

Introduced 01-07-2025
Public Hearing 01-21-2025
Council Action 02-03-2025
Executive Action 02-05-2025
Effective Date 02-05-2025

County Council of Howard County, Maryland

2025 Legislative Session

Legislative Day No. 1

Bill No. 4 -2025

Introduced by: The Chairperson at the request of the County Executive

Short Title: Multiyear agreement – State of Maryland, Howard County and Montgomery County- Bus Rapid Transit

Title: AN ACT pursuant to Section 612 of the Howard County Charter, approving a multiyear agreement between Howard County, Maryland and Montgomery County, Maryland for the extension of certain bus rapid transit systems to Downtown Columbia; authorizing the Executive to make changes to the agreement, under certain conditions; authorizing the County Executive to execute the agreement; and generally relating to the agreement.

Introduced and read first time Jan 7, 2025. Ordered posted and hearing scheduled
By order Michelle Harrod
Michelle Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on Jan 21, 2025.

By order Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on Feb 3, 2025 and Passed ☒ Passed with Amendments _____, Failed _____.

By order Michelle Harrod
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 4th day of Feb, 2025 at ___ a.m./p.m.

By order Michelle Harrod
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive Feb 5, 2025

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by Amendment; Underlining indicates material added by Amendment

1 **WHEREAS**, there have been numerous studies that examined Bus Rapid Transit along the
2 US 29 Corridor within Montgomery County and extended into Howard County; and
3

4 **WHEREAS**, Montgomery County and Howard County believe that it is advantageous to
5 partner on the operation and maintenance of a transit route serving the residents and businesses
6 of both counties along the US 29 Corridor; and
7

8 **WHEREAS**, for the operation and provision of an extension of the MOCO Flash Bus
9 Rapid Transit Line to Downtown Columbia, Montgomery County and Howard County seek to
10 enter into a multi-year Memorandum of Understanding, substantially in the form of Exhibit A,
11 that will require certain payments over a term of two years but for which operational duties will
12 exist for six years ; and
13

14 **WHEREAS**, the term of the Memorandum of Understanding is six years from the time of
15 signature and commits the County to provide funding for at least two years of operations; and
16

17 **WHEREAS**, the Memorandum of Understanding continues operation beyond the two-
18 year period, subject to certain termination provisions that may be exercised by the County; and
19

20 **WHEREAS**, the Memorandum of Understanding requires the payment by the County of
21 funds from an appropriation in a later fiscal year and therefore requires County Council approval
22 as a multiyear agreement pursuant to Section 612 of the Howard County Charter.
23

24 **NOW, THEREFORE,**
25

26 ***Section 1. Be It Enacted** by the County Council of Howard County, Maryland that in*
27 *accordance with Section 612 of the Howard County Charter, it approves the multiyear*
28 *Memorandum of Understanding between Howard County, Maryland and Montgomery County,*
29 *Maryland, which shall be in substantially the same form as Exhibit A attached to this Act.*
30

1 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
2 *the County Executive is hereby authorized to execute the Memorandum of Understanding for*
3 *such term in the name of and on behalf of the County.*

4
5 ***Section 3. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
6 *the County Executive, prior to execution and delivery of the Memorandum of Understanding,*
7 *may make such changes or modifications to the Memorandum of Understanding as he deems*
8 *appropriate in order to accomplish the purpose of the transactions authorized by this Act,*
9 *provided that such changes or modifications shall be within the scope of the transactions*
10 *authorized by this Act; and the execution of the Memorandum of Understanding by the County*
11 *Executive shall be conclusive evidence of the approval by the County Executive of all changes or*
12 *modifications to the Memorandum of Understanding, and the Memorandum of Understanding*
13 *shall thereupon become binding upon the County in accordance with its terms.*

14
15 ***Section 4. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
16 *this Act shall be effective immediately upon its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on Feb 5, 2025.

Michelle R. Harrod
Michelle R. Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2025.

Michelle R. Harrod
Michelle R. Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2025.

Michelle R. Harrod
Michelle R. Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2025.

Michelle R. Harrod
Michelle R. Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2025.

Michelle R. Harrod
Michelle R. Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2025.

