

Resolution No.:	<u>20-534</u>
Introduced:	<u>May 23, 2024</u>
Adopted:	<u>May 23, 2024</u>

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: County Council

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**SUBJECT:** Approval of the FY 2025 Cable Communications Plan

**Background**

1. Section 8A-27(a) of the County Code provides: “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: “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 Astound) 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 Astound) 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 Astound); and Sections 3, 6, and 7 of the Franchise Agreement with Verizon.

In FY 2025, 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 2025. Resources appropriated in FY 2025 that are not encumbered by the County on or before June 30, 2025 must remain in the Cable TV Special Revenue Fund and be available for spending in future years. All expenditures will comply with the requirements of the County Code.
3. **Carryover:** Resources provided to the County as a result of the requirements of the Franchise Agreements with Comcast, Starpower (doing business as Astound), 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 2025 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 Astound), and Verizon and relevant provisions of the County Code.
7. **Financial Disclosure:** The County must not spend any FY 2025 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 2023 calendar year.
8. **Future Cable Plan strategy:** The Executive must submit to the County Council's Government Operations and Fiscal Policy Committee a Connect Montgomery Alliance Strategic Plan that will frame FY 2026 budget allocations no later than January 15, 2025.

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.

### **FY 2025 Cable Communications Plan Description**

The FY 2025 Cable Communications Plan provides funding, either directly or through transfers to the General Fund, 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.

Any funds transferred from the Cable TV Special Revenue Fund to the General Fund must be used in accordance with this Cable Communications Plan for FY 2025 and applicable law.

The attached table represents a transition from the detailed Cable Fund display used in prior fiscal years to a summarized six-year fund display which presents the approved direct expenditures and interfund transfers from the Cable TV Special Revenue Fund for the following purposes in FY 2025:

#### 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 Astound), 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. Any appointment of special counsel requires the approval of the Council under Charter Section 213.

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 Astound), 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 2025 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 2025, 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 FY 2025 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 Digital Equity - Montgomery Connects may be used to support digital equity initiatives under the Cable Communications Plan.

Support of the Interagency Technology Fund (ITF)

- L. In FY 2025, 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 Cable Communications Plan for FY 2025, as described in this resolution and presented in the appended table. The Council appropriates funds from the Cable TV Special Revenue Fund as provided in the approved Cable Communications Plan for FY 2025.

This is a correct copy of Council action.



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Sara R. Tenenbaum  
Clerk of the Council

