Phase 3 – Approval to Accept Awarded Funding

PRESENTATION DATE: April 3, 2018

PRESENTATION BY: Stephanie Lapole, Grant Manager, Office of Grant Management and Dave Mason, Deputy Director, Division of Environmental Management

RECOMMENDED MOTION: Move to approve acceptance of the award from the United States Army Corp of Engineers in the amount of \$70,000.

REPORT-IN-BRIEF: The proposed funding is for completion of Phase 3 of the Urbanized Area Stormwater Infrastructure Mapping Project with the United States Army Corps of Engineers Baltimore District. This project will enable the County to work toward compliance with the National Pollutant Discharge Elimination System (NPDES) MS4 Phase II General Permit by mapping and inventorying its stormwater drainage system within the Urbanized Area.

DISCUSSION: The Office of Grant Management has reviewed the grant funding guidelines. There is a 50/50 match requirement which is covered by the Stormwater Retrofit CIP budget.

FISCAL IMPACT: Provides \$70,000 for Environmental Management related expenses which may otherwise be added to the Environmental Management budget. The match requirement associated with this grant was approved in the Stormwater Retrofit CIP budget for DNG039.

CONCURRENCES: Director, Office of Grant Management

ALTERNATIVES: Deny acceptance of funding

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A



Agenda Report Form

Open Session Item

SUBJECT: Clean County Initiative – Clean Streets Clean Streams

PRESENTATION DATE: April 3, 2018

PRESENTATION BY: Scott Hobbs, Director of Engineering; Dave Mason, Deputy Director of Solid Waste & Watershed Programs; Alex Reed, Watershed Specialist; John Swauger, Stormwater Management Coordinator, Division of Environmental Management

RECOMMENDED MOTION: For informational purposes only.

REPORT-IN-BRIEF: Under the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) program, the Environmental Protection Agency (EPA) regulates discharges of pollutants from municipal and industrial wastewater treatment plants, sewer collection systems, and stormwater discharges from industrial facilities and municipalities. Their Clean Water action plan targets enforcement to the most important water pollution problems. In 2011 the action plan was updated to improve water quality, address compliance issues, and expand transparency in reporting.

DISCUSSION: Washington County, along with other jurisdictions in Maryland, has been operating its municipal separate storm sewer system (MS4) under a NPDES permit issued by the Maryland Department of the Environment (MDE). In recent years stormwater management regulations for implementation have changed and the jurisdictions must comply as specified in their NPDES permit.

By July 1, 2018, the County will receive a new NPDES permit from MDE. To address the permit, County staff has been working on water quality projects for several years and continues to develop a strategy to provide additional stormwater runoff management on impervious acres equal to 20% of the total impervious area within the Urbanized Area for which runoff is not currently managed to the maximum extent practicable. County staff is also evaluating cost-effective stormwater best management practices (BMPs), providing public education and outreach, as well as establishing the framework for annual reporting. The program will also satisfy the Watershed Implementation Plan (WIP) that focuses on pollutant load limits for both the Chesapeake Bay and local Total Maximum Daily Loads (TMDLs).

FISCAL IMPACT: Capital Improvement Plan Budgets; Stormwater Retrofits, Stream Restorations, Tree Plantings.

CONCURRENCES: Not Applicable.

ALTERNATIVES: Not Applicable.

ATTACHMENTS: PowerPoint Presentation.

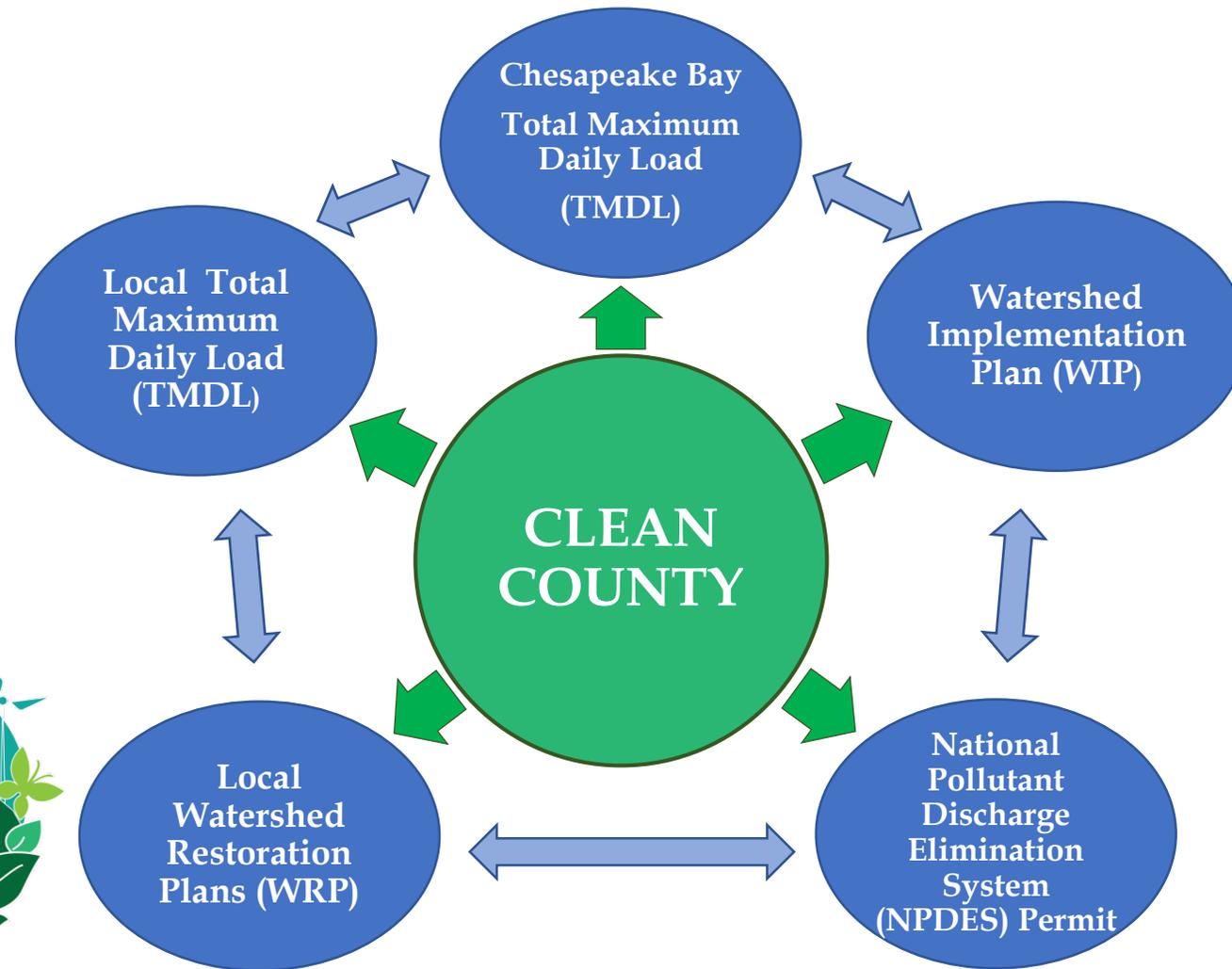
AUDIO/VISUAL NEEDS: PowerPoint Presentation.



Washington County Clean County Initiative

Clean Streets Clean Streams

WHAT IS THE CCI?

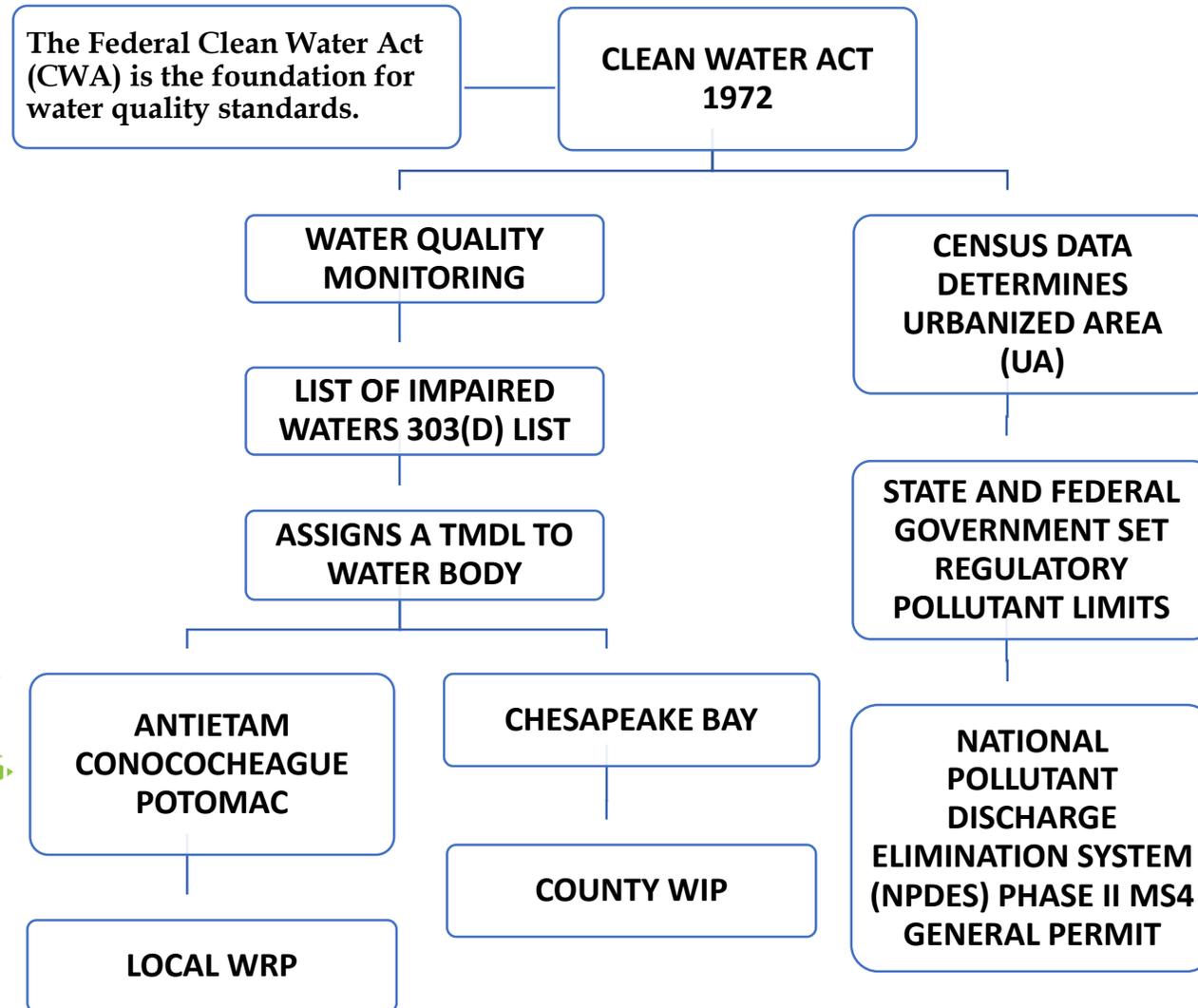


THE CLEAN COUNTY INITIATIVE

- An integration of the County's compliance efforts for the Federal Clean Water Act.
- Regulations are set by the Environmental Protection Agency (EPA) and administered by the Maryland Department of Environment (MDE).
- County has compliance requirements on multiple water quality standards; each has a specific purpose, but improvement efforts can have overlapping benefits.
- CIP Budgets for Stormwater Retrofits, Stream Restorations, Tree Plantings.

