

Resolution No.:	<u>19-1293</u>
Introduced:	<u>May 26, 2022</u>
Adopted:	<u>May 26, 2022</u>

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Approval of the FY 2023 Cable Communications Plan

**Background**

1. Section 8A-27(a) of the County Code provides that “All access grants, franchise fees, and other moneys received by the County from any franchisee may be spent only under a budget approved by the Council and in accordance with the County Cable Communications Plan.”
2. Section 8A-27(b) of the County Code provides that “The Cable Communications Plan must be proposed by the County Executive to the Council annually and may be amended at any time.”
3. Section 6.2.2 of the 2016 Cable Franchise Agreement with Comcast of Potomac, LLC. provides that Comcast must pay a grant to the County of 3% of Gross Revenues each quarter to be used for PEG and institutional network capital expenses. Paragraph 8 of Exhibit D of the Franchise Agreement provides that this grant may be used for capital and non-capital support for PEG purposes, including expenditures on PEG and FiberNet.
4. Section 8(b)(1) of the 2016 Franchise Agreement with Starpower Communications, LLC (doing business as RCN) provides that Starpower must pay a grant to the County of 3% of Gross Revenues to the County to be used for PEG and Institutional Network. Paragraph 3 of Exhibit F of the Franchise Agreement provides that this grant may be used for capital or non-capital support for PEG purposes.
5. Sections 6.2.1 and 6.2.2 of the 2006 Franchise Agreement with Verizon provides that Verizon must pay a grant to the County of 3% of Gross Revenues each quarter to be used for PEG and institutional network purposes.
6. Section 8 of the Franchise Agreement with Starpower (doing business as RCN) and Section 7 of the Franchise Agreements with Verizon and Comcast provides that each franchisee must pay, for the life of the franchise, a franchise fee of 5% of annual gross revenues.

### **General Provisions**

1. **Purpose and Effect:** This Cable Communications Plan constitutes the County's formal direction for the use of resources required to be provided under Sections 7 and 8 of the Franchise Agreements with Comcast and Starpower (doing business as RCN); and Sections 3, 6, and 7 of the Franchise Agreement with Verizon.  
  
In FY 2023, these resources must be deposited by the County in its Cable TV Special Revenue Fund, and this Cable Communications Plan directs the use of the revenues in this Fund.
2. **Spending Authority under the Time Period Governed by This Plan:** This Cable Communications Plan provides spending authority for FY 2023. Resources appropriated in FY 2023 that are not encumbered by the County on or before June 30, 2023 must remain in the Cable TV Special Revenue Fund and be available for spending in future years.
3. **Carryover:** Resources provided to the County as a result of the requirements of the Franchise Agreements with Comcast, Starpower (doing business as RCN), and Verizon, but not specifically allocated in the Cable Communications Plan to the General Fund, must remain in the Cable TV Special Revenue Fund and be available to be allocated in future years.
4. **Future Fiscal Years:** No estimate shown for any fiscal year after FY 2023 reflects any commitment or decision by the Council, and any such estimate should not be taken as prejudging any decision regarding activities or allocations, either in absolute or relative amounts, of expenditures for future years.
5. **Management of Funds:** All equipment, personnel, and other resources approved in the Cable Communications Plan for funding from the Cable TV Special Revenue Fund must be managed so that the resources are reasonably available to all users of the cable system and provide benefits to the subscribing public and the franchisee.
6. **Affirmative Action and MFD Procurement Procedures:** The Board of Directors of Montgomery Community Television, Inc. (MCT), doing business as Montgomery Community Media (MCM), must adopt and follow an Affirmative Action Plan and procedures for procurements from minority, female, and disabled-owned businesses (MFD) that take into account both the requirements of the Franchise Agreements with Comcast, Starpower (doing business as RCN), and Verizon and relevant provisions of the County Code.
7. **Financial Disclosure:** The County must not spend any FY 2023 funds allocated to MCT until all members of the Board of Directors and the Executive Director of MCT have filed a financial disclosure statement with the Ethics Commission for the 2021 calendar year.
8. **Future Cable Plan strategy:** The Executive must submit to the Government Operations and Fiscal Policy Committee a Connect Montgomery Alliance Strategic Plan that will frame FY 2024 budget allocations no later than January 15, 2023.

9. Reporting Requirements: The Executive must submit a separate quarterly fiscal report to the Council detailing revenues received by source for the Cable Plan and the levels of the Cable Fund Balance no later than 60 days after the end of each quarter.