Michelle R. Harrod
Michelle R. Harrod, Administrator to the County Council

MEMORANDUM OF UNDERSTANDING

BETWEEN

MONTGOMERY COUNTY AND HOWARD COUNTY FOR US 29 FLASH EXTENSION SERVICE PARTNERSHIP

RECITALS

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "**MOU**") is entered into by and among Howard County, Maryland, a body corporate and politic and political subdivision of the State of Maryland ("**HOCO**") and Montgomery County, Maryland, a body corporate and politic and political subdivision of the State of Maryland ("**MOCO**") (hereinafter referred to collectively as the "**Parties**").

WHEREAS there have been numerous studies that examined Bus Rapid Transit (BRT) along the US 29 Corridor within MOCO and extended into HOCO and the Parties believe that it is advantageous to both Parties to partner on the operation and maintenance of a transit route serving the residents and businesses of both counties along the US 29 Corridor;

WHEREAS, the Parties have a desire to come to an agreement and define the terms, roles, and responsibilities relating to operating certain transit services between jurisdictions in the US 29 Corridor;

WHEREAS the Parties are committed to extending the MOCO Flash Bus Rapid Transit Line to Downtown Columbia;

WHEREAS the Flash Extension Service is defined as an extension of the currently operating rapid transit service running on US 29, from Burtonsville north into Howard County.

NOW THEREFORE, in consideration of these Recitals, and the mutual covenants and agreements of the Parties hereinafter set forth, the sufficiency of which the Parties acknowledge, the Parties agree as follows:

I. GENERAL ACKNOWLEDGMENTS BY THE PARTIES

- A. The Parties acknowledge and agree that, subject to appropriation, MOCO intends to procure four (4) 40-foot electric buses to be funded fully by a combination of federal, state, and HOCO funds.
- B. The Parties acknowledge it is MOCO's responsibility to secure a Community Designated Project Grant Fiscal Year 2023 Omnibus Appropriations bill funding of \$3,350,000 from the Federal Transit Administration and to submit all requisite reporting to the Federal Transit Administration.
- C. The Parties acknowledge and agree that MOCO will act as the Service Provider, as described in Article III herein.
- D. The Parties acknowledge and agree to conduct business in a manner in accordance with the Joint Operating Plan as shown in Appendix B where each Party is responsible for implementing its element of the Joint Operating Plan that includes responsibility for monitoring and evaluation of the US 29 Flash Extension Service pursuant to the terms of this MOU.
- E. The Parties acknowledge and agree that a signed MOU is necessary to define the obligations of each Party to fund vehicle purchases and operations for the US 29 Flash Extension Service and to provide funds in accordance with the Joint Operating Plan, and to update the Joint Operating Plan as needed.
- F. The Parties acknowledge and agree that MOCO will operate this service under the Flash brand in order to provide a one seat ride, which is a transit trip characterized by point-to-point journey in which the passenger does not need to change vehicles, for riders traveling between three locations in Howard County and points in Montgomery County along the US 29 Corridor between Burtonsville and Silver Spring, Maryland, during peak travel hours as provided in the Joint Operating Plan.

- G. The Parties acknowledge and agree that HOCO will be responsible for BRT station and transit-related capital improvements and maintenance within its jurisdiction to support the basic operations in a manner consistent with the Flash service as it has been operated by MOCO and in accordance with the BRT Station Implementation Plan as shown in Appendix C.
- H. The Parties acknowledge and agree that it is their shared intent to commence US 29 Flash Extension Service as soon as possible after the completion of the construction and testing of the HOCO BRT stations and acceptance by MOCO of the additional buses described in I.A into the Flash fleet. The Parties agree to and acknowledge an anticipated start date no sooner than the second quarter of 2026 and no later than December 31, 2027. If the service has not started by December 31, 2027, the MOU shall terminate, unless extended by the parties. Neither Party is subject to any legal remedy in the event the other is delayed in commencing service.