March, 2018

WATER QUALITY REGULATIONS

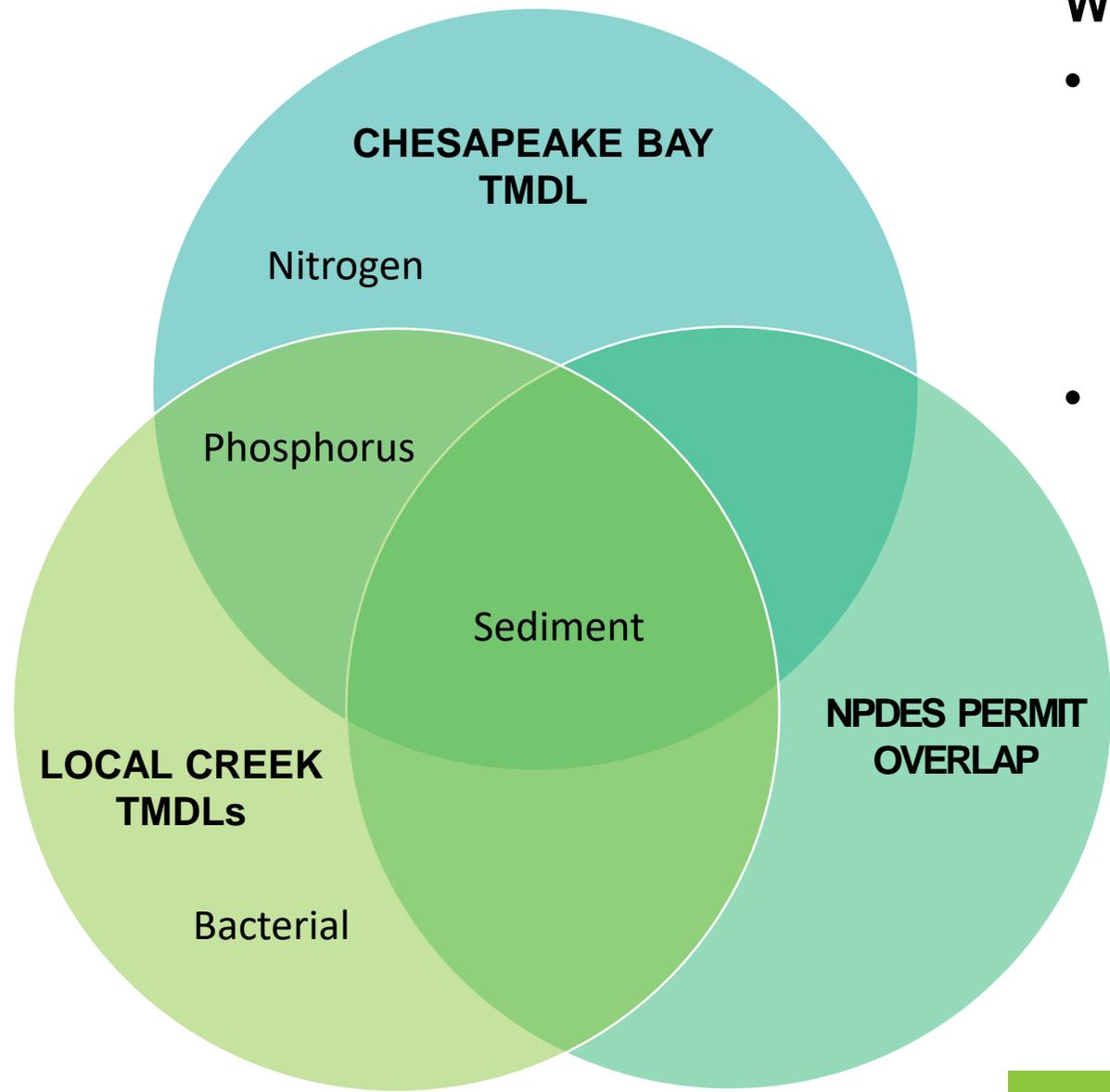


SUMMARY OF STORMWATER AND WATERSHED MANAGEMENT

- Water quality monitoring by the state identifies impaired waterways and then a Total Maximum Daily Load (TMDL) for the impairment is assigned to the watershed (i.e. sediment).
- A watershed level restoration plan is prepared that identifies how the local or Bay TMDL will be managed and mitigated.
- Washington County has an “Urbanized Area” (UA). The NPDES Permit is issued for the UA with requirements that the County must meet to manage stormwater runoff and prevent pollution.

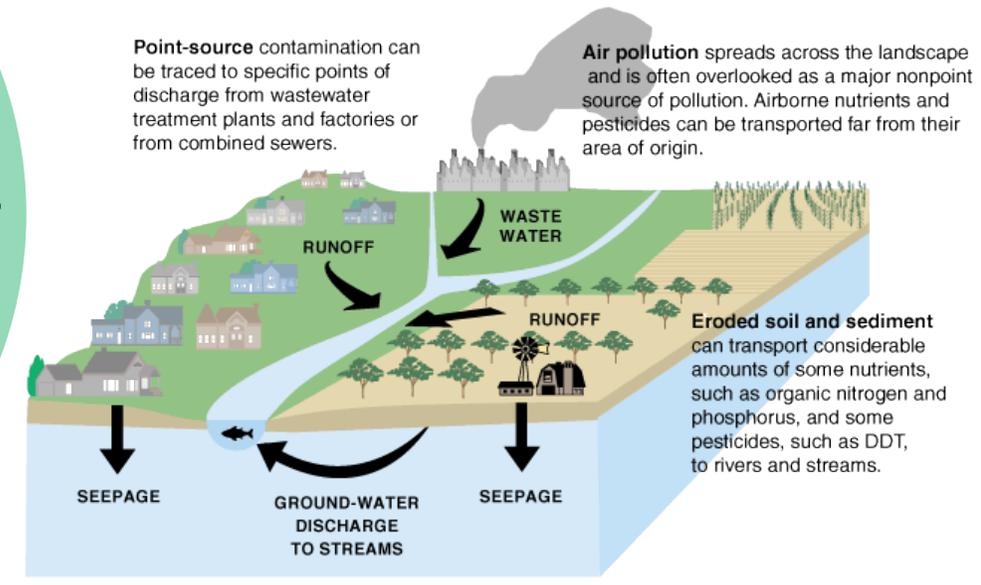


TOTAL MAXIMUM DAILY LOAD



WHAT IS A TMDL?

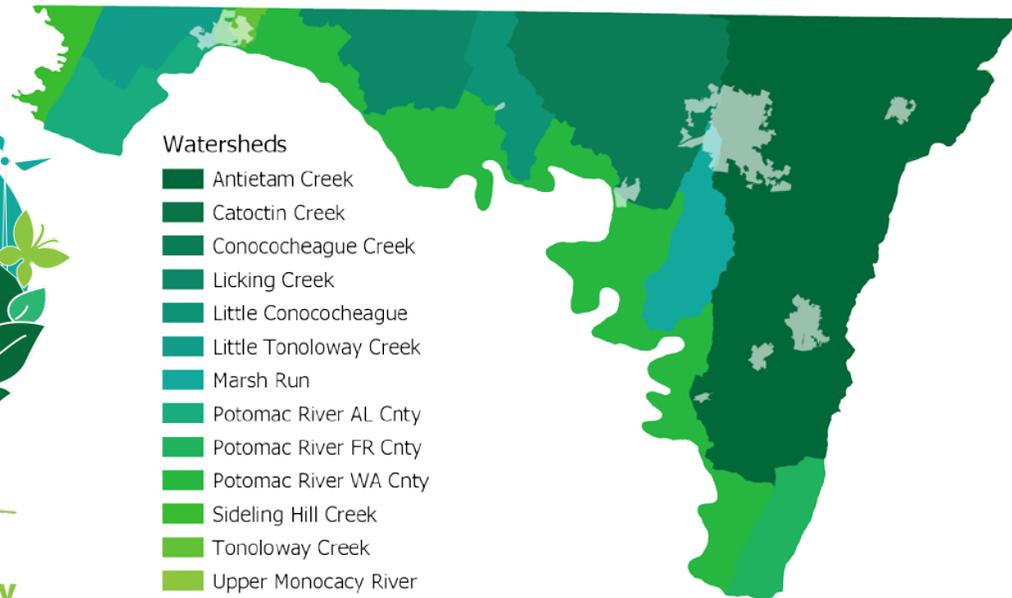
- It sets the water quality targets for restoring impaired waterways by identifying the maximum amount of pollutants a body of water can receive and still meet water quality standards.
- TMDLs have been called “pollution diets” for waterways.