### **FY2023 Cable Communications Plan Description**

The FY 2023 Cable Communications Plan provides funding to Community Technology for the Transmission Facility Coordinating Group and to Cable Franchise Administration (Department of Technology and Enterprise Business Solutions), to the County Attorney's Office, and outside professional service providers; for municipal equipment and operating support; for public, educational, and government access programming (Office of Community Engagement, Office of Public Information, Council, Montgomery College, Montgomery County Public Schools, and Montgomery Community Television, Inc.); for Digital Equity; for FiberNet; to the Interagency Technology Fund (ITF); and for other miscellaneous cable, broadband, technology and digital equity-related activities.

The attached table details the approved expenditures from the Cable Television Communications Plan Special Revenue Fund for the following purposes in FY 2023:

#### Community Technology

- A. Funds are allocated to the Department of Technology and Enterprise Business Solutions to administer the Franchise Agreements with Comcast, Starpower (doing business as RCN), and Verizon, including inspecting construction, testing signal quality, responding to residents' complaints, budgeting franchise fee and grant funds received from the cable operator, managing the contract to provide public access services, supporting an advisory committee, administering Federal Communications Commission rules and regulations, preparing for and negotiating franchise agreements, and advising elected officials on related policy matters.
- B. Funds are allocated to the County Attorney's Office to support the in-house staff costs associated with advising the Department of Technology and Enterprise Business Solutions and elected officials on related matters.
- C. Funds are allocated to hire outside professional services, in areas of specialized telecommunications needs, to (1) advise or represent the County and (2) file grant applications on behalf of the County and consumers.

#### Municipal Support

- D. Funds are allocated for sharing franchise fee revenue with the municipal co-franchisors in accordance with the formula in Section 8A-29 of the County Code.
- E. Funds are allocated to support the four PEG channels allocated to (1) the City of Rockville; (2) the City of Takoma Park; and (3) the Montgomery County Chapter of the Maryland

Municipal League. Funds are allocated from the Capital Equipment Support Grants, according to the requirements of Section 8(b)(1) of the Franchise Agreement with Starpower (doing business as RCN), the requirements of Section 6.2 and Exhibit D Section 8 of the Franchise Agreement with Comcast, the requirements of 6.2 of the Franchise Agreement with Verizon, and from the Municipal Operating Support portion of the Cable Fund. Funds are allocated from the Cable Fund to the extent that the Participating Municipalities meet all applicable matching-fund requirements in the Comcast Settlement Agreement (Exhibit D of the Franchise Agreement).

#### County Government Access Programming

- F. Funds are allocated to the Office of Community Engagement for managing the Community Cable Montgomery (CCM), maintaining CCM video equipment, closed captioning of PEG programming, and for the operation of the Technical Operations Center to monitor and support technical quality and distribution of PEG Programming.

Funds are allocated to the Office of Public Information for in-house staff and contractors to produce Executive Branch programming for the County Government Channel.

Funds are allocated to the Council for in-house staff and contractors to produce programming for the Council and Legislative Branch agencies.

Funds are allocated to the Montgomery County portion of the Maryland-National Capital Park and Planning Commission for contractors to provide cable-related services, including webcasting and services needed to produce programming for the Planning Board and the Parks Department.

#### Educational Access Programming

- G. Funds are allocated to Montgomery College to produce educational programs and operate a cable channel with in-house staff.
- H. Funds are allocated to Montgomery County Public Schools to produce educational programs for children, parents, and teachers; carry Board of Education meetings; and run other educational programming of interest to County residents.

#### Community Media Programming

- I. Funds are allocated for Montgomery Community Television, Inc., to perform services in FY 2023 as specified in its contract with the County or the Cable Communications Plan, including the following:
- (1) produce and schedule three public access channels, including disseminating information on the daily program schedule;
  - (2) train community producers and technicians in program production and assist residents and community organizations in developing locally produced or locally sponsored programming;

- (3) provide and maintain a central access studio, field production equipment, and editing facilities for use by community producers in program production;
- (4) maintain all video equipment provided to MCT or purchased by MCT with cable company or County funds;
- (5) produce local interest and public affairs programming;
- (6) promote and encourage programming representing a diversity of community interests and needs; and
- (7) perform outreach and create programming in the down-county area.

#### Connect Montgomery Alliance

- J. For FY 2023, funds are allocated for PEG equipment replacement, for joint PEG programming/promotion, PEG network engineering and administration, closed captioning of select PEG programming, and for PEG programming to provide access to cable by community organizations.

The Council wishes to encourage the most cost-effective operations of the PEG Channels and has directed the Montgomery Alliance to enhance the sharing of equipment, facilities, and personnel, and to jointly support digital equity. All funds appropriated for PEG equipment replacement must be administered by the Office of Broadband Programs and Infrastructure Modernization. Before spending any funds for this purpose, the Connect Montgomery Alliance must report to the Council and the Executive on their plans for the purchase and allocation of replacement equipment. The Council intends that preference be given to purchases of equipment and facilities that can be shared by more than one PEG Channel.

