

Resolution No.: 20-959
Introduced: October 14, 2025
Adopted: October 28, 2025

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the Request of the County Executive

SUBJECT: Approval of a Memorandum of Understanding between the City of Gaithersburg and Montgomery County regarding transportation improvements eligible for funding with Development Impact Tax for Transportation Improvements revenue collected in the City of Gaithersburg

Background

1. Section 52-41(e) of the County Code states that development impact taxes collected from developments located in the City of Gaithersburg must be used only to fund transportation improvements listed in a memorandum of understanding between the County and the City, which must be approved by the County Council.
2. The City approved a memorandum of understanding on July 22, 2025, and the County approved the same memorandum of understanding on August 7, 2025.

Action

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

The attached memorandum of understanding between the City of Gaithersburg and Montgomery County, regarding the transportation improvements eligible for funding with Development Impact Tax for Transportation Improvements revenue collected in the City of Gaithersburg, is approved.

This is a correct copy of Council action.



Sara R. Tenenbaum
Clerk of the Council

MEMORANDUM of UNDERSTANDING
Development Impact Taxes for Transportation Improvements

THIS MEMORANDUM OF UNDERSTANDING (the "MOU"), is made and entered into this 7th day of August, 2025 by and among the Mayor and Council of Gaithersburg ("City"), an incorporated municipality in Montgomery County, in the State of Maryland, and Montgomery County, Maryland, a body corporate and politic ("County"), both of which are hereinafter referred to jointly as the ("Parties") and sometimes individually as the ("Party").

WITNESSETH:

WHEREAS, effective July 1, 2002, the Montgomery County Council enacted Amendments to the Development Impact Tax for Transportation Improvements, Article IV, Chapter 52, of the Montgomery County Code ("Impact Tax Law"), establishing a Countywide impact tax.

WHEREAS, amendments to the Impact Tax Law provide for separate accounting of development impact taxes collected from development within the cities of Gaithersburg and Rockville, as well as provisions for, in certain instances, refunds and credits.

WHEREAS, impact tax revenues collected from, and separately accounted for, developments located within the City of Gaithersburg must be used only to fund transportation improvements listed in a Memorandum of Understanding ("MOU") between the County and the City, which must be approved by the Montgomery County Council.

WHEREAS, it is the intent of the City and County to further the public purpose of ensuring that an adequate transportation system is available in support of new development.

WHEREAS, the City recognizes the need to fund transportation improvements within and adjacent to City limits to support growth and development.

WHEREAS, as provided for in the Impact Tax Law, the City may enter into an MOU with the County, which will include a list of transportation improvements for funding with Impact Tax revenues collected from developments within the City limits.

WHEREAS, the City and the County entered into an MOU dated June 5, 2006 and intend to void that MOU and replace it with this MOU.

WHEREAS, the City and the County agree that it is in the best interest of the parties to enter into and agree to the terms and conditions of this MOU.

WHEREAS, the City has authorized the City Manager to enter into this MOU on behalf of the City.

WHEREAS, as of June 30, 2025, \$15,644,000 is the available balance of unprogrammed impact tax funds collected in the City.

NOW, THEREFORE, in consideration of the above and the mutual promises hereinafter set forth, the parties hereto agree as follows:

- 1) This MOU shall supersede the MOU entered into by the County and City dated June 5, 2006 and the June 5, 2006 MOU shall be void and of no further effect upon execution of this MOU.
- 2) The above recitals shall be incorporated herein as if restated in their entirety.
- 3) 3) In accordance with the provisions of Section 52-41(e) of the Montgomery County Code, the parties enter into this MOU and agree that the development impact taxes collected from developments located in the City must only be used to fund transportation improvements in accord with the Impact Tax Law and this MOU.
- 4) Where the City or County has required a developer to fund all or part of an improvement, use of County impact tax funds must not replace the obligation of the developer to provide such an improvement. However, the developer may be eligible for a credit subject to approval by the Montgomery County's Department of Transportation (MCDOT).
- 5) Impact taxes collected for development within the City must only be used for transportation improvements in accordance with the Impact Tax Law, and in all instances, within the timeframe stated in Section 52-47 of the Montgomery County Code.
- 6) Impact taxes may be used to fund any transportation improvement within or directly benefiting the City of Gaithersburg that meet the requirements of Section 52-50 of the Montgomery County Code and associated regulations. Projects to be implemented by the City must be approved by the County Council as part of the Montgomery County Capital Improvements Program (CIP) and funds must be appropriated by the Council in advance of any payment to the City. Projects to be implemented by Montgomery County must also be approved and funds must be appropriated by the County Council. Projects implemented by Montgomery County under this agreement must be within the City or within $\frac{1}{4}$ -mile of the municipal boundary.
- 7) The City and County hereby agree to program \$11,644,000 of impact tax funds collected from developments within the City for City projects described in Exhibit A, consisting of a Montgomery County Capital Improvements Program Project Description Form (PDF)