WATERSHED PLANS



Antietam Creek Watershed (Black Rock Run)



WATERSHED RESTORATION PLAN (WRP)

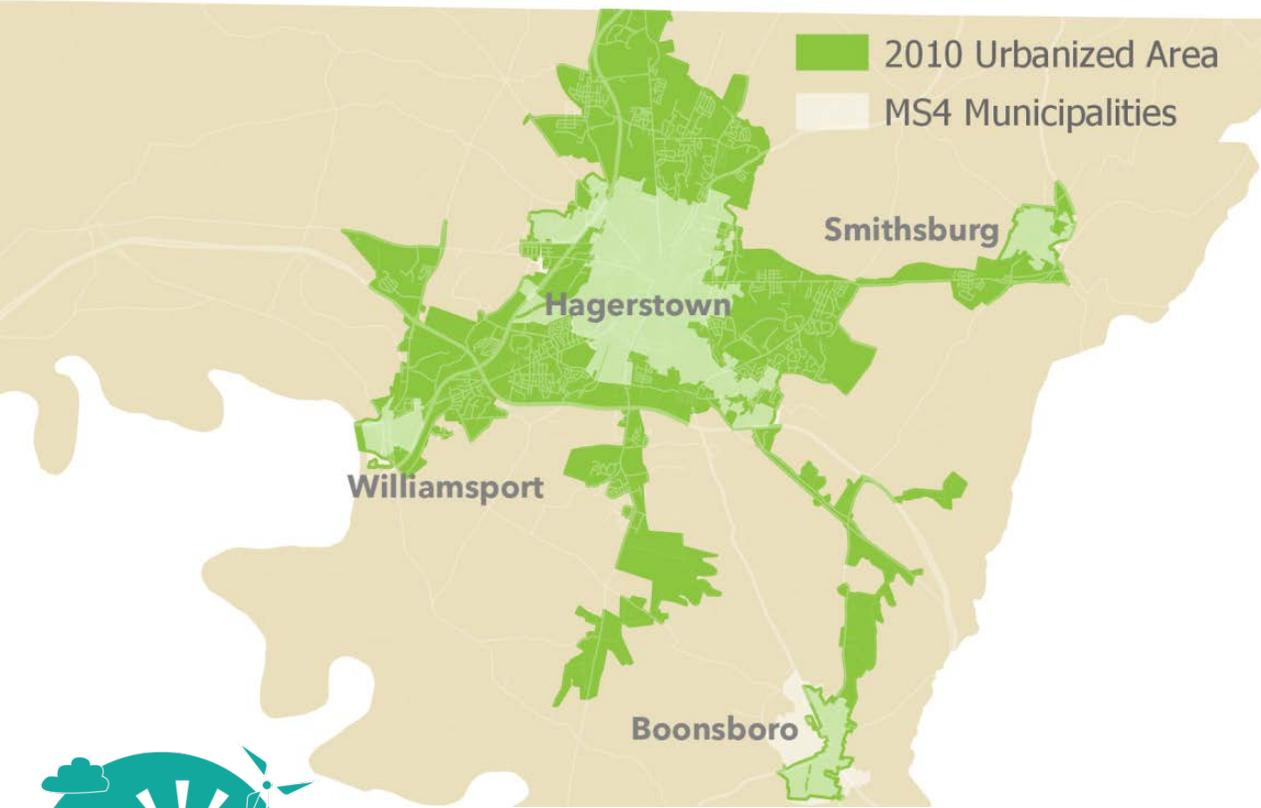
- A local watershed plan with strategies that identify local projects, funding mechanisms, and timelines for achieving TMDLs. Plans are developed in coordination with local stakeholders and the state.

WATERSHED IMPLEMENTATION PLAN (WIP)

- A county wide plan for achieving the target loading allocations produced by the Chesapeake Bay Model and provided by MDE.
- The Phase III County WIP document is due to the state in August 2018. The Phase III WIP will address the mid-point assessment loading data generated by the Phase 6 Bay Model for the County.

March, 2018

NPDES PERMIT



WHAT IS THE NPDES PERMIT?

- Washington County is defined by EPA as a Phase II jurisdiction (population <100,000). The NPDES permit is required for the County to discharge stormwater and allow land disturbance construction activities.

WHAT ARE THE REQUIREMENTS?

- Permit Minimum Control Measures (MCM)
 - Public education and outreach
 - Public involvement and participation
 - Illicit discharge detection and elimination (IDDE)
 - Construction site stormwater runoff control
 - Post-construction stormwater management in new development and redevelopment areas
 - Pollution prevention for municipal operations
 - Restoration Plan - 20% impervious area treatment or reduction (current GIS data shows approximately 700 acres in the urbanized area).

March, 2018

WATER QUALITY BMPs

STORMWATER BEST MANAGEMENT PRACTICES

- MDE has approved over 50 stormwater BMP classifications that are acceptable methods for improving water quality.¹
- Each BMP has a water quality benefit with respect to its pollution removal rate and equivalent impervious acre equivalent.
- Generally, pollutant removal rates are related to the TMDLs, while the impervious acre equivalent (IAE) is related to NPDES requirements.



Antietam Creek at Devils Backbone Park



	Notes	Efficiency Per Acre			Impervious Acre Equivalent
		TN	TP	TSS	
Mechanical Street Sweeping	High density urban areas where sweeping occurs 2x/month	4%	4%	10%	0.07
Regen/Vacuum Street Sweeping	High density urban areas where sweeping occurs 2x/month	5%	6%	25%	0.13
Reforestation on Pervious Urban	Survival rate of 100 trees/acre or greater; at least 50% of trees have two inch diameter or greater (4.5 ft. above ground)	66%	77%	57%	0.38
Impervious Urban to Pervious	Remove pavement and provide vegetative cover for 95% of area	13%	72%	84%	0.75
Impervious Urban to Forest	Survival rate of 100 trees/acre or greater; at least 50% of trees have two inch diameter or greater (4.5 ft. above ground)	71%	94%	93%	1.00
Regenerative Step Pool Storm Conveyance (SPSC) ¹	Located in dry or ephemeral channels; nutrient removal and impervious area credit is based on runoff depth treated	57%	66%	70%	1.00

¹ Maryland Department of the Environment. (2014). *Accounting for Stormwater Wasteload Allocations and Impervious Acres Treated*.

EXAMPLE BMP BENEFIT

STREAM RESTORATIONS

- The County has restored / stabilized over 4,000 LF of stream banks since 2009.
- Utilized 319h federal funding (60/40 fed-local split) on several projects.

EXAMPLE OF BENEFITS

4,000 LF of Stream Restoration =

- 300 lbs reduction in nitrogen
- 272 lbs reduction in phosphorus
- 90 tons reduction in sediment

ALSO

4,000 LF of Stream Restoration =

- 40 Ac Impervious Acre Equivalent (IAE)



Greensburg Road - After

Greensburg Road - Before



- Reduction credits for Chesapeake Bay and Local Watershed TMDLs



- NPDES Permit credit and IAE reduction

March, 2018

EXAMPLE BMP BENEFIT

TREE PLANTING PROGRAM

- Washington County will increase the number of trees on public land to improve water quality and enhance communities. The County also will seek to partner with citizens to establish and enhance forests and buffers on private property.

EXAMPLE OF BENEFITS

10 Ac of Tree Plantings =

- 32 lbs reduction in nitrogen
- 13 lbs reduction in phosphorus
- 600 lbs reduction in sediment

ALSO

10 Ac of Tree Plantings =

- 3.3 Ac Impervious Acre Equivalent (IAE)



Fairway Meadows



- Reduction credits for Chesapeake Bay and Local Watershed TMDLs



- NPDES Permit credit and IAE reduction

March, 2018

EXAMPLE BMP BENEFIT

STREET SWEEPING PROGRAM

- Washington County is developing a program for cleaning roads in our urbanized area (UA) by street sweeping. This sweeper will also be able to clean out stormwater inlets.

EXAMPLE OF BENEFITS

200 Miles of Street Sweeping =

- 525 lbs reduction in nitrogen
- 210 lbs reduction in phosphorus
- 32 tons reduction in sediment

ALSO

**Mass Loading for Street Sweeping =
(Assuming 150 tons collected)**

- 60 Ac Impervious Acre Equivalent (IAE)



- Reduction credits for Chesapeake Bay and Local Watershed TMDLs



- NPDES Permit credit and IAE reduction

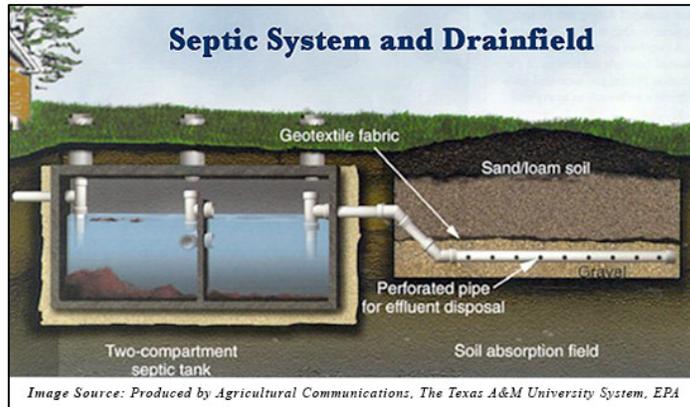


March, 2018

SEPTIC SYSTEMS

SEPTIC REDUCTION OPPORTUNITIES

- We are going to work with partners within the community to collect and report the number and location of private septic system pumping that already occurs.
- The County owns and maintains 578 septic systems. All systems are in a 3 year pumping rotation through a contract with a contractor, reducing the demand on Department of Water Quality resources.



- Continue coordinating with Washington County Health Department and partners to upgrade failing septic tanks.
- Upgrade Wastewater Treatment Plants and facilities to allow for sewer expansion and septic connections (i.e. Smithsburg WWTP).



BMP Practice	Pounds Reduced per Unit			Impervious Acre Equivalent
	TN	TP	TSS	
Septic Pumping	0.6	0	0	0.03
Septic Denitrification	6.0	0	0	0.26
Septic Connections to WWTP (MDE)	9.0	0	0	0.39

EXAMPLE BMP BENEFIT

SEPTIC TANK PUMPING

- Manufacturers recommend conventional septic tanks be pumped once every 3 years. Newer, enhanced systems require pumping less frequently (5 years).
- There are over 19,600 septic tanks in the County.

