

Resolution No.:	<u>19-136</u>
Introduced:	<u>May 23, 2019</u>
Adopted:	<u>May 23, 2019</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of the FY 2020 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 Public Education Government (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, L.L.C, 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. Section 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 2020, 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 2020. Resources appropriated in FY 2020 that are not encumbered by the County on or before June 30, 2019 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 2020 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 2020 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 2018 calendar year.
8. **Future Cable Plan strategy:** The Executive must submit to the Government Operations and Fiscal Policy Committee a Public Education Government (PEG) Governance Board Strategic Plan that will frame FY 2021 budget allocations no later than January 15, 2020.

9. Reporting Requirements: The Executive must submit a separate quarterly fiscal report to the County Council detailing revenues received by source for the Cable Plan no later than 60 days after the end of each quarter. The Executive must transmit the second and third quarter budget analysis of the Office of Broadband Programs no later than 60 days after the end of the quarters previously referenced.

FY 2020 Cable Communications Plan Description

The FY 2020 Cable Communications Plan provides funding for cable franchise administration (Department of Technology Services, County Attorney's Office, and outside professional services); for municipal equipment and support; for public, educational, and government access programming (Office of Public Information, Council, Montgomery College, Montgomery County Public Schools, and Montgomery Community Television, Inc.); for the Interagency Technology Fund (ITF); and for other miscellaneous cable-related activities.

The attached table details the approved expenditures from the Cable TV Special Revenue Fund for the following purposes in FY 2020:

Franchise Administration

- A. Funds are allocated to the Department of Technology Services 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 Services and elected officials on related matters.
- C. Funds are allocated to hire outside professional services to advise or represent the County in areas of specialized telecommunications needs.

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 3 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 of the Franchise Agreement with Comcast, the requirements of 6.2 of the Franchise Agreement with

Verizon, and from the PEG Support Fund. Funds are allocated from the PEG Support Fund to the extent that the Participating Municipalities meet all applicable matching-fund requirements in the Settlement Agreement.

County Government Access Programming

- F. Funds are allocated for managing the County Government Channel, maintaining County Government Channel video equipment, closed captioning of County Government programming, and for the operation of the Technical Operations Center to monitor and adjust technical quality 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.

Public Access Programming

- I. Funds are allocated for Montgomery Community Television, Inc., to perform services in FY 2020 specified in its contract with the County, including the following:
- (1) produce and schedule two 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.

PEG Network

- J. For FY 2020, 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 PEG Governance Board to enhance the sharing of equipment, facilities, and personnel. All funds appropriated for PEG equipment replacement must be administered by the Office of Cable and Broadband Services. Before spending any funds for this purpose, the PEG Governance Board 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 Cable and Broadband Services, and acquiring equipment that facilitates the sharing of resources with other PEG channels.

Before the PEG Governance Board may spend funds allocated for PEG joint Programming/Promotion, the Governance Board must report its Work Plan for FY2020 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 Services 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.

Support of the Interagency Technology Fund (ITF)


- L. In FY 2020, the Interagency Technology Fund will not receive any funding to support priority projects as approved by the ITPCC. However, in support of the Interagency Technology Policy and Coordination Committee (ITPCC) work program, \$100,000 is allocated to the Maryland National Capital Park and Planning Commission for the continuation of the “Connected Parks” project.

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 2020.

This is a correct copy of Council action.