entitled "Gaithersburg Transportation Improvements," otherwise referred to as the "Listed City Projects" which shall be considered as projects listed within this MOU as provided by Section 52-41(e) of the Montgomery County Code. The Gaithersburg Transportation Improvements PDF also lists the County projects that are supported by funds from the account, in the Fiscal Note section (the "County projects") however, an appropriation request for the remaining \$4,000,000 of available funds to County projects will not be included in appropriation request for the Gaithersburg Transportation Improvements project and will be separately sought by the County for the County projects. It is contemplated that approval of this MOU and Listed City Projects should be concurrent with an amendment to the County's FY25-30 CIP appropriating the funds for the Listed City Projects. Accordingly, after signature of this agreement, the County will concurrently submit for approval a draft Council Resolution approving this MOU and the Listed City Projects and an amendment to the County's FY25-30 CIP seeking appropriation for the new Gaithersburg Transportation Improvements project totaling \$11,644,000.

Montgomery County has determined that the Listed City Projects generally comply with Section 52-50 of the County Code. Notwithstanding this determination, the City must ensure that all expenditures for Listed City Projects funded under this MOU are eligible under Section 52-50 of the County Code and shall not use the funds for any purpose other than funding the Listed City Projects and shall not make any other ineligible expenditures using these funds. Within 90 days of the Council Resolution approving this MOU and the Listed City Projects, the City Manager shall submit to the County a comprehensive "Certified Expenditure Schedule" for the Listed City Projects that includes the City Manager's certification to the Montgomery County Director of Finance that the expenditures are exclusively for the financing of the transportation improvements listed in Section 52-50 to satisfy the requirements of Section 52-45(d) of the County Code, which may be rejected only for good cause and shall be deemed approved if County does not object within (30) days of submission. Quarterly thereafter, and generally by March 30, June 30, September 30 and December 30 as applicable, the City shall submit a "Certified Quarterly Expenditure Report" to the County that demonstrates expenditure of funds, makes any resulting adjustments to the Certified Expenditure Schedule, and certifies to the Montgomery County Director of Finance that the expenditures were exclusively for the financing of transportation improvements listed in Section 52-50 of the County Code, which may be rejected only for good cause and shall be deemed approved if County does not object within thirty (30) days of submission.

Within 15 days of approval of the Certified Expenditure Schedule, the County shall make an installment payment of \$5,000,000 to the City. Upon receipt of Certified Quarterly Expenditure reports demonstrating less than \$1,500,000 of unexpended funds held by the City, and planned expenditures exceeding the available funds held by the City, the County shall within 15 days of approval of the Certified Quarterly Expenditure report make an additional installment payment equal to the lesser of the planned expenditures or \$3,322,000 and the total installment payments shall be limited to the lesser of \$11,644,000 or the total appropriation to the Gaithersburg Transportation Improvements project. Any remaining balance of the originally appropriated funds not provided through the installment payments, or additional payments using subsequent appropriation to the Gaithersburg Transportation Improvements Project, shall be paid by the County within 45 days of receipt of an invoice demonstrating compliant expenditure under the provisions of this MOU and Chapter 52 of the County Code.

- 8) Funds received after June 30, 2025 shall be programmed to projects in accord with this MOU and Section 52-50 of the Montgomery County Code, following County established procedures for amending the Capital Improvements Program. For any impact taxes collected from development within the City after June 30, 2025, the City and County agree to program such funds with an approximate allocation of 65-percent to the City projects and 35-percent to the County projects. The “Gaithersburg Transportation Improvements” CIP shall be amended accordingly within ninety (90) days of a City request to reflect changes in the projects and any changes to the Listed City Projects which comply for funding under the Impact Tax Law as well as availability of funds and appropriation by the County Council. Exhibit A shall be updated upon approval of a County Council resolution amending the “Gaithersburg Transportation Improvements” CIP including revisions to the City projects and any changes to the list of County projects supported by these funds. The programming of funds to County projects will occur as amendments to the relevant County projects.
- 9) Upon request, the County shall provide to the City a report detailing impact taxes collected from developments within the City by year and the programming and expenditures for specific projects.
- 10) The Chief Administrative Officer (CAO) of Montgomery County and the City Manager of Gaithersburg are authorized to execute such further documents and agreements that they determine to be necessary to implement this MOU.
- 11) Dispute/Resolution: In the event a dispute arises as to the interpretation or implementation of this MOU which cannot be resolved, the parties agree that the matter will be referred to the City Manager and the CAO of Montgomery County for consideration, review and resolution. If the City Manager and the CAO are unable to resolve the dispute they may agree to submit the dispute to mediation or binding arbitration or file an appropriate action in the Circuit Court of Montgomery County for resolution of the dispute.