EXAMPLE OF BENEFITS

1,000 SEPTICS PUMPED YEARLY =

- 600 lbs reduction in nitrogen
- 0 lbs reduction in phosphorus
- 0 lbs reduction in sediment

ALSO

1,000 SEPTICS PUMPED YEARLY =

- 30 Ac Impervious Acre Equivalent (IAE)



- Reduction credits for Chesapeake Bay and Local Watershed TMDLs



- NPDES Permit credit and IAE reduction



March, 2018

WHY IT MATTERS

WATER QUALITY REGULATIONS ARE MANDATED

- Washington County is mandated to comply with federal and state regulations. Fines for noncompliance can be excessive and assessed per day until compliance is reached. 2018 will be County's first year with the new permit requirements and the process is evolving as to how MDE will address and enforce any noncompliance.

CURRENT FUNDING AND STRATEGY

- Recognize that funding levels are falling short of estimates for full compliance within the 5 year permit cycle. The Clean County Initiative will optimize the cost effectiveness of existing and future funding allocated towards this mandate that also provides the maximum benefit to County citizens.

COST SIGNIFICANCE

- Exorbitant costs will be offset and reduced at every opportunity by leveraging existing resources, grant funding, and cost sharing agreements to enable increased progress towards requirements.



WHY IT MATTERS



Clean Drinking Water



Keedysville Rd Bridge

Clean Streams for Recreation



Improved Wildlife and Aquatic Habitats



Clean Streets for Residents

March, 2018

GLOSSARY OF TERMS

Clean Water Act 1972 – Established the foundation for regulating pollutant discharges into the waters of the United States and gave the EPA the authority to implement pollution control programs

Environmental Protection Agency (EPA) – Federal government agency whose mission is to protect human and environmental health and enforce federal regulations

Impaired Waters 303(d) list – A state's list of impaired and threatened waters required to be submitted to EPA. For each water on the list, the state identifies the pollutant and assigns a TMDL

Maryland Department of the Environment (MDE) – State agency that oversees the permitting/licensing and inspection of state and federal regulations

Municipal Separate Storm Sewer Systems (MS4) – A stormwater conveyance system owned by a public entity that discharges into waters of the United States

National Pollution Discharge Elimination System (NPDES) – A provision of the Clean Water Act that prohibits discharge of pollutants into waters of the U.S. unless a special permit is issued by the EPA, state or tribal government

Stormwater Best Management Practices – A structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution and provide other amenities

Total Maximum Daily Load (TMDL) - Establishes the maximum amount of a pollutant allowed in a waterbody

Urbanized Area (UA) – 2010 Census tracts that meet minimum population requirements and have a population of 50,000 or more people

Watershed - An area of land that separates waters flowing to different creeks, rivers or basins

Watershed Implementation or Restoration Plan – The roadmap for how agencies will achieve target TMDL allocations



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Agenda Report Form

Open Session Item

SUBJECT: Construction Bid Award; Pavement Maintenance & Rehabilitation Program FY'18 Chip Seal Applications, Contract No. MS-PMP-256-28

PRESENTATION DATE: April 3, 2018

PRESENTATION BY: Scott Hobbs, P.E., Director, Division of Engineering

RECOMMENDED MOTION: Move to award the bid for the Pavement Maintenance & Rehabilitation Program FY'18 Chip Seal Applications contract to the lowest responsive, responsible bidder, American Paving Fabrics of Hanover, MD for the amount of \$1,415,792.16 which includes the option to extend the contract for a period of up to two, one-year extensions.

REPORT-IN-BRIEF: The project was advertised in The Herald Mail, on the County's website, and on the State of Maryland's website, e-Maryland Marketplace. Three (3) bids were received on Wednesday, February 28, 2018 as listed below and further detailed on the attached bid tabulation.

<u>Contractor:</u>	<u>Total Bid:</u>
American Paving Fabrics, Inc.	\$1,415,792.16
Midland Asphalt, Inc.	\$1,457,749.55
Hammaker East, LTD	\$1,598,498.85

The bids have been evaluated and the low bid by American Paving Fabrics, Inc. is in order. The engineer's estimate is \$1,408,000.

DISCUSSION: The pavement maintenance & rehabilitation program for chip seal applications involves pavement preservation and repair. Applications include providing single chip seal surface treatment, double chip seal surface treatment, fog sealing, patching, and permanent pavement markings. The project includes approximately 30 miles of treatment applications.

The contract follows standard State Highway Administration provisions for monthly liquid asphalt price adjustments as used in prior years. The bid documents provide eighty (80) consecutive calendar days to complete the work. The Notice to Proceed is anticipated on or about May 14, 2018 with a final completion date of August 1, 2018. The bid documents include Liquidated Damages in the amount of \$500.00 per calendar day for work beyond the completion date and an option to extend the contract additional years.

Motorists may experience some minor delays as a result of lane closures but there are no major road closures associated with this work. Road work signs will be posted throughout the duration of work. The road list is attached and will be posted on the County's website for reference.

FISCAL IMPACT: This is a budgeted Capital Improvement Plan (CIP) project (RDI024). Total expenses for the contract are estimated at \$1,660,792; including \$1,415,792.16 for proposed bid award, \$100,000 for inspection/testing, \$70,000 for 5% construction contingency, and \$75,000 for asphalt adjustment costs.

CONCURRENCES: Director of Budget and Finance (Fiscal Impact)

ALTERNATIVES: This is the most cost effective and practical alternative. Roads are substandard and need repairs to extend service life.

ATTACHMENTS: Bid Tabulation, Road List, Aerial Map

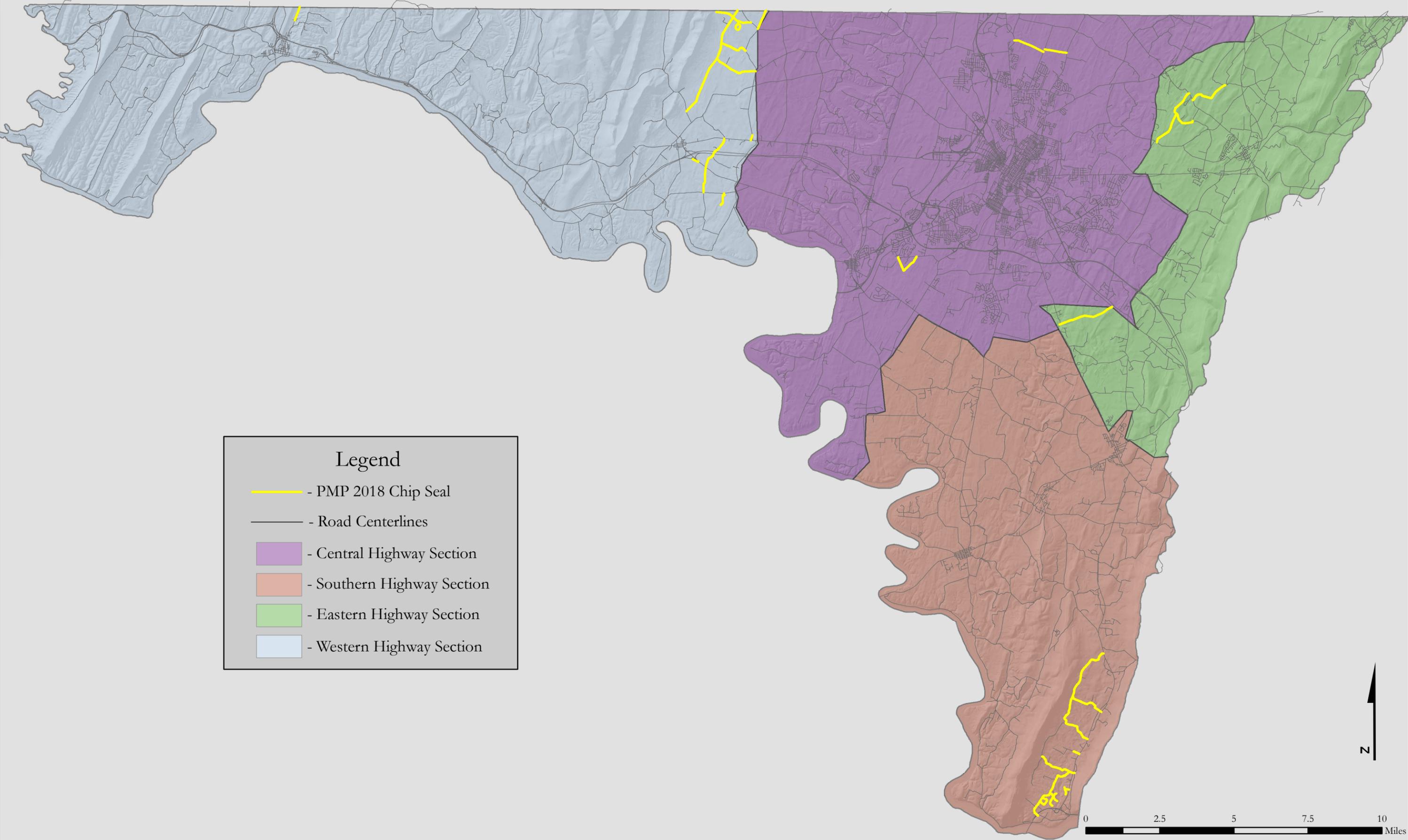
AUDIO/VISUAL TO BE USED: Not Applicable.

WASHINGTON COUNTY MD DIVISION OF ENGINEERING
BID TABULATION
Pavement Maintenance & Rehabilitation Program - FY18 Chip Seal Applications
Contract No. MS-PMP-256-28
Bid Opening: February 28, 2018 at 10:00am.