The Council encourages the municipal co-franchisors to develop plans for purchasing equipment, using engineering expertise available from the other PEG Channels and the Office of Community Engagement, and acquiring equipment that facilitates the sharing of resources with other PEG channels.

Before the Connect Montgomery Alliance may spend funds allocated for PEG joint Programming/Promotion, the Alliance must report its Work Plan for FY2023 to the Council and the Executive.

#### Institutional Telecommunications

- K. The County continues to expand the FiberNet network to meet the telecommunications needs of County agency facilities. The Department of Technology and Enterprise Business Solutions must develop and implement a FiberNet buildout plan that identifies facilities with the greatest need for high-speed voice, data, and video transmissions and for which FiberNet offers lower cost service than private sector telecommunications providers. User agencies must notify the Council before paying any fee to or entering into any agreement with any private provider, if using FiberNet to serve specific facilities is more advantageous to the County. The Council will then consider if adjustments to the funded

FiberNet buildout schedule are warranted to avoid paying excessive fees to private providers for telecommunications service to any specific facility.

Allocation of FiberNet fibers to Montgomery College from the County FiberNet is subject to a construction memorandum of understanding between the College and the County signed on December 26, 2012, as well as approval by the Interagency Technology Policy and Coordination Committee.

FiberNet and ultraMontgomery may be used to support digital equity initiatives under the Cable Communications Plan.

Support of the Interagency Technology Fund (ITF)

- L. In FY 2023, the Interagency Technology Fund will not receive any funding to support priority projects as approved by the ITPCC.

**Action**

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

The Council approves the attached Cable Communications Plan as described in this resolution and appropriates cable communications grant resources and settlement funds as provided in the Cable Communications Plan and this resolution and any amendments to either that the Council adopts for FY 2023.

This is a correct copy of Council action.

  
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Judy Rupp  
Clerk of the Council