12) This MOU shall be considered for amendments as proposed by either party, from time to time, but any amendment shall not be effective unless signed by both parties.

13) This MOU shall remain in force unless or until terminated by mutual agreement of the Parties.

IN WITNESS WHEREOF, the CITY and the COUNTY have executed and sealed this MOU as of the date first written above.

WITNESS

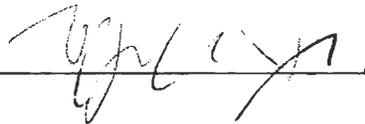
CITY OF GAITHERSBURG



By: 

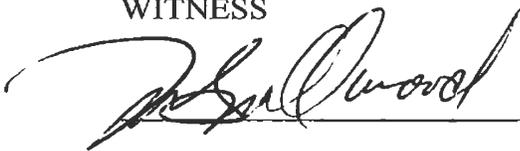
Date: 7-28-25

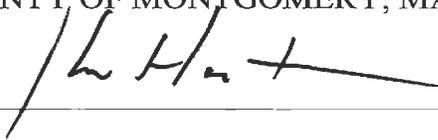
Approved as to Form and Legality



WITNESS

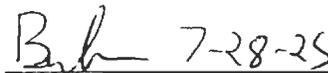
COUNTY OF MONTGOMERY, MARYLAND



By: 

Date: 8-7-2025

Approved as to Form and Legality



Gaithersburg Transportation Improvements (P##### New)

Category	Transportation	Date Last Modified	07.01.2025
SubCategory	Pedestrian/Bike	Administering Agency	Transportation
Planning Area	Gaithersburg	Status	Planning Design and Construction

	Total	Thru FY24	Rem FY24	Total 6 Years	FY 25	FY 26	FY 27	FY 28	FY 29	FY 30	Beyond 6 Years
--	-------	-----------	----------	---------------	-------	-------	-------	-------	-------	-------	----------------

EXPENDITURE SCHEDULE (\$000s)

Intergovernmental	11,644	-	-	11,644	-	11,644	-	-	-	-	-
TOTAL EXPENDITURES	11,644	-	-	11,644	-	11,644	-	-	-	-	-

FUNDING SCHEDULE (\$000s)

Impact Tax (Gaithersburg Account)	11,644	-	-	11,644	-	11,644	-	-	-	-	-
TOTAL FUNDING SOURCES	11,644	-	-	11,644	-	11,644	-	-	-	-	-

APPROPRIATION AND EXPENDITURE DATA (\$000s)

Appropriation FY 26 Request	11,644	Year First Appropriation	FY26
Cumulative Appropriation	11,644	Last FY's Cost Estimate	-
Expenditure / Encumbrances	-		
Unencumbered Balance	11,644		

PROJECT DESCRIPTION

This project defines uses of funds generated through the County Impact Tax received as a result of development projects in Gaithersburg. Expenditures in this project include projects determined by and executed by the City of Gaithersburg. The City of Gaithersburg will only use these funds for projects or project elements that meet the requirements of Section 52-50 of the Montgomery County Code. The City will implement these projects and will invoice the County for expenses that the County has certified as eligible uses of impact tax funds. The following subprojects identified by the City of Gaithersburg may be funded through this project.

- Old Towne Shared Use Path
- Quince Orchard Boulevard Shared Use Path
- Industrial Drive Shared Use Path
- Washingtonian Boulevard Shared Use Path
- Conservation Lane Shared Use Path
- West Deer Park Road Shared Use Path
- Kentlands Shared Use Path
- I-270/NIST East Side Shared Use Path

Note: Attached spreadsheet "Exhibit A" includes a Russell Avenue Shared Use Path, Sidewalk Gaps, and New Bus Shelters too.

LOCATION

City of Gaithersburg and its immediate surrounding area.

ESTIMATED SCHEDULE

Implementation of the City-implemented projects will follow the schedules reflected in the City's capital program.

PROJECT JUSTIFICATION

Impact taxes are generated by development projects within the City of Gaithersburg and accrue to a separate account as required under Section 52-41 of the County Code. This project is Exhibit A of the Memorandum of Understanding (MOU) between the City of Gaithersburg and Montgomery County required under Section 52-41 and will be updated as future impact tax funds become available and proposed uses by the City and County change.