DESCRIPTION	ITEM NO.	QTY.	UNIT	<i>American Paving Fabrics</i> Hanover MD		<i>Midland Asphalt</i> Bloomsburg, PA		<i>Hammaker East</i> Fayetteville PA	
				UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL
Maintenance of Traffic	101	1	LS	\$ 110,000.00	\$ 110,000.00	\$ 87,500.00	\$ 87,500.00	\$ 94,750.00	\$ 94,750.00
Single Chip Seal - Emulsion, CRS-2PM	501A	13,061	GAL	\$ 3.79	\$ 49,501.19	\$ 3.75	\$ 48,978.75	\$ 2.33	\$ 30,432.13
Single Chip Seal - No. 10 Aggregate	501B	355	TON	\$ 28.50	\$ 10,117.50	\$ 39.10	\$ 13,880.50	\$ 94.00	\$ 33,370.00
Double Chip Seal - Emulsion, CRS-2PM	502A	220,613	GAL	\$ 3.79	\$ 836,123.27	\$ 3.75	\$ 827,298.75	\$ 2.33	\$ 514,028.29
Double Chip Seal - No. 8 Aggregate	502B	3,325	TON	\$ 28.50	\$ 94,762.50	\$ 39.10	\$ 130,007.50	\$ 94.00	\$ 312,550.00
Double Chip Seal - No. 10 Aggregate	502C	2,814	TON	\$ 28.50	\$ 80,199.00	\$ 39.10	\$ 110,027.40	\$ 94.00	\$ 264,516.00
Double Chip Seal - County Facilities, Emulsion, CRS-2PM	503A	7,530	GAL	\$ 3.79	\$ 28,538.70	\$ 3.75	\$ 28,237.50	\$ 2.96	\$ 22,288.80
Double Chip Seal - County Facilities, No. 8 Aggregate	503B	110	TON	\$ 28.50	\$ 3,135.00	\$ 39.10	\$ 4,301.00	\$ 156.00	\$ 17,160.00
Double Chip Seal - County Facilities, No. 10 Aggregate	503C	93	TON	\$ 28.50	\$ 2,650.50	\$ 39.10	\$ 3,636.30	\$ 156.00	\$ 14,508.00
Chip Seal Bar Patch - Emulsion, CRS-2PM	504A	16,408	GAL	\$ 3.79	\$ 62,186.32	\$ 3.750	\$ 61,530.00	\$ 2.56	\$ 42,004.48
Chip Seal Bar Patch - No. 8 Aggregate	504B	427	TON	\$ 28.50	\$ 12,169.50	\$ 39.10	\$ 16,695.70	\$ 156.00	\$ 66,612.00
CONTINGENT - Fog Seal - CSS-1H	505	10,689	GAL	\$ 2.37	\$ 25,332.93	\$ 3.75	\$ 40,083.75	\$ 4.50	\$ 48,100.50
CONTINGENT - Slurry Seal or Microsurfacing	506	2,500	SY	\$ 8.40	\$ 21,000.00	\$ 7.50	\$ 18,750.00	\$ 15.00	\$ 37,500.00
Pavement Marking Paint - Lines	507	365,165	LF	\$ 0.15	\$ 54,774.75	\$ 0.16	\$ 58,426.40	\$ 0.21	\$ 76,684.65
No Preheat Heat Applied Permanent Preformed Thermoplastic Pavement Markings - 12" Wide Crosswalk	508	50	SF	\$ 11.50	\$ 575.00	\$ 3.50	\$ 175.00	\$ 11.00	\$ 550.00
No Preheat Heat Applied Permanent Preformed Thermoplastic Pavement Markings - Lines, 24" Wide Stop Bars	509	1,560	SF	\$ 11.50	\$ 17,940.00	\$ 3.50	\$ 5,460.00	\$ 11.00	\$ 17,160.00
CONTINGENT - No Preheat Heat Applied Permanent Preformed Thermoplastic Pavement Markings - Legends, Letters	510	242	SF	\$ 13.00	\$ 3,146.00	\$ 5.50	\$ 1,331.00	\$ 12.00	\$ 2,904.00
No Preheat Heat Applied Permanent Preformed Thermoplastic Pavement Markings - Symbols, Railroad Crossing	511	260	SF	\$ 14.00	\$ 3,640.00	\$ 5.50	\$ 1,430.00	\$ 13.00	\$ 3,380.00
TOTALS					\$ 1,415,792.16		\$ 1,457,749.55		\$ 1,598,498.85

FY 2018 PMP CHIP SEAL APPLICATION



PMP FY-'18 CHIP SEAL APPLICATIONS

CONTRACT NO. MS-PMP-256-28

	ROAD NAME	FROM	TO	LENGTH	WCHD Section
				MILE	Location
1	Mercersburg Road	Blairs Valley Road	PA State Line	3.91	West
2	Dry Run Road	Fairview Road	Mercersburg Road	1.17	West
3	St. Paul Road	Fairview Road	PA State Line	0.67	West
4	Faith Road	Mercersburg Road	St Paul Road	0.96	West
5	Barnhart Road	Mercersburg Road	St Paul Road	1.48	West
6	North PA Avenue	Church Entrance	PA State Line	0.50	West
7	Mcintosh Circle	Stayman Drive	Stayman Drive	0.55	West
8	Stayman Drive	Dry Run Road	Mcintosh Circle	0.09	West
9	Ashton Road	Big Pool Road	National Pike	2.04	West
10	Shank Road	Big Pool Road	Ashton Road	0.40	West
11	Burnie Kinsell Drive	Clear Spring Road	Dead End	0.23	West
12	Knepper Road	St Paul Road	National Pike	0.18	West
13	Garretts Mill Road	Weverton Road	Brown Road	1.33	South
14	Valley Road	Garretts Mill Road	MD 340	2.13	South
15	Deer Path Lane	Valley Road	Valley Road	0.55	South
16	Gristmill Road	Valley Road	Dead End	0.39	South
17	John Brown Lane	Dead End	Dead End	0.56	South
18	Yarrowsburg Road	Rohersville Road	Kaetzel Road	0.99	South
19	Kaetzel Road	Yarrowsburg Road	Brownsville Road	1.00	South
20	Brownsville Road	Kaetzel Road	Boteler Road	1.15	South
21	Tree Top Drive	Rohersville Road	Israel Creek Court	0.13	South
22	Israel Creek Court	Tree Top Drive	Cul-de-sac	0.26	South
23	Frog Eye Road	Rohersville Road	Dead End	0.23	South
24	Air View Road	Pennsylvania Avenue	Marsh Pike	1.81	Central
25	Edward Doub Road	Sterling Road	Sterling Road	1.15	Central
26	Unger Road	Still Meadow Road	Leitersburg Smithsburg Road	1.74	East
27	Beck Road	Old Forge Road	Unger Road	1.23	East
28	Durberry Road	Leitersburg Smithsburg Road	Gardenhour Road	1.44	East
29	Cool Hollow Road	Old National Pike	National Pike	1.93	East
30	County Facilities	Camp Harding	Doubs Wood Park Parking Lots	-	-
				TOTAL	30.20
					MILES



Open Session Item

SUBJECT: Rezoning application schedule

PRESENTATION DATE: April 3, 2018

PRESENTATION BY: Stephen T. Goodrich, Director, Department of Planning and Zoning

RECOMMENDED MOTION: Following any additional questions or discussion **MOVE to approve change to rezoning application administrative procedures to accept applications on an as needed schedule to improve customer service.**

REPORT-IN-BRIEF: In order to provide a more customer service oriented rezoning application procedure, staff is presenting a proposal to accept and process rezoning applications on an *as needed* basis. The current practice has a defined schedule and accepts rezoning applications only twice per year (January and July). Commissioners' participation in this discussion is important because the Boards' meeting schedule must accommodate the required public hearing and at least one additional meeting to act on the application. The Commissioners adopted policies in 2008 which led to the current two "cycle" schedule. Staff will present the benefits of a revised procedure, and the history of the current practice if needed, for discussion.

DISCUSSION: The County Administrator, Chief Operating Officer, County Attorney, Deputy County Attorney and Director of Planning & Zoning reviewed current and past practices as well as policies in Allegany, Frederick and Carroll counties. An *as needed* application schedule is clearly the most customer friendly and responsive to applicant needs. Applicants will be able to submit applications at any time and the review process can begin immediately. An internal schedule for meeting milestones in the public review process is still needed and that schedule will be augmented with specific time frames for scheduling Commissioner hearings and returning the application within 3 weeks for consensus discussions and decisions. These additional deadlines may also shorten the process. Depending on the complexity of a case, the Planning Commissions public information meeting may be combined with regular meeting dates which may also shorten review time.

There are other factors that should be considered in a discussion of a change to an *as needed* procedure. Advertising costs will increase because each application will have to be advertised separately rather than with all others received during a cycle. This could be addressed through billing applicants for all advertising costs or budget adjustments for the department. Staff will have to adjust priorities and tasks to respond to an application submission rather than planning for submissions on a pre-determined date.

The current practice of two rezoning “cycles” per year is the result of a 2008 change in policy that eliminated the joint public hearing (Planning Commission and County Commissioners) in favor of a separate public information meeting before the Planning Commission made its recommendation and a public hearing before the County Commissioners made the rezoning decision. Prior to that change there were 4 application “cycles” per year and joint public hearings. In both cyclical procedures there were application deadlines, a predetermined schedule for milestones in the internal review process and predetermined hearing dates. Cyclical application policies may offer reduced advertising costs because multiple applications can be advertised at one time. There may be efficiency in staff preparation of reports, agency reviews, public notices and site visits.

Rezoning applications require the attention of at least 4 Planning department staff members, the Planning Commission, the County Attorney’s office, the Commissioners and the general public.

An example of the internal review schedule is provided. It is based on past schedules used in the current cyclical process and includes added dates for scheduling County Commissioner hearings, consensus discussions and formal votes.

For a complete discussion, Commissioners may want to consider other options:

- A. Retain the current 2 cycles per year
- B. Retain the current 2 cycles per year with waiver criteria for special or urgent circumstances
- C. Add one or two additional cycles for a total of 3 or 4 per year

FISCAL IMPACT: There will be additional costs for advertising if an *as needed* process or additional cycles are added.

CONCURRENCES: The County Administrator, Chief Operating Officer, County Attorney, Deputy County Attorney and Planning & Zoning Director conclude that an *as needed* procedure is most responsive to customer needs. The Planning Commission has stated that it is open to the concept of creating an additional application cycle in the interest of customer service but it is of the opinion that the current volume of cases does not warrant it now.