Megan Davey Limarzi, Esq.
Clerk of the Council

FY20 CABLE COMMUNICATIONS PLAN (in \$000's)										
		Act	APP	Est	CC Approved	Proj.	Proj.	Proj.	Proj.	Proj.
		FY18	FY19	FY19	FY20	FY21	FY22	FY23	FY24	FY25
1	BEGINNING FUND BALANCE	6,031	1,960	443	90	1,315	2,137	2,791	2,979	2,495
2	REVENUES									
3	Franchise Fees	16,999	17,868	16,631	16,235	15,944	15,692	15,455	15,245	14,997
4	Gaithersburg PEG Contribution	159	165	151	144	138	137	135	133	133
5	PEG Operating Grant	3,967	4,013	3,946	3,848	3,809	3,793	3,786	3,784	3,782
6	PEG Capital Grant	6,273	6,644	6,018	5,932	5,797	5,662	5,526	5,391	5,255
8	Interest Earned	125	107	107	263	263	263	263	263	263
9	TFCG Application Review Fees	139	150	150	150	243	250	250	250	251
10	Miscellaneous	0	0	0	0	0	0	0	0	0
11	TOTAL ANNUAL REVENUES	27,662	28,947	27,003	26,572	26,194	25,797	25,415	25,066	24,681
12	TOTAL RESOURCES-CABLE FUND	33,693	30,907	27,446	26,662	27,509	27,934	28,206	28,045	27,176
13	EXPENDITURE OF RESTRICTED FUNDS									
14	A. EXPENDITURE OF RESTRICTED CAPITAL FUNDS									
15	Municipal Capital Support									
16	Rockville Equipment	868	931	860	847	828	368	359	350	342
17	Takoma Park Equipment	203	217	201	198	193	189	184	180	175
18	Municipal League Equipment	203	217	201	198	193	189	184	180	175
19	SUBTOTAL	1,274	1,365	1,261	1,243	1,215	745	727	709	692
20	PEG Capital	724	759	759	759	759	759	759	759	759
21	ultraMontgomery - CIP	680	680	680	680	680	680	680	680	680
22	FiberNet - CIP	3,890	3,840	3,840	3,750	3,569	3,496	3,496	3,496	3,497
24	(Must be greater or equal to Line 6) SUBTOTAL	6,568	6,644	6,539	6,431	6,223	5,680	5,662	5,644	5,628
25	B. EXPENDITURE OF OTHER RESTRICTED FUNDS									
26	Municipal Franchise Fee Distribution									
27	City of Rockville	757	757	757	739	725	714	703	694	682
28	City of Takoma Park	233	268	233	227	223	220	216	213	210
29	Other Municipalities	248	243	256	250	246	242	238	235	231
30	SUBTOTAL	1,238	1,268	1,246	1,216	1,194	1,175	1,158	1,142	1,123
31	Municipal Operating Support									
32	Rockville PEG Support	270	300	256	250	248	247	246	246	246
33	Takoma Park PEG Support	447	458	438	428	423	421	421	420	420
34	Muni. League PEG Support	447	458	438	428	423	421	421	420	420
35	SUBTOTAL	1,164	1,215	1,133	1,105	1,094	1,089	1,087	1,087	1,086
36	SUBTOTAL	2,402	2,483	2,379	2,321	2,288	2,265	2,245	2,229	2,210
37	TOTAL EXPENDITURES OF RESTRICTED FUNDS	8,970	9,127	8,919	8,753	8,511	7,945	7,907	7,873	7,838
38	NET TOTAL ANNUAL REVENUES	18,692	19,820	18,084	17,819	17,683	17,852	17,508	17,193	16,843
39	NET TOTAL RESOURCES-CABLE FUND	24,723	21,780	18,527	17,909	18,998	19,989	20,299	20,172	19,338
40	EXPENDITURES OF NON-RESTRICTED FUNDS									
41	A. Transmission Facilities Coordinating Group									
42	TFCG Application Review	341	230	230	230	250	250	250	250	250
43	SUBTOTAL	341	230	230	230	250	250	250	250	250
44	B. FRANCHISE ADMINISTRATION									
45	Personnel Costs - Cable Administration / OBP	873	849	641	1,098	1,131	1,165	1,200	1,236	1,273
46	Personnel Costs - DTS Administration	20	0	0	0	0	0	0	0	0
47	Personnel Costs - Charges for County Atty	123	118	118	121	125	128	132	136	140
48	Operating	137	68	68	68	68	68	68	68	68
49	Engineering & Inspection Services	109	78	78	78	78	78	78	78	78
50	Legal and Professional Services	21	100	300	475	475	475	250	250	250
51	SUBTOTAL	1,283	1,212	1,204	1,839	1,876	1,913	1,727	1,767	1,808
52	SUBTOTAL	1,624	1,442	1,434	2,069	2,126	2,163	1,977	2,017	2,058
53	C. MONTGOMERY COUNTY GOVERNMENT - CCM									
54	Media Production & Engineering									
55	Personnel Costs	694	707	707	882	908	936	964	993	1,022
56	Operating	24	31	31	31	31	31	31	31	31
57	Contracts - TV Production	48	87	87	87	87	87	87	87	87
58	New Media, Webstreaming & VOD Services	44	58	58	58	58	58	58	58	58
59	SUBTOTAL	810	884	884	1,059	1,085	1,113	1,141	1,170	1,199
60	Public Information Office									
61	Personnel Costs	689	799	799	842	867	893	920	948	976
62	Operating Expenses	11	11	11	11	11	11	11	11	11
64	SUBTOTAL	700	811	811	853	879	905	931	959	987
65	County Council									
66	Personnel Costs	577	620	620	641	660	680	700	721	743
67	Operating Expenses	12	11	11	11	11	11	11	11	11
68	Contracts - TV Production	89	153	153	153	153	153	153	153	153
69	General Sessions and Committee Meetings	48	100	100	100	100	100	100	100	100
71	SUBTOTAL	726	884	884	904	924	943	964	985	1,006
72	MNCPPC									
73	Contracts - TV Production	99	99	99	99	99	99	99	99	99
74	New Media, Webstreaming & VOD Services	24	24	24	24	24	24	24	24	24
75	SUBTOTAL	123	123	123	123	123	123	123	123	123
76	SUBTOTAL	2,359	2,702	2,702	2,939	3,010	3,083	3,159	3,236	3,316