II. OBLIGATIONS OF BOTH PARTIES

- A. Pursuant to the Maryland Public Information Act, each Party shall respond in a timely manner to reasonable information requests from each other and outside parties related to the Flash Extension Service. This includes the reporting of expenses related to the provision of transit services, such as the allocated staff labor costs for the previous fiscal year by October 1st for submission to the National Transit Database by the Service Provider.
- B. Each Party, as warranted, shall maintain all books and records pertaining to the US 29 Flash Extension Service in compliance with all applicable state and federal audit procedures.
- C. Each Party shall work together to identify cooperating agencies with authorization and decision responsibilities and share information and resources to gain necessary authorizations.
- D. Subject to appropriation, each Party agrees to provide personnel resources, as reasonable, required, and appropriate, to support the purpose and intent of this MOU.
- E. Subject to appropriation, each Party agrees to make reasonable efforts to avoid any unreasonable delay in the allocation, provision, and expenditures of funding and support of the Flash Extension Service.
- F. The Parties intend to work collaboratively to secure grants and funding to support the expansion of transit services covered under this MOU.
- G. The manner in which the Parties intend to conduct business related to fares, transfers, and operating procedures for the US 29 Flash Extension Service is set forth in the Fare Policy Plan as shown in Appendix E.
- H. Marketing and public engagement for the service will be a cooperative effort between the Parties pursuant to the Joint Marketing Plan as shown in Appendix D.

III. OBLIGATIONS OF MONTGOMERY COUNTY AS SERVICE PROVIDER

- A. Subject to appropriations, MOCO, as the Service Provider, is responsible for the purchase, operations, and maintenance of buses as per the Vehicle Procurement and Funding Plan as shown in Appendix A and the Joint Operating Plan as shown in Appendix B.
- B. The Service Provider must adhere to all terms and conditions set forth in any grant agreements using state or federal funds that provide transit service funding for the US 29 Flash Extension Service regardless of which Party receives the grant. If HOCO plans to utilize grant funds for the US 29 Extension and MOCO will be bound to the terms of that grant, the MOCO County Attorney's Office must be given the opportunity to review the grant agreement prior to execution.
- C. The Service Provider shall provide quarterly reports with monthly data on fare revenue and ridership for the US 29 Flash Extension Service along with any other documents, reports, and other information as reasonably requested by the Funding and Service Partner as defined in Section IV of this MOU.
- D. The Service Provider shall be responsible for meeting relevant federal, state, and other grant agreement or operating requirements and shall be responsible for coordinating the submission of reports mandated by the state and federal governments concerning the operation of public transit services between the parties.
- E. The Service Provider shall be responsible for implementation of new signage, such as updated route maps, in MOCO to accommodate the US 29 Flash Extension Service as per the Joint Marketing Plan as shown in Appendix D.
- F. The Service Provider shall ensure that all farebox revenue received is appropriately allocated to each Party as detailed in the Fare Policy Plan as shown in Appendix E.
- G. The Service Provider shall invoice HOCO on a quarterly basis for operating costs as per Joint Operating Plan as shown in Appendix B.
- H. The Service Provider shall assist HOCO in the branding, design and implementation of BRT stations and fare system to ensure consistency in the BRT Station Implementation Plan as shown in Appendix C to ensure compatibility with the US 29 Flash vehicles.
- I. The Service Provider shall ensure that fare policy changes requiring Washington Metropolitan Area Transit Authority (WMATA) coordination and/or approval are sought and obtained in accordance with relevant Title VI Policies and communicated with HOCO.
- J. Subject to appropriations of funds by the Montgomery County Council, the Service Provider shall refund HOCO for its funds associated with the purchase of buses specified in the Vehicle Procurement and Funding Plan as shown in Appendix A if the HOCO service is terminated prior to the end of these bus's useful life, specified in the Joint Operating Plan as shown in Appendix B or unless otherwise agreed upon by the parties. The refund amount will be determined as specified in Appendix A.
- K. The Service Provider shall insure, or secure insurance, that will protect MOCO and HOCO from claims or losses due to the negligence of Service Provider, as per the Joint Operating Plan as shown in Appendix B. If a contractor is engaged for any of the obligations of MoCo, insurance will be provided per the details in Appendix B.

IV. OBLIGATIONS OF HOWARD COUNTY AS FUNDING AND SERVICE PARTNER

- A. Subject to appropriations, HOCO agrees to fund operating costs for HOCO's share of the service hours as per the joint operating plan in Appendix B
- B. The HOCO County Executive agrees to submit the requisite funding allocation requests in subsequent budget years for the length of this agreement unless state or federal funds are received for this service.
- C. HOCO, as Funding and Service Partner, shall reimburse MOCO for operating costs on a quarterly basis and payable within 30 days of receipt of an invoice based on the Joint Operating Plan as shown in Appendix B.
- D. HOCO is responsible for planning, engineering, implementation and maintenance of infrastructure, such as BRT stations, equipment, signage, security, in HOCO to accommodate the US 29 Flash Extension Service as