FY25-30 PUBLIC SERVICES PROGRAM: FISCAL	Cable Communications Plan								
	FY24 APPROVED	FY24 ESTIMATE	FY24 ESTIMATE	FY25 APPROVED	FY26 PROJECTION	FY27 PROJECTION	FY28 PROJECTION	FY29 PROJECTION	FY30 PROJECTION
<b>FISCAL PROJECTIONS</b>									
<b>ASSUMPTIONS</b>									
Indirect Cost Rate	17.96%	17.96%	17.96%	19.96%	19.96%	19.96%	19.96%	19.96%	19.96%
CPI(Fiscal Year)	2.1%	2.9%	2.9%	2.1%	2.2%	2.2%	2.2%	2.3%	2.3%
Investment Income Yield	5.0%	5.3%	5.3%	4.8%	4.0%	4.0%	4.0%	3.5%	3.3%
<b>BEGINNING FUND BALANCE</b>	<b>(97,996)</b>	<b>1,530,340</b>	<b>1,530,340</b>	<b>2,056,583</b>	<b>1,099,522</b>	<b>1,202,833</b>	<b>1,225,370</b>	<b>1,191,946</b>	<b>1,108,372</b>
<b>REVENUES</b>									
Charges For Services	20,576,331	20,104,868	20,182,086	18,788,134	17,410,358	16,047,041	14,674,043	13,273,544	11,897,492
Miscellaneous	1,167,490	1,114,330	1,114,330	1,117,960	92,860	70,220	68,820	64,820	64,820
<b>Subtotal Revenues</b>	<b>21,744,421</b>	<b>21,219,198</b>	<b>21,296,416</b>	<b>19,906,094</b>	<b>17,503,218</b>	<b>16,117,261</b>	<b>14,742,863</b>	<b>13,338,364</b>	<b>11,962,312</b>
<b>INTERFUND TRANSFERS (Net Non-CIP)</b>	<b>(4,137,111)</b>	<b>(4,137,111)</b>	<b>(4,137,111)</b>	<b>(10,812,185)</b>	<b>(9,029,469)</b>	<b>(8,288,343)</b>	<b>(7,543,790)</b>	<b>(6,777,230)</b>	<b>(6,029,177)</b>
Transfers To The General Fund	(4,137,111)	(4,137,111)	(4,137,111)	(10,812,185)	(9,029,469)	(8,288,343)	(7,543,790)	(6,777,230)	(6,029,177)
Indirect Costs	(698,865)	(698,865)	(698,865)	0	0	0	0	0	0
<b>TOTAL RESOURCES</b>	<b>17,509,314</b>	<b>18,612,427</b>	<b>18,689,645</b>	<b>11,150,492</b>	<b>9,573,271</b>	<b>9,031,751</b>	<b>8,424,443</b>	<b>7,753,080</b>	<b>7,041,507</b>
<b>CIP CURRENT REVENUE APPROP.</b>	<b>(3,330,000)</b>	<b>(3,330,000)</b>	<b>(3,330,000)</b>	<b>(3,494,000)</b>	<b>(3,020,000)</b>	<b>(2,773,000)</b>	<b>(2,526,000)</b>	<b>(2,280,000)</b>	<b>(2,033,000)</b>
<b>PSP OPER. BUDGET APPROP/ EXP'S.</b>									
Operating Budget	(14,062,013)	(13,533,153)	(13,303,062)	(6,556,970)	(5,350,438)	(5,033,381)	(4,706,497)	(4,364,708)	(4,026,587)
<b>Subtotal PSP Oper Budget Approp / Exp's</b>	<b>(14,062,013)</b>	<b>(13,533,153)</b>	<b>(13,303,062)</b>	<b>(6,556,970)</b>	<b>(5,350,438)</b>	<b>(5,033,381)</b>	<b>(4,706,497)</b>	<b>(4,364,708)</b>	<b>(4,026,587)</b>
<b>OTHER CLAIMS ON FUND BALANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL USE OF RESOURCES</b>	<b>(17,392,013)</b>	<b>(16,863,153)</b>	<b>(16,633,062)</b>	<b>(10,050,970)</b>	<b>(8,370,438)</b>	<b>(7,806,381)</b>	<b>(7,232,437)</b>	<b>(6,644,708)</b>	<b>(6,059,587)</b>
<b>YEAR END FUND BALANCE</b>	<b>117,301</b>	<b>1,749,274</b>	<b>2,056,583</b>	<b>1,099,522</b>	<b>1,202,833</b>	<b>1,225,370</b>	<b>1,191,946</b>	<b>1,108,372</b>	<b>981,920</b>
<b>END-OF-YEAR RESERVES AS A PERCENT OF RESOURCES</b>	<b>0.7%</b>	<b>9.4%</b>	<b>11.0%</b>	<b>9.9%</b>	<b>12.6%</b>	<b>13.6%</b>	<b>14.1%</b>	<b>14.3%</b>	<b>13.9%</b>
<p><b>Assumptions:</b>                      1. "Cord cutting" will continue to drive revenue shortfalls for the Cable Fund at an accelerating rate.</p> <p><b>Major Issues:</b>                      1. Cable Fund Revenue is declining at a rapid rate, by FY30 revenue will be down \$10 million per year.</p> <p><b>Notes:</b>                      1. The fund balance is projected to increase due to cuts to all Cable Programs in FY24 and FY25 and shifts of numerous programs to the General Fund.                      2. These projections are based on the Executive's Recommended budget and include the revenue and resource assumptions of that budget. The projected future expenditures, revenues, and fund balances may vary based on changes not assumed here to fee or tax rates, usage, inflation, future labor agreements, and other factors not assumed here                      3. These projections assume that future reductions in Cable Revenue will track outyear projections, however there is a strong possibility that Cable revenues will decline faster than OMB's projections predict.</p>									