FY20 CABLE COMMUNICATIONS PLAN (in \$000's)

	Act FY18	APP FY19	Est FY19	CC Approved FY20	Proj. FY21	Proj. FY22	Proj. FY23	Proj. FY24	Proj. FY25
77 D. MONTGOMERY COLLEGE - MC ITV									
78 Personnel Costs	1,463	1,506	1,506	1,555	1,602	1,650	1,699	1,750	1,803
79 Operating Expenses	221	221	221	209	209	209	209	209	209
80 SUBTOTAL	1,684	1,727	1,727	1,764	1,811	1,859	1,908	1,959	2,012
81 E. PUBLIC SCHOOLS - MCPS ITV									
82 Personnel Costs	1,564	1,656	1,656	1,679	1,729	1,781	1,835	1,890	1,946
83 Operating Expenses	133	133	133	121	121	121	121	121	121
84 SUBTOTAL	1,697	1,790	1,789	1,800	1,851	1,903	1,956	2,011	2,068
85 F. COMMUNITY ACCESS PROGRAMMING									
86 Personnel Costs	2,095	2,096	2,096	2,166	2,231	2,298	2,367	2,438	2,511
87 Operating Expenses	65	65	65	54	54	54	54	54	54
88 Rent & Utilities	425	459	459	493	502	513	523	533	544
89 New Media, Webstreaming & VOD Services	23	23	23	23	23	23	23	23	23
90 SUBTOTAL	2,608	2,644	2,643	2,736	2,811	2,888	2,967	3,049	3,132
91 G. PEG OPERATING									
92 Operating Expenses	169	161	161	181	181	181	181	181	181
93 Youth and Arts Community Media	100	100	100	100	100	100	100	100	100
94 Community Engagement	91	91	91	91	91	91	91	91	91
95 Closed Captioning	151	163	163	163	163	163	163	163	163
96 Technical Operations Center (TOC)	5	9	9	9	9	9	9	9	9
98 SUBTOTAL	516	525	524	544	544	544	544	544	544
99 H. OPB FIBERNET OPERATING									
100 FiberNet - Personnel Charges for DTS	361	949	949	609	627	646	665	685	706
101 FiberNet - Operations & Maintenance DTS	1,276	1,329	1,329	1,374	1,374	1,374	1,374	1,374	1,374
102 FiberNet - Network Operations Center	858	910	910	910	910	910	910	910	910
103 FiberNet - Personnel Charges for DOT	116	106	106	109	112	116	119	123	126
104 FiberNet - Operations & Maintenance DOT	90	291	300	291	291	291	291	291	291
105 FiberNet - Miss Utility (DOT)	285	688	622	489	488	488	488	488	488
109 SUBTOTAL	2,986	4,273	4,216	3,782	3,803	3,825	3,848	3,871	3,895
110 I. COMPENSATION ADJUSTMENT									
111 FY20 Collective Bargaining Agreement				(21)					
112 TOTAL EXPENDITURE OF UNRESTRICTED FUNDS	13,474	15,102	15,035	15,614	15,955	16,265	16,359	16,687	17,025
113 TOTAL EXPENDITURE OF RESTRICTED FUNDS	8,970	9,127	8,919	8,753	8,511	7,945	7,907	7,873	7,838
114 TOTAL EXPENDITURES - PROGRAMS	22,444	24,230	23,953	24,367	24,466	24,210	24,266	24,560	24,863
115 J. OTHER									
116 Indirect Costs Transfer to Gen Fund	725	756	756	880	906	933	961	990	1,020
117 Telecom Transfer to the Gen Fund	5	5	5	0	0	0	0	0	0
118 Transfer to the General Fund	9,021	5,208	1,906	0	0	0	0	0	0
119 Legislative Community Communications NDA	1,290	540	636	0	0	0	0	0	0
