



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Department of Parks and Recreation, Prince George's County
6600 Kenilworth Avenue Riverdale, Maryland 20737

Date: January 5, 2022

MEMORANDUM

To: Elizabeth Hewlett, Chair &
Prince George's County Planning Board

Via: Bill Tyler, Department of Parks & Recreation Director ^{BT}

From: Elizabeth Adams, M-NCPPC Senior Counsel ^{EA}
Aaron Waller, Department of Parks & Recreation CIP Budget Manager ^{ABW}

RE: Consent Agenda Item: Capital Projects Budget Transfer for Southern Area Aquatic and Recreation Complex Project

This memo is to request the approval of a budget transfer in the total amount of \$1,714,671.50 from the Fund for Capital Project Contingencies (FCPC) Project Description Form (PDF) #499269 to the Southern Area Aquatic and Recreation Complex (SAARC), PDF #591170. As you are likely aware, the SAARC Project is in final closeout, a part of which includes the resolution of pending litigation by the General Contractor, Coakley Williams Construction Inc. ("CWC") against the Commission. *Coakley Williams Construction Inc. v. Maryland-National Capital Park and Planning Commission*, CAL20-13593 (the "Litigation").

In the Litigation, CWC seeks compensation in the amount of \$3,620,639.42, plus interest, and an extension of the Contract time by an additional 350 calendar days. The monies and additional time sought are part of change order requests filed by CWC following substantial completion of the project. The amount contained in the suit includes \$385,328.50 in retainage.

After substantial efforts, the parties have been able to reach a tentative settlement of the Litigation. In addition to releasing the retainage in the amount of \$385,328.50, the Commission will pay to CWC the additional sum of \$1,714,671.50, for a total amount of \$2,100,000.00. This sum will resolve the totality of CWC's claims relating to SAARC and the Litigation in its entirety. A formal settlement agreement between the parties is being finalized, but is contingent on this board's approval of the funding transfer as well as that of the Council's.

We therefore request approval to transfer the sum of \$1,714,671.50 from the Fund for Capital Project Contingencies to the Fund for the Southern Area Aquatic and Recreation Complex. Upon receiving the Board's approval, we will transmit the request to the Council for their action. Please see the attached corresponding Capital Budget Adjustment Request form.

Please let me know if you have any questions.

CC: John Kroll, Corporate Budget Director ^{JK}

M-NCPPC
CAPITAL PROJECT BUDGET ADJUSTMENT REQUEST

TRANSFER FROM						
Fund #	Project #	Project Name	AU #	Account #	Account Name	Amount
105	499269	Fund for Capital Project Contingencies	12290	4969	GO Bnd Proceeds-PGCF	(118,420)
105	499269	Fund for Capital Project Contingencies	12290	5011	Interf Trf In-PG Park	(979,127)
105	499269	Fund for Capital Project Contingencies	12290	5012	Interf Trf In-PG Rec	(617,125)
105	499269	Fund for Capital Project Contingencies	12290	7336	Constr Serv - Other	1,714,672
TOTAL						-

TRANSFER TO						
Fund #	Project #	Project Name	AU #	Account #	Account Name	Amount
105	591170	Southern Area Aquatic and Recreation Complex	12290	4969	GO Bnd Proceeds-PGCF	(118,420)
105	591170	Southern Area Aquatic and Recreation Complex	12290	5011	Interf Trf In-PG Park	(979,127)
105	591170	Southern Area Aquatic and Recreation Complex	12290	5012	Interf Trf In-PG Rec	(617,125)
105	591170	Southern Area Aquatic and Recreation Complex	12290	7336	Constr Serv - Other	1,714,672
TOTAL						-

DESCRIPTION:
Fund for Capital Project Contingencies – This project authorizes the M-NCPPC to approve appropriation transfers up to \$250,000 for unanticipated costs and expenses related to closing out ongoing Commission construction projects. Pursuant to Section 18-109 of the Land Use Article, the Commission may not make or authorize an expenditure of funds exceeding 110% of the available approved budget without County Council approval. Categories of allowable costs for these transfers include equitable adjustments, legal and professional fees that are necessary to assess, litigate, settle contract claims and disputes related to the associated projects. Each transfer from this Fund of \$250,000 or less shall be reported in writing to Council Administration and the Executive Branch Administration. Transfer amounts over \$250,000 or more than 10% of the approved budget will require approval of a budget amendment by the County Council in accordance with law. **Southern Area Aquatic and Recreation Complex** - The Southern Area Aquatic & Recreation Complex (SAARC) project design and construction of a new multi-generational recreation facility on Missouri Ave (Brandywine Area Park) in the Brandywine area was completed in 2020. Project amenities include an indoor aquatics component, as well as gymnasium, fitness and multi-use spaces.

JUSTIFICATION:
Southern Area Aquatic and Recreation Complex - The Southern Area Aquatic & Recreation Complex (SAARC) project requires the \$1,714,671.50 transfer, plus release the \$385,328.50 retainage held on the Contract for a total of \$2,100,000.00 to complete financial settlement with the General Contractor on the project. **Fund for Capital Project Contingencies** – This fund was setup to accommodate unanticipated costs to closeout Commission construction projects with required approvals.

Originator & Date: CIP Budget Manager	<i>Aaron Waller</i>	1/5/2022
Department Director Approval & Date:	<i>Bill Tyler</i> Bill Tyler (Jan 6, 2022 09:27 EST)	06-Jan-2022
Corporate Budget Director Approval & Date:	<i>John Kroll</i> John Kroll (Jan 6, 2022 09:30 EST)	06-Jan-2022
Secretary-Treasurer Approval & Date:	<i>Gavin Cohen</i> Gavin Cohen (Jan 6, 2022 15:02 EST)	06-Jan-2022
Planning Board Approval & Date		