

<b>FROM</b>	NAME & TITLE	Rudolph S. Chow, P.E., Director	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building		
	SUBJECT	Mayor and City Council Resolution 18-0228		

DATE: May 23, 2018

**TO**

The Honorable President and Members  
of the Baltimore City Council  
c/o Natawna Austin  
Room 400 – City Hall

I am herein reporting on Mayor and City Council Resolution 18-0228 introduced by the Council President on behalf of the Administration (Bureau of Treasury Management).

The purpose of the Bill is to authorize the issuance, sale and delivery from time to time by the City to finance or refinance stormwater facilities; prescribe the maximum aggregate principal amount of such revenue obligations that may be outstanding at any one time of \$202,000,000; authorize the Board of Finance of the City to specify, prescribe, determine, provide for, approve, and amend the form, terms, provisions, manner or method of issuing and selling, the time or times of issuance, and all other details of the revenue obligations and any other matters necessary or desirable in connection with the authorization, issuance, sale and payment of these revenue obligations; provide for a special effective date; and generally provide guidance relating to the issuance and payment of revenue obligations.

Enactment of PL 92-500, the Federal Water Pollution Control Act of 1972 (and subsequent amendments), generated a series of national programs meant to address all forms of water pollution control. Popularly known as the federal Clean Water Act, its objective is to "...restore and maintain the chemical, physical, and biological integrity of the Nation's waters." The law seeks to eliminate the discharge of pollutants to navigable waters and achieve water quality goals for the protection of fin- and shellfish, wildlife, and for recreational purposes. The Clean Water Act governs waterway pollution generated by point sources which is defined to include "...any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged." It requires point sources to operate under National Pollutant Discharge Elimination System (NPDES) permits which stipulate the limits of pollutants that may be discharged. The pollution limitations are expressed in concentrations that may be present in a discharge or in the loadings that can be discharged to the receiving water within a given timeframe (such as pounds per year). Pollutant limits are generally technology-based but may be more stringent if necessary to protect water quality.

Stormwater that discharges from an outfall, as it does in Baltimore City, is a point source, and thus is also governed by NPDES permits. These permits are called Municipal Separate Storm Sewer System permits, or MS4 permits. Before reaching the storm drain system and eventually the waterways, stormwater flows across streets, exposed soil, and buildings, picking up trash and pollutants along the way. MS4 permits seek to limit the pollutants carried by stormwater into waterways like the Jones Falls, Baltimore Harbor and Chesapeake Bay.

Hard surfaces that do not allow water to infiltrate into the ground (known as impervious surface or impervious area) cause more pollution to be carried into waterways. One of the ways that MS4 permits seek to address water pollution is to require that impervious surface be restored or mitigated through the use of approved methodologies and practices.

Every five years the Maryland Department of the Environment (MDE) issues Phase 1 MS4 permits to Baltimore City and nine of the State's largest counties (with approval from EPA). In addition, MDE established scientific guidance documents for certain impaired water bodies flowing within and through the City, known as Total Maximum Daily Loads (TMDLs). TMDLs, although not enforceable, help inform NPDES permits. Reducing the quantity or increasing the quality of stormwater discharges is an articulated strategy for meeting these TMDLs. The largest TMDL, both regionally and nationally, is that established by the EPA for Chesapeake Bay. Maryland's Watershed Implementation Plan (WIP) describes how impairments to the Bay will be addressed. Complying with this WIP necessitates the cooperation of all local governments to counter the effects of stormwater runoff from their built environment, which in turn, requires significant funding.

The City's stormwater services used to be funded by the General Fund, but the funding levels were very limited. As a result, there were never enough funds available to invest in repairing and replacing basic, aging, stormwater infrastructure or to fully address the City's MS4 permit requirements. The City's current MS4 permit requires the City to remove or mitigate the effects of 20% of its impervious area over the permit's 5 year period.

In April 2012 the State of Maryland enacted the *Stormwater Management – Watershed Protection and Restoration Program* law mandating that Phase 1 MS4 permit holders establish a dedicated fee and fund to ensure sufficient and consistent funding for meeting the requirements of their respective permits (Annotated Code of Maryland, Environment Article § 4-202.1). To that end, the City of Baltimore took the following actions:

- Mayor and City Council Resolution 12-04, duly adopted by the qualified voters of Baltimore City, amended the Baltimore City Charter to allow for establishing a financially self-sustaining stormwater utility and authorized supplemental legislation that would implement the provisions governing water, wastewater and stormwater utilities. Creating the stormwater utility provided the protected fund that State law required.
- Ordinance 13-143 imposes a stormwater remediation fee to fund the costs of the City's stormwater management system. It sets the initial rates and the calculation of the fee, provides for its collection and enforcement, and establishes a system of credits for ratepayers to modify and reduce their fee if they install certain practices or participate in certain activities. It also specifies the accounting and expenditure system for the stormwater utility and allows for the use of stormwater revenue bonds to fund capital projects through debt service. The fund may be used for stormwater management capital improvements, including stream and wetland restorations; operation and maintenance of stormwater management systems and facilities; stormwater management planning, including monitoring, inspection and enforcement activities; review of stormwater management plans and permits for future development; grants to nonprofits for watershed restoration and rehabilitation projects; public education and outreach; and reasonable costs necessary to administer the fund.

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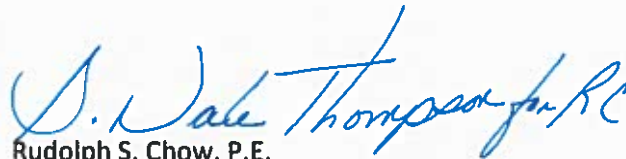
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City Council Bill 18-0228 is the next step in the development of the stormwater utility, by authorizing the issuance, sale and use of revenue obligations to finance or refinance stormwater facilities. The stormwater enterprise fund has been in place since July 1, 2013 and is now in a position to pursue the ability to issue debt based on its independent credit worthiness.

The stormwater program has demonstrated a steady revenue stream capable of repaying operational and maintenance expenses and anticipated debt repayment, while still maintaining its cash reserve. The requirements of the program, which includes fulfilling the MS4 permit by December 2018 and other mandates, had been initially satisfied using Pay-As-You-Go (PAYGO) funding. However, cash funding will not be sufficient to meet all of the necessary funding demands of the program. Therefore, the Department of Public Works is seeking to hedge PAYGO funding with bond proceeds. The debt ceiling of \$202,000,000 is calculated based on a five year projection of project activity and the respective funding requirements to support those projects. As a mature utility, bond proceeds will provide the flexibility to maximize funds and increase infrastructure investment.

The Department of Public Works supports passage of City Council Bill 18-0228.

A handwritten signature in blue ink that reads "Rudolph S. Chow, P.E." with a stylized flourish at the end.

Rudolph S. Chow, P.E.

Director

RSC/MMC