FISCAL NOTE

This project allocates \$11,644,000 for the City's implementation of eligible projects. \$4,000,000 is allocated to the following County projects and is reflected in the PDFs for those projects:

- Bus Rapid Transit: MD 355 Central (P502005) including the proposed Lakeforest Transit Center
- Great Seneca Science Corridor Transit Improvements (P502005) for project construction and fleet procurement

Future impact tax receipts are expected to be programmed with approximately 65 percent of funds allocated to City-implemented projects and 35 percent of funds allocated to County-implemented projects.

DISCLOSURES

The County Executive asserts that this project conforms to the requirement of relevant local plans, as required by the Maryland Economic Growth, Resource Protection and Planning Act.

COORDINATION

City of Gaithersburg.

EXHIBIT A
City of Gaithersburg
Transportation Impact Fee Project
Descriptions

A) Olde Towne to Washington Grove Shared Use Path

This project consists of the design and construction of a shared use path starting near the intersection of Summit Avenue and E. Diamond Avenue and continues to the City limits and eventually into Washington Grove. The intent is to connect the shared use path with Montgomery County's planned bicycle network, which will connect to the Shady Grove Metro Station. Impact tax funding would be used for the design and construction phases.

**B) Quince Orchard Boulevard Street Rehab: Diamond Drive to Firstfield Rd
(Shared Use Path)**

A new shared use path along a majority of Quince Orchard Boulevard from Firstfield Road (north intersection) to Firstfield Road (south intersection), along with a shared use path extension along Rabbitt Road from Quince Orchard Boulevard to the Gaithersburg Youth Center. This project expands capacity by adding a 10-foot-wide shared use path. The funding would be for design and construction.

C) I-370 Bicycle Connection (Industrial Drive Shared Use Path)

This project consists of the design and construction of a shared use path from Industrial Drive to West Deer Park Road, including segments along Summit Hall Road and within Morris Park. This design increases connectivity to a portion of the City that was previously disconnected due to the construction of I-370. This project will link commercial and residential communities in the area and will improve safety by reducing vehicle-related conflicts. Funding would be used for the design and construction phases of the project.

D) Washingtonian Boulevard Bicycle Connections (Shared Use Path: Washingtonian North to Rio Boulevard)

This project consists of a shared use path as well as a wider sidewalk across the existing bridge over Sam Eig Highway. The new shared use path would start at the Sam Eig Highway Bridge and continue along Washingtonian Boulevard to Rio Boulevard. The shared use path improves access, safety, and connectivity between residential and commercial uses in the area. This project would be funded using impact taxes for design and construction.

E) Quince Orchard Park to Conservation Lane Bicycle Connections (Conservation Lane Shared Use Path)

This project would harden an existing gravel access path to provide one of the remaining shared use path links around the NIST campus (the "NIST Loop"), which is centrally located in Gaithersburg. The project would be for the design and construction of the shared use path.

H) West Deer Park Road Shared Use Path

The project consists of the design and construction of a shared use path along West Deer Park Road from Muddy Branch Road to S. Frederick Ave. (MD 355). This project would be funded for design and construction.

I) Kentlands Shared Use Path

This project is for the design and construction of a shared use path along Longdraft Road from Birdsong Lane to Quince Orchard Road (MD 124), and then it continues along Kentlands Boulevard from Quince Orchard Road to Great Seneca Highway (MD 119). Project funding would be for design and construction.

J) I-270/NIST East Side Shared Use Path

This project is for the construction of a shared use path along the east side of NIST between MD 117 (W. Diamond Avenue) and Muddy Branch Road. This project would be for design and construction. This project consists of a 10-foot wide shared use path, pedestrian-scale lighting, tree plantings/landscaping, and stormwater management. The City would maintain the path with NIST providing access through an agreement.

K) Russell Avenue Shared Use Path and Multimodal Improvements

The Russell Avenue Improvements consist of streetscaping and multi-modal improvements along a 1.25-mile long segment of Russell Avenue between East Diamond Avenue and Montgomery Village Avenue (MD 124). The project includes a new 10-foot wide shared use path along the majority of the improvements corridor. The design and construction of the shared use path portion of the project is being submitted for impact tax funding.

L) Bus Shelters

This project consists of the installation of new City-owned bus shelters at existing Ride On bus stops within the city limits. Bus stop selection for the installation of bus shelters would be based on those with high ridership and projected ridership based on growth. The project would be for design and construction of the shelters.

M) Sidewalk Gaps

The project consists of the installation of new sidewalks to fill gaps in the City sidewalk network. All sidewalks under this item would be sidewalk connectors in the public right-of-way to or within major activity centers or along arterial or major highways.