ALTERNATIVES: Retain the current practice

ATTACHMENTS: sample of an internal calendar

AUDIO/VISUAL NEEDS: N/A

SAMPLE INTERNAL CALENDAR – AS NEEDED APPLICATIONS		
MILESTONE	DATE (Samples only)	COMMENTS
1 Application filed	1/12/17 (±2 weeks)	Sample only. Can be any day applicant choses. All subsequent dates measured from this point
2 Review for complete, file entry and agency routing	1/25/17 (±3 weeks)	
3 Agency reviews complete	2/16/17 (± 2 weeks)	
4 Staff Report complete	3/2/17	
5 Post signs	3/3/17	
6 Mail notices	3/3/17	
7 Notice to newspaper	3/1/17	
8 Publish notice #1	3/6/17	
9 Publish notice #2	3/13/17	
10 Copies to Planning Commission	Dependent upon meeting date. 2 weeks prior to meeting date	Regular meeting or separate
11 Planning Commission public information meeting	4/ 2/17 or 4/16/17	may be regular meeting date or separate
12 Planning Commission recommendation	5/7/17	During next regular meeting
13 Paperwork to County Admin office (includes proposed BCC hearing date)	5/21/17	Includes preparation of draft PC minutes and selecting BCC hearing date
14 BCC hearing	6/25/17 (± 5 weeks)	Period between #13 & #14 include date selection and time to advertise and mail notices
15 Return to BCC agenda for consensus discussion	7/16/17	3 weeks from hearing date to accommodate agenda prep deadlines. Repeats if consensus not determined
16 Return to BCC agenda for formal vote/decision	8/6/17	3 weeks to accommodate agenda prep deadlines. Repeats if decision not made
17 Formal notice to applicant of decision	8/15/17	



Agenda Report Form

Open Session Item

SUBJECT: General Fund Budget and 2019-2028 Capital Improvement Plan

PRESENTATION DATE: April 3, 2018

PRESENTATION BY: Sara Greaves, Chief Financial Officer; Kim Edlund, Director of Budget & Finance

RECOMMENDED MOTION: None

REPORT-IN-BRIEF: Changes to budgets will be discussed for both the General Fund and the Capital Improvement Budget.

DISCUSSION: General discussion by CFO and Director of Budget & Finance on changes from Draft 1 to Draft 2 of the FY 2019 General Fund budget as well as the 2019-2028 Capital Improvement Plan. Staff will answer any BOCC questions regarding the budgets.

FISCAL IMPACT: No material changes from Draft 1

CONCURRENCES: Not applicable

ALTERNATIVES: None

ATTACHMENTS: None

AUDIO/VISUAL NEEDS: None



Agenda Report Form

Open Session Item

SUBJECT: Revision to PR-5B Transit Department, Alcohol Misuse and Prohibited Drug Use Policy

PRESENTATION DATE: April 3, 2018

PRESENTATION BY: Stephanie Stone, Director Health and Human Services; Kevin Cerrone, Transit Director

RECOMMENDED MOTION: Move to approve the revised PR-5B Transit Department, Alcohol Misuse and Prohibited Drug Use Policy

REPORT-IN-BRIEF: Kevin Cerrone provided Human Resources with an update of the Final Rule from the Department of Transportation which clarifies that the term “opiates” in our current policy must be changed to “opioid.” It appears that the word “opiate” is an older term covering only *natural* produced product, whereas the word “opioid” covers natural, semi-synthetic and synthetic. It is the synthetic versions that FTA is now testing in addition to natural.

DISCUSSION: Attached please find the updated policy with the wording changes as specified by Part 40 Final Rule, DOT Summary of Changes/Us Department of Transportation.

FISCAL IMPACT: None

CONCURRENCES: Jim Sterling, Director of Public Works

ALTERNATIVES: None

ATTACHMENTS: PR-5B Transit Department, Alcohol Misuse and Prohibited Drug Use Policy

AUDIO/VISUAL NEEDS: None



POLICY TITLE: **Transit Department
Alcohol Misuse and Prohibited Drug Use**

POLICY NO.: **PR-5B**

I. PURPOSE AND SCOPE

- A. The Board of County Commissioners has adopted this Policy to satisfy the requirements of the Omnibus Transportation Employee Testing Act of 1991 and regulations promulgated by the U.S. Department of Transportation (DOT), 49 CFR Part 40 (“Procedures for Transportation Workplace Drug and Alcohol Testing Programs”), as amended, and by the Federal Transit Administration (FTA), 49 CFR Part 655 (“Prevention of Alcohol Misuse and Prohibited Drug Use in Transit”), as amended. This Policy applies to all Transit Department employees and applicants for employment in the Transit Department who hold or seek to hold “safety-sensitive” positions as defined in 49 CFR Part 655 and as described by category and position title below. This Policy establishes uniform procedures concerning the testing of covered Transit Department employees or applicants for employment in the Transit Department to detect illegal drugs or alcohol in their systems. The purpose of such testing is to provide, in the interest of the safety of employees, passengers, and the general public, work and service environments that are free from the effects of illegal drug use and alcohol misuse.
- B. This Policy does not exempt covered Transit Department employees from other County rules, regulations, or policies, including prohibitions against and penalties or sanctions for alcohol misuse and prohibited drug use that are stricter or in excess of the requirements of 49 CFR Part 655. Such rules, regulations, or policies are established pursuant to the County’s own authority and not the authority of DOT or FTA. Furthermore, all affected employees are subject to the County’s Policy No. PR-5A, Alcohol-Free and Drug-Free Workplace, implementing the Drug-Free Workplace Act of 1988, which prohibits employees from unlawfully manufacturing, distributing, dispensing, possessing, or using controlled substances in the workplace.
- C. Each covered employee will receive and sign for receipt of a copy of this Policy. Questions regarding the administration of the anti-drug and alcohol misuse program created by this Policy should be directed to the County’s Risk Management Administrator as its Drug and Alcohol Program Manager and Designated Employer Representative (DER) in the Department of Human Resources at 240-313-2350.

II. COVERED PERSONS

- A. This Policy applies to all employees, applicants, or transferees who perform or will perform any safety-sensitive function in the Transit Department as defined below and by FTA in 49 CFR Part 655.
- B. The following duties in the Transit Department constitute safety-sensitive functions:
 - 1. Operating a revenue service vehicle, including when not in revenue service;
 - 2. Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
 - 3. Controlling dispatch or movement of a revenue service vehicle;
 - 4. Maintaining (including repairs, overhaul, and rebuilding) any revenue service vehicle or equipment used in revenue service; and
 - 5. Carrying a firearm for security reasons.
- C. After due analysis, the Transit Department has determined that individuals with the following position titles are safety-sensitive employees because they are or may be required to perform safety-sensitive job functions as part of their job duties:
 - 1. Transit Director;
 - 2. Transit Deputy Director;
 - 3. Fleet Manager;
 - 4. Driver Supervisor;
 - 5. Administrative Assistant;
 - 6. Office Associate;
 - 7. Full-time Bus Operator;
 - 8. Part-time Bus Operator;
 - 9. Bus Mechanic;
 - 10. Bus Attendant; and
 - 11. Van/Shuttle Driver.

III. PROHIBITED BEHAVIOR AND CONDUCT

- A. Prohibited Drug Use – Safety-sensitive employees in the Transit Department are prohibited from consuming marijuana, cocaine, opiates, amphetamines, or phencyclidine (PCP) at any time, whether on or off duty. This Policy does not exempt safety-sensitive employees from the County-wide prohibition against the consumption of other illegal drugs not listed above, but the prohibition against the use of other illegal drugs is

established pursuant to the County's own authority and not the authority of DOT or FTA. The consumption of any illegal drugs is grounds for immediate termination of employment and referral to a qualified Substance Abuse Professional (SAP).

B. Prohibited Alcohol Use – Safety-sensitive employees in the Transit Department are prohibited from consuming alcohol while performing or within four (4) hours prior to performing any safety-sensitive function. Accordingly, this prohibition against the consumption of alcohol applies to off-site lunch periods or breaks when a safety-sensitive employee is scheduled to return to work to perform any safety-sensitive function. Additional prohibitions against the consumption of alcohol by safety-sensitive employees are as follows:

1. Safety-sensitive employees in the Transit Department who are on-call to substitute for the shift of an employee who may be unable to work are prohibited from consuming alcohol within four (4) hours of the shift for which substitution may be required. However, such employees will be provided the opportunity to acknowledge the use of alcohol at the time they are called upon to report to duty and their inability to perform safety-sensitive functions without being subject to punitive measures. If the employee acknowledges consumption of alcohol within four (4) hours of the shift for which substitution may be required, the employee shall not be allowed to substitute for the shift or perform any safety-sensitive function.
2. Safety-sensitive employees in the Transit Department who are required to take a post-accident alcohol test pursuant to the procedures set forth below are prohibited from consuming alcohol for eight (8) hours following the accident or until after the employee undergoes the post-accident alcohol test, whichever occurs first.
3. Safety-sensitive employees in the Transit Department who are found to have a Blood Alcohol Concentration (BAC) of 0.02 pursuant to the testing procedures set forth below are subject to immediate termination of employment and referral to a qualified SAP. 49 CFR Part 655 does not require termination of employment under these circumstances. Rather, termination of employment under these circumstances is established pursuant to the County's own authority and not the authority of DOT or FTA.

IV. DRUG AND ALCOHOL TESTING

A. Types of Testing

1. As more fully described below, the County requires pre-employment drug tests of all applicants and other persons specified below who will perform any safety-sensitive function in the Transit Department. Prior to testing, such individuals will be advised that they are being tested pursuant to FTA regulations.
2. As more fully described below, all employees who perform any safety-sensitive function in the Transit Department are subject to the following types of drug and alcohol tests: reasonable suspicion testing, post-accident testing, and random testing. Prior to testing, employees will be advised that they are being tested pursuant to FTA regulations.
3. Drug tests are designed to detect the presence of marijuana, cocaine, opioids (natural, semi-synthetic and synthetic) opiates, amphetamines, and phencyclidine (PCP). Urine specimens are used for drug testing under this Policy.
 - a. The drug testing procedures will comply with DOT regulations, 49 CFR Part 40, as amended, and include split sampling which provides that a urine sample be split into two (2) separate containers.
 - b. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, whether the urine was diluted, or whether the specimen was substituted.
 - c. In compliance with 49 CFR Part 40, as amended, observed collections are required in the following circumstances:
 - i. All return-to-duty tests;
 - ii. All follow up tests;
 - iii. Any time an employee is directed to provide another specimen because the temperature on the original specimen was out of the currently accepted

- temperature range specified under 49 CFR Part 40, as amended;
- iv. Any time the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
 - v. Any time a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
 - vi. Any time the employee is directed to provide another specimen because the laboratory reported to the Medical Review Officer (MRO) that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
 - vii. Any time the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated, or substituted, but had to be cancelled because the test of the split specimen could not be performed.