**FY23 CC APPROVED CABLE COMMUNICATIONS PLAN (in \$000's)**

	APP FY22	EST FY22	APP FY23	Proj. FY24	Proj. FY25	Proj. FY26	Proj. FY27	Proj. FY28
<b>73 MEDIA - CONNECT MONTGOMERY ALLIANCE</b>								
74 PEG Equipment	759	759	794	794	794	794	794	794
75 Operating & Marketing Expenses	185	185	260	260	260	260	260	260
<b>76 SUBTOTAL</b>	<b>943</b>	<b>943</b>	<b>1,053</b>	<b>1,053</b>	<b>1,053</b>	<b>1,053</b>	<b>1,053</b>	<b>1,053</b>
<b>77 MEDIA - MONTGOMERY COMMUNITY MEDIA</b>								
78 Personnel Costs	2,392	2,394	2,537	2,537	2,537	2,537	2,537	2,537
79 Operating Expenses	54	52	54	54	54	54	54	54
80 Rent & Utilities	383	383	383	383	383	383	383	383
<b>81 SUBTOTAL</b>	<b>2,829</b>	<b>2,829</b>	<b>2,974</b>	<b>2,974</b>	<b>2,974</b>	<b>2,974</b>	<b>2,974</b>	<b>2,974</b>
<b>82 ADJUSTMENTS</b>								
83 Compensation Adjustment			168	-	-	-	-	-
84 MCG Multi-Program Adjustments	-	-	0	-	-	-	-	-
<b>85 SUBTOTAL</b>	<b>-</b>	<b>-</b>	<b>168</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>86 GENERAL FUND TRANSFERS</b>								
<b>87 MEDIA - MONTGOMERY COLLEGE</b>								
88 Personnel Costs	1,588	1,588	1,588	1,588	1,588	1,588	1,588	1,588
89 Operating Expenses	209	209	209	209	209	209	209	209
<b>90 SUBTOTAL</b>	<b>1,797</b>	<b>1,797</b>	<b>1,797</b>	<b>1,797</b>	<b>1,797</b>	<b>1,797</b>	<b>1,797</b>	<b>1,797</b>
<b>91 MEDIA - MONTGOMERY CO PUBLIC SCHOOLS</b>								
92 Personnel Costs	1,694	1,694	1,694	1,694	1,694	1,694	1,694	1,694
93 Operating Expenses	76	76	76	76	76	76	76	76
<b>94 SUBTOTAL</b>	<b>1,770</b>	<b>1,770</b>	<b>1,770</b>	<b>1,770</b>	<b>1,770</b>	<b>1,770</b>	<b>1,770</b>	<b>1,770</b>
<b>95 ADDITIONAL TRANSFERS</b>								
96 Indirect Costs Transfer to Gen Fund	831	831	856	856	856	856	856	856
97 Transfer to the General Fund		-		-	-	-	-	-
98 Transfer to the Gen Fund-M-NCPPC	100	100	100	100	100	100	100	100
<b>99 SUBTOTAL</b>	<b>931</b>	<b>931</b>	<b>956</b>	<b>956</b>	<b>956</b>	<b>956</b>	<b>956</b>	<b>956</b>
<b>100 CAPITAL IMPROVEMENT PROJECTS</b>								
101 FiberNet - CIP	3,592	3,592	3,718	3,661	3,636	2,639	2,668	2,675
102 ultraMontgomery - CIP	680	680	680	680	680	680	680	680
<b>103 SUBTOTAL</b>	<b>4,272</b>	<b>4,272</b>	<b>4,398</b>	<b>4,341</b>	<b>4,316</b>	<b>3,319</b>	<b>3,348</b>	<b>3,355</b>
<b>103 EXPENDITURE SUMMARY</b>								
104 DIRECT BUDGET EXPENDITURES	16,670	16,566	15,227	14,992	14,901	14,344	14,310	14,731
105 GENERAL FUND TRANSFERS	4,497	4,497	4,522	4,522	4,522	4,522	4,522	4,522
106 CIP TRANSFERS	4,272	4,272	4,398	4,341	4,316	3,319	3,348	3,355
<b>107 TOTAL EXPENDITURES</b>	<b>25,439</b>	<b>25,336</b>	<b>24,148</b>	<b>23,856</b>	<b>23,740</b>	<b>22,186</b>	<b>22,181</b>	<b>22,609</b>
108 BALANCE RESOURCES MINUS EXPENDITURES	141	11	164	(81)	(812)	(1,354)	(2,085)	(3,411)
<b>109 ADJUSTMENTS</b>								
110 Prior Year Adjustments	-	-		-	-	-	-	-
111 Encumbrance Adjustment	-	-		-	-	-	-	-
<b>112 TOTAL ADJUSTMENTS</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>113 FUND BALANCE</b>	<b>141</b>	<b>11</b>	<b>164</b>	<b>(81)</b>	<b>(812)</b>	<b>(1,354)</b>	<b>(2,085)</b>	<b>(3,411)</b>
114 FUND BALANCE PER POLICY GUIDANCE	1,134	1,202	1,175	1,141	1,111	1,093	1,083	1,075
115 Cable Fund Direct Expenditures	16,670	16,566	15,227	14,992	14,901	14,344	14,310	14,731
116 Cable Fund Personnel	4,465,948	3,938	4,587	4,419	4,419	4,419	4,419	4,419
117 Cable Fund Operating	12,204	12,629	10,640	10,573	10,482	9,925	9,892	10,313
118 Cable Fund Restricted Capital Expenditures	6,274	6,162	6,285	6,231	6,199	5,203	5,239	5,304
119 Cable Fund Media Production Expenditures	10,737	10,542	11,088	11,032	10,976	10,435	10,404	10,654
120 Annual Impact - Revenue Minus Expenditures	(2,570)	(1,445)	153	(245)	(731)	(543)	(731)	(1,325)

Notes:

- These revenues and expenditures are based on the Executive's recommended budget. The projected future expenditures, revenues, transfers, and fund balances may vary based on changes not assumed here to fee or tax rates, usage, inflation, future labor agreements and other factors.
- Franchise fees and PEG revenues are subject to municipal pass-through payment. Municipal payments are estimates. Actual payments will be calculated based upon actual revenue received, subscriber numbers and formulas specified within the Municipal MOUs.
- Restricted revenue and expenditures: Certain Cable Fund revenues other than franchise fees, and corresponding expenditures (Municipal Franchise Fees/Pass-throughs, PEG Capital/Equipment Grants, and PEG Operating Revenue) are contractually required by franchise, municipal, and settlement agreements, and by the County Code, and may only be used for permissible federal purposes and in a manner consistent with applicable agreements.
- Montgomery Community Television, Inc., d/b/a Montgomery Community Media, is designated as a sole source contractor to provide community access media services.
- Fund balance per policy guidance is calculated as 8% of total non-restricted revenues (franchise fees, tower fees, and investment income).
- The Cable Television Communications Fund provides a fund transfer to Montgomery County Public Schools and Montgomery College and to support MCPS-TV and Montgomery College Television.
- Subtotals may be adjusted due to rounding.

These projections for the Cable TV Fund incorporate assumptions of annual resources and resource usage as well as projected end-of-year reserves available based on these assumptions. This scenario assumes that operating expenditures will experience net increases as a trend. Factors contributing to the assumed rate of increase include compensation adjustments, program and productivity improvements, and cost increases driven by inflation. The County Executive presents these fiscal projections as a tool for thinking about the future fiscal policy implications of the recommended program of expenditures and resources. Other scenarios would occur if the County Executive and County Council adopted a different program plan or if the future brings different trends than presumed in the incorporated assumptions.