120 Transfer to the Gen Fund-M-NCPPC	100	100	100	100	0	0	0	0	0
121 SUBTOTAL	11,141	6,609	3,403	980	906	933	961	990	1,020
122 TOTAL EXPENDITURES	33,585	30,839	27,356	25,347	25,372	25,143	25,227	25,550	25,883
123 K. ADJUSTMENTS									
124 Prior Year Adjustments	(335)	0	0	0	0	0	0	0	0
125 TOTAL ADJUSTMENTS	(335)	0	0	0	0	0	0	0	0
126 FUND BALANCE	443	68	90	1,315	2,137	2,791	2,979	2,495	1,293
127 FUND BALANCE PER POLICY GUIDANCE	1,381	1,450	1,351	1,332	1,316	1,296	1,277	1,261	1,241
128 L. SUMMARY - EXPENDITURES BY FUNDING SOURCE									
129 Transfer to Gen Fund-Indirect Costs	725	756	756	880	906	933	961	990	1,020
130 Transfer to Gen Fund-Mont Coll Cable Fund	1,684	1,727	1,727	1,764	1,811	1,859	1,908	1,959	2,012
131 Transfer to Gen Fund-Public Sch Cable Fund	1,697	1,790	1,789	1,800	1,851	1,903	1,956	2,011	2,068
132 Transfer to CIP Fund	4,570	4,520	4,520	4,430	4,249	4,176	4,176	4,176	4,177
133 Transfer to Gen Fund-Other	9,021	5,208	1,906	0	0	0	0	0	0
134 Transfer to Gen Fund-Telecom	5	5	5	0	0	0	0	0	0
135 Transfer to the General Fund-Legislative Branch NDA	1,290	540	636	0	0	0	0	0	0
136 Transfer to the Gen Fund-M-NCPPC	100	100	100	100	0	0	0	0	0
137 FUND TRANSFERS SUBTOTAL	19,092	14,646	11,439	8,974	8,816	8,870	9,001	9,136	9,276
138 Cable Fund Expenditure of Unrestricted Funds	10,093	11,586	11,519	12,050	12,294	12,503	12,495	12,717	12,946
139 Cable Fund Direct Expenditures	14,493	16,193	15,917	16,372	16,555	16,273	16,226	16,414	16,607
140 Cable Fund Personnel	3,453	4,150	3,941	4,281	4,431	4,564	4,701	4,842	4,987
141 Cable Fund Operating	11,040	12,044	11,976	12,092	12,125	11,709	11,525	11,573	11,620

Notes:

- These revenues and expenditures reflect the FY20 Approved 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 Fee revenue projections are based on a forecast developed by the Department of Finance.
- Transfers to the General Fund Other and the Legislative Branch NDA have been eliminated in FY20 due to declining revenues and fund balance policy guidelines.
- Franchise fees and PEG revenues are subject to municipal pass-through payment.
- Restricted revenue and expenditures: Certain Cable Fund revenues, required in excess of the federal limit on 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.
- Municipal payments are estimates. Actual payments will be calculated based upon actual revenue received, subscriber number s and formulas specified within the Municipal MOU's.
- 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 Fund makes a fund transfer to Montgomery College and MCPS to support MCPS ITV and MC ITV.
- Subtotals may be adjusted due to rounding.