The method of direct observation will be in compliance with the current requirements of 40 CFR Part 40, as amended, and will consist of actions (i.e., lifting and lowering of clothing) sufficient to demonstrate to the collector that there is no evidence of a prosthetic device.

- d. The confirmation limits for controlled substances are set forth in terms of nanograms per milliliter of urine at the concentrations determined by DOT regulations. If the laboratory reports a confirmed positive, adulterated, substituted, or invalid test result to the MRO, the MRO or staff under the MRO's personal supervision will make at least three (3) documented attempts to contact the applicant or employee (using the contact information listed on the official DOT Chain of Custody and Control Form (CCF), spaced reasonably over a twenty-four (24) hour period, including day and evening, for the purpose of arranging a discussion between the MRO and the applicant or employee. Any contact by the MRO's staff will be limited to scheduling a discussion between the MRO and the applicant or employee and advising the applicant or employee of the consequences of refusing to speak with the MRO (i.e., that the MRO will verify the test without input from the applicant or employee). During the discussion with the MRO, the

MRO will determine whether the applicant or employee wants to discuss the test result and explain that, if he or she declines to discuss the test result, the MRO will verify the test as positive or as a refusal to test because of adulteration or substitution, as applicable.

- e. If the MRO or the MRO's staff are not able to contact the applicant or employee, the MRO will instruct the DER to contact the applicant or employee, who, in turn, will make immediate attempts to contact the applicant or employee and instruct him or her to contact the MRO. The DER will make at least three (3) documented attempts to contact the applicant or employee (using the contact information listed on the CCF), spaced reasonably over a twenty-four (24) hour period, including day and evening. The DER will inform the applicant or employee that, within seventy-two (72) hours, he or she must immediately contact the MRO, and will explain that, if the applicant or employee refuses to contact the MRO within the next seventy-two (72) hours, the MRO will verify the test result as a positive or refusal to test, as applicable. If neither the MRO nor DER, after making and documenting all reasonable efforts (as described above), is unable to contact the applicant or employee within ten (10) days of the date on which the MRO receives the confirmed test result from the laboratory, the MRO will verify the test result as a positive or refusal to test, as applicable. If the DER is unable to talk directly with the applicant or employee, and leaves a message for the applicant or employee, ten (10) days must pass before the MRO verifies the test results as a no-contact positive.
- f. Upon the MRO's contact with an applicant or employee for whom the laboratory reports a confirmed positive, adulterated, substituted, or invalid test result, the MRO will make a verification decision consistent with the procedures set forth in 49 CFR Part 40, as amended, including, without limitation, a medical interview with the applicant or employee, a review of the medical history of the applicant or employee, and any other relevant biomedical factors presented to the MRO by the applicant or employee. When the MRO verifies the test result as positive or as a refusal to test because of adulteration or substitution, the MRO will inform the applicant or employee of the verification decision and that he or she has seventy-two (72) hours to request that the MRO direct the second part of the split sample to a second laboratory for testing. The MRO will also inform the applicant or employee of the other information required by

49 CFR Part 40, as amended. If the second part of the split sample has negative results, the positive results of the first sample will be canceled and another sample will be taken for a new test. However, the employee does not have access to a test of the split specimen following an invalid result.

- g. If the MRO informs the DER that a positive drug test was dilute, the County will treat the test as a verified positive test result. If the MRO informs the DER that a negative drug test was dilute, the County will require the applicant or employee to take another test immediately. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO. Recollections will not be conducted under direct observation unless there is some other basis for direct observation under DOT regulations. All applicants and employees will be treated the same in the case of dilute negatives. The County will ensure that the applicant or employee will be given the minimum advance notice that he or she must go to the collection site. The result of the second test—and not of the first test—will be controlling. If the second test is also a dilute negative, the applicant or employee will not be required to take a third test. If the County directs the applicant or employee to take a second test because the first test was a dilute negative, and if he or she refuses to take the second test, the applicant or employee will be deemed to have refused to take a drug test.
- 4. Alcohol tests are designed to detect the presence of alcohol at the BAC levels of 0.02 or greater. Evidential Breath Tests (EBTs) are conducted with testing devices approved by the National Highway Traffic Safety Administration (NHTSA) and placed on the NHTSA conforming products list.
 - a. The alcohol testing procedures shall comply with DOT regulations, 49 CFR Part 40, as amended.
 - b. The limits for alcohol are expressed in a volume of breath and indicated by the BAC. A BAC of 0.00 to 0.0199 shall be considered negative, and a BAC of 0.02 or greater shall be considered positive.
 - c. FTA in 49 CFR Part 655 differentiates between the consequences for a safety-sensitive employee having a BAC of 0.02 or greater, but less than 0.04, and a BAC of 0.04 or greater. However, pursuant to the County's own authority and not that of FTA or DOT, the County has decided that a

BAC of 0.02 or greater shall be considered a positive test result for all purposes, including the disciplinary consequences accompanying a positive alcohol test result set forth below.

B. Pre-employment Drug Testing

1. Before allowing an employee, applicant, or transferee to perform any safety-sensitive function in the Transit Department for the first time, the County requires the individual to take a pre-employment drug test with a verified negative test result.
2. As a condition of being considered for employment, an applicant for a safety-sensitive position in the Transit Department shall be required to cooperate in requesting drug- and alcohol-testing records from any prior employment in which the employee was subject to any DOT drug- and alcohol-testing program. Should such records indicate, or should the applicant voluntarily acknowledge, that the applicant failed or refused a drug or alcohol test in the two (2) year period preceding the date of his or her application, the applicant shall be disqualified from employment that involves the performance of any safety-sensitive function in the Transit Department unless he or she provides the County with proof of the successful completion of a referral, evaluation, and treatment plan as described in 49 CFR Part 655.
3. Before a County employee performing non-safety-sensitive functions in the Transit Department may be transferred to a position in the Transit Department which requires the performance of any safety-sensitive function, the County requires the employee to take a pre-employment drug test with a verified negative test result before performing any safety-sensitive function.
4. Before a County employee from a different department may be transferred to a position in the Transit Department which requires the performance of any safety-sensitive function, the County requires the employee to take a pre-employment drug test with a verified negative test result before performing any safety-sensitive function.
5. When a safety-sensitive employee in the Transit Department has not performed a safety-sensitive function for ninety (90) consecutive calendar days regardless of the reason, and the employee has not been in the Transit Department's random drug testing selection pool during that time, the County requires the employee to take a pre-employment drug test with a verified negative test result before performing any safety-sensitive function.

6. If a pre-employment drug test is canceled, an applicant or employee who is subject to pre-employment drug testing must take another pre-employment drug test with a verified negative test result before performing any safety-sensitive function.

C. Reasonable Suspicion Testing

1. Safety-sensitive employees in the Transit Department are subject to drug and/or alcohol testing when the County has reasonable suspicion to believe that an employee has used a prohibited drug and/or engaged in alcohol misuse.
2. The determination that reasonable suspicion exists under which an employee has used a prohibited drug and/or engaged in alcohol misuse shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. One or more supervisors or other County officials trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.
3. Alcohol testing based upon reasonable suspicion will be conducted only if the observations described above are made just prior to the employee's performance of safety-sensitive functions, during the employee's performance of safety-sensitive functions, or just after the employee's performance of safety-sensitive functions. Similarly, the County will direct an employee to undergo reasonable suspicion testing for alcohol misuse only while the employee is performing safety-sensitive functions, just prior to the employee performing safety-sensitive functions, or just after the employee has ceased to perform safety-sensitive functions.
4. If an alcohol test is not performed within two (2) hours of the determination that reasonable suspicion exists, the County will prepare and maintain on file written documentation of the reasons the alcohol test was not promptly administered. If an alcohol test is not performed within eight (8) hours of the determination that reasonable suspicion exists, the County will cease efforts to administer an alcohol test and prepare and maintain on file written documentation of the reasons that a test was not administered.

D. Post-Accident Testing

1. For purposes of this Policy, "accident" means an occurrence associated with the operation of a vehicle, if as a result:
 - a. An individual dies; or

- b. An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
 - c. With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or
 - d. With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation.
 2. For purposes of this Policy, “disabling damage” means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, and damage to a motor vehicle where the vehicle could have been driven, but would have been further damaged if so driven. However, disabling damage does not include the following:
 - a. Damage that can be remedied temporarily at the scene of the accident without special tools or parts;
 - b. Tire disablement without other damage even if no spare tire is available;
 - c. Headlamp or tail light damage; or
 - d. Damage to turn signals, horn, or windshield wipers, which make the vehicle inoperable.
 3. Fatal Accidents – As soon as practicable following an accident involving the loss of human life, the County will conduct drug and alcohol tests on each employee operating the mass transit vehicle at the time of the accident. The County will also conduct drug and alcohol tests on each safety-sensitive employee whose performance could have contributed to the accident, as determined by the County using the best information available at the time of the determination.
 4. Non-Fatal Accidents – As soon as practicable following an accident not involving the loss of human life in which a mass transit vehicle is involved, the County will conduct drug and alcohol tests on each employee operating the mass transit vehicle at the time of the accident unless the County determines, using the best information available at the time of the determination, that the employee’s performance can be completely discounted as a contributing factor

to the accident. The County will also conduct drug and alcohol tests on each safety-sensitive employee whose performance could have contributed to the accident, as determined by the County using the best information available at the time of the determination.

5. If an alcohol test is not performed within two (2) hours following the accident, the County shall prepare and maintain on file written documentation of the reasons the alcohol test was not promptly administered. If an alcohol test is not performed within eight (8) hours following the accident, the County shall cease efforts to administer an alcohol test and prepare and maintain on file written documentation of the reasons that a test was not administered.
6. The County shall ensure that an employee required to be drug tested following an accident is tested as soon as practicable but within thirty-two (32) hours of the accident. If a drug test is not performed within thirty-two (32) hours following the accident, the County shall cease efforts to administer a drug test and prepare and maintain on file written documentation of the reasons that a test was not administered.
7. An employee who is subject to post-accident testing but fails to remain readily available for such testing, including notifying the County or the County's representative of his or her location if he or she leaves the scene of the accident prior to submission to such testing, shall be considered by the County to have refused to submit to testing and will be subject to the consequences for a refusal to test set forth below.
8. The decision not to administer post-accident drug and alcohol tests shall be based on the County's determination, using the best available information at the time of the determination, that the employee's performance could not have contributed to the accident. Any such decision will be documented in detail, including the decision-making process used to reach the determination not to test the employee.
9. Nothing in this Policy shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit an employee subject to post-accident testing from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
10. The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse conducted by federal, State, or local officials having independent authority for the test shall be

considered to meet the requirements for post-accident testing under this Policy provided that the testing conforms to the applicable federal, State, or local testing requirements, and that the test results are obtained by the County. Such test results will be used only when the County is unable to perform independent post-accident testing within the time periods set forth above.

E. Random Testing

1. All safety-sensitive employees in the Transit Department are subject to random drug and alcohol testing pursuant to the procedures set forth below. The minimum annual (calendar year) percentage rate for all safety sensitive employees in the Transit Department will be in compliance with the current FTA annual percentage levels, as may be published in the Federal Register from time to time.
2. The County will select safety-sensitive employees in the Transit Department for random drug and alcohol testing in accordance with a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers or information. Under the selection process used, each employee in the random pool will have an equal chance of being tested each time selections are made.
3. The County will randomly select a sufficient number of safety-sensitive employees in the Transit Department for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rates for random drug and alcohol testing specified above.
4. The County will ensure that random drug and alcohol tests conducted for safety-sensitive employees in the Transit Department are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day and week when safety-sensitive functions are performed.
5. Each safety-sensitive employee in the Transit Department who is notified of selection for random drug or random alcohol testing must proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the County shall require the employee to cease performing the safety-sensitive function and proceed to the testing site immediately.
6. Safety-sensitive employees in the Transit Department will only be randomly tested for alcohol misuse while the employee is

performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing safety-sensitive functions. Safety-sensitive employees in the Transit Department may be randomly tested for prohibited drug use anytime while on duty.

F. Return to Duty Testing

Any employee who is allowed to return to duty after voluntarily coming forward to admit to alcohol and/or drug abuse must first be evaluated by an SAP and provide a negative test result for drugs, alcohol, or both.

G. Follow-up Testing

Employees returning to duty following leave for voluntary substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing as directed by the SAP. The number and frequency of such follow-up testing shall be directed by the SAP. The employee will be subject to follow-up testing for a period of one (1) to five (5) years as determined by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, as amended.

V. TESTING PROCEDURES

A. Testing Facilities

1. The County or its Third Party Administrator (TPA) shall identify and select only qualified medical facilities certified to perform DOT drug testing by the U.S. Department of Health and Human Services under the National Laboratory Certification Program. Additionally, the County or its TPA shall identify and select only qualified Screening Test Technicians (STTs) and/or Breath Alcohol Technicians (BATs) who meet each of the requirements set forth in 49 CFR Part 40, as amended, to perform alcohol testing under this Policy. Finally, the County or its TPA shall identify and select only qualified MROs who meet each of the requirements set forth in 49 CFR Part 40, as amended, to review drug test results and perform the other designated duties of MROs set forth in 49 CFR Part 40, as amended. As required by FTA in 49 CFR Part 655, the selected facility, STT(s), BAT(s), and MRO(s) shall be required to follow the drug and alcohol testing procedures set forth in 49 CFR Part 40, as amended, unless expressly provided otherwise by Part 655.
2. The selected facility, STT(s), BAT(s), and MRO(s) shall utilize only the official DOT CCF and/or the official DOT Breath Alcohol Test

Form (ATF) for drug and/or alcohol testing of safety-sensitive applicants or employees in the Transit Department.

3. The Department of Human Resources and the Transit Department will coordinate appointments for urine collection for drug screens and BAC tests. If there is concern about an individual's ability to function safely, that individual will be provided transportation to the collection site and his or her home, after completion of the drug and/or alcohol testing, if so warranted.
4. The selected facility will provide a predetermined amount of random numbers, based on the total number of employees in the pool and current testing requirements, to the County's DER. These numbers will have corresponding employee names; and the DER will notify, in writing, a designated supervisor or manager in the Transit Department. The designated supervisor or manager will arrange for the unannounced notification of the selected employees and provide them with the necessary forms to ensure accurate testing and confidentiality.

B. Refusals To Test

1. Drug Tests – The County will deem safety-sensitive applicants or employees in the Transit Department to have refused to take a drug test if the individual in question engages in any of the following:
 - a. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the County, consistent with DOT regulations, after being directed to do so by the County;
 - b. Fails to remain at the testing site until the testing process is complete, provided that an applicant or employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test under DOT regulations;
 - c. Fails to provide a urine specimen for any drug test required by this Policy, provided that an applicant or employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test under DOT regulations;
 - d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen;

- e. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- f. Fails or declines to take a second test which the County or collector has directed be taken;
- g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER (in the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment);
- h. Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector or behaves in a confrontational way that disrupts the collection process);
- i. Fails to follow the observer's instructions during an observed collection, including instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process;
- j. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
- k. Admits to the collector or MRO that he or she adulterated or substituted the specimen;
- l. Fails to proceed immediately to the testing site in the case of an employee who is notified of selection for random drug testing.

Additionally, if the MRO reports that an applicant or employee has a verified adulterated or substituted test result, the individual will be deemed to have refused to take a drug test.

- 2. Alcohol Tests – The County will deem safety-sensitive employees in the Transit Department to have refused to take an alcohol test if the individual in question engages in any of the following behavior:

- a. Fails to appear for any test within a reasonable time, as determined by the County, consistent with DOT regulations, after being directed to do so by the County;
- b. Fails to remain at the testing site until the testing process is complete;
- c. Fails to provide an adequate amount of breath for any alcohol test required by this Policy;
- d. Fails to provide a sufficient breath specimen and a physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- e. Fails to undergo a medical examination or evaluation, as directed by the County, to determine, in the case of failure to provide a sufficient breath specimen, if there was an adequate medical explanation for the failure;
- f. Fails to cooperate with any part of the testing process;
- g. Fails to sign the certification at Step 2 of the ATF;
- h. Fails to proceed immediately to the testing site in the case of an employee who is notified of selection for random alcohol testing.

C. Consequences of Positive Test Result or Refusal to Test

1. If a safety-sensitive employee in the Transit Department has a verified positive drug test result, or has a confirmed alcohol test with a BAC of 0.02 or greater, or refuses to submit to any drug or alcohol test required by this Policy, the consequence shall be immediate removal from the performance of safety-sensitive functions and termination of employment.
2. If an applicant for employment in a safety-sensitive position in the Transit Department has a verified positive drug test result, or refuses to submit to any drug test required by this Policy, the consequence shall be disqualification from employment in the Transit Department.
3. The consequences for a positive test result or a refusal to test set forth above are not required by 49 CFR Part 655. Rather, these consequences are established pursuant to the County's own authority and not the authority of DOT or FTA.

4. The County shall advise any employee terminated or applicant disqualified from employment in a safety-sensitive position in the Transit Department of resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs.

VI. TRAINING, EDUCATION, AND ASSISTANCE

- A. All supervisory and management level employees who may make reasonable suspicion determinations under this Policy shall receive at least sixty (60) minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least an additional sixty (60) minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.
- B. All safety-sensitive employees in the Transit Department must receive at least sixty (60) minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.
- C. The Department of Human Resources will display and provide to every safety-sensitive employee in the Transit Department materials on prohibited drug use and alcohol misuse and a community service hot-line number for employee assistance, if available.
- D. Employee Assistance Program¹
 1. The County provides an Employee Assistance Program (EAP) as part of its employee benefit program. County employees who may have a problem with alcohol misuse or illegal drug use are encouraged to take advantage of the EAP. Referrals may be obtained by contacting the Department of Human Resources.
 2. Any safety-sensitive employee in the Transit Department who voluntarily comes forward to management before he or she is notified or required to be drug or alcohol tested and admits drug or alcohol abuse will be referred to a SAP through the County's EAP on a one-time-basis only. The SAP shall determine the course of action required to resolve the employee's substance abuse. Should the prescribed program include outpatient treatment, the County shall remove the employee from the performance of any safety-sensitive functions until he or she successfully completes the program. The County will attempt, but cannot guarantee, placement

¹ See Policy No. EB-14 Employee Assistance Program (EAP).

of the employee in a non-safety-sensitive position while he or she is undergoing outpatient treatment. The employee will be subject to follow-up drug and/or alcohol testing upon conclusion of the program. Successful completion of any prescribed program will be a condition for continued employment.

VII. MISCELLANEOUS

- A. The County and the Transit Department reserve the right to change the provisions of this Policy at their discretion. All affected employees will be notified prior to instituting the changes. Changes required by federal, State, and/or local law will not require advance notification.
- B. Where conflict may exist between this Policy and federal, State, or local law, including the Americans with Disabilities Act of 1990, as amended, and/or its State counterpart, the County will conform to the applicable law. All other provisions, however, shall remain in full force and effect. To the extent that State or local law conflicts with DOT and/or FTA regulations, including 49 CFR Part 40, as amended, and 49 CFR Part 655, as amended, the DOT and/or FTA regulations shall take precedence.
- C. The testing procedures set forth herein will protect individual privacy, ensure accountability and integrity of the specimens, require confirmation of all positive screening tests, and provide confidentiality for test results and medical histories to the extent and manner specified in 49 CFR Part 40, as amended, and will ensure non-discriminatory testing methods and compliance with the Americans with Disabilities Act of 1990.