- per the BRT Station Implementation Plan as shown in Appendix C.
- E. Subject to appropriations, HOCO will provide the balance of funds for the purchase of four (4) buses to supplement the \$3,350,000 awarded to MOCO through a Community Designated Directed Project Grant in the FY 2023 Federal Omnibus Appropriations bill. This funds commitment by HOCO will not exceed \$1,450,000 without authorization by the Howard County Council.
 - F. HOCO shall ensure the Flash Extension Service is Title VI compliant as required by the US Department of Transportation.
 - G. Should HOCO become eligible for State Lottery Fund-Bus Rapid Transit Fund Distribution, passed by the General Assembly as HB764 in Fiscal Year 2024, and any additional funds provided by the State for the same purposes HOCO commits to dedicating 50% of the funds received, up to a maximum of \$35 million, toward construction of MOCO's US29 Phase 2 project, which plans to add a median dedicated bus lane along US29 between Tech Road and Sligo Creek Parkway.

V. GENERAL PROVISIONS

- A. Term. This MOU shall become effective upon the date of execution ("Effective Date") and shall remain in effect for six years from start of service, unless earlier terminated or extended by the Parties.
- B. No Waiver of Sovereign Immunity. Nothing in this MOU, nor any action taken by any Party pursuant to this MOU, nor any document that arises out of this MOU shall constitute or be constituted as a waiver of either the sovereign immunity or governmental immunity of the Parties.
- C. Obligations Contingent. All obligations of the Parties under this MOU are contingent upon appropriation and encumbrance of all funds contemplated within this agreement by each respective County Council and County Executive and compliance with personnel, budgeting, purchasing, and expenditure laws, regulations and requirements of the respective Parties as applicable to each Party, including, but not limited to, all applicable county and/or city codes and charters.
- D. No Waiver. Etc. The failure or delay by any Party to insist upon the strict performance of any term, condition or covenant of this MOU, or to exercise any right, power, or remedy consequent upon a breach thereof, shall not constitute a waiver of any such term, condition, or covenant or any such breach, or preclude any Party from exercising any such right, power, or remedy at any later time or times.
- E. Independent Contractor Status. Nothing contained in this MOU shall be construed to constitute any one Party as an agent, representative or employee of any other Party. Moreover, the parties shall be considered agents or representatives of the respective appointing Party only and shall not be considered agents or representatives of any other Party. Nothing contained in this MOU shall be construed in any manner to create any relationship between the Parties other than what is expressly specified herein, and the Parties shall not be considered partners or co-venturers for any purpose on account of this MOU.
- F. Dispute Resolution. In the event that the Parties are unable to resolve a dispute, the affected Party or Parties may submit the dispute to a mediator, acceptable to all affected Parties, for the purpose of facilitating discussion and receiving new perspectives on the issues and new proposals for compromise. The Parties involved in the mediation shall share the cost of the mediation equally. Such mediation shall not be binding on any Party. Each Party reserves all remedies available at law or in equity for violations of this MOU.
- G. Governing Law and Venue. This MOU shall be construed and enforced in accordance with the laws of the State of Maryland.
- H. Entire Agreement. This MOU contains and embodies the entire agreement of the Parties. No representations, inducements, or agreements, oral or otherwise, between the Parties not contained herein shall be of any force and effect. This MOU may not be amended or modified in any manner other than by an agreement in writing approved by the Parties and duly signed by authorized persons on behalf of all the Parties, except that authority to amend Appendices B-E is hereby delegated to the Administrator of the Office of Transportation for Howard County, Director of the Montgomery County Department of Transportation. The Parties, through their respective authorized representatives, have executed this MOU on the dates indicated below.

- I. Severability. If any of the provisions in this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.
- J. Assignment. MOCO cannot contract transit operations for the US 29 Flash service to another provider without HOCO approval. Such approval must not be unreasonably withheld.
- K. Binding Effect. The terms of this MOU shall be binding on and enforceable against the Parties and their respective successors and assigns.
- L. Withdrawal. Any Party may withdraw from this MOU by providing at least one hundred and eighty (180) calendar days' written notice prior to the start of the next fiscal year. If either party withdraws from this partnership prior to the end of the useful life of the four buses purchased to support this service, HOCO shall be reimbursed for the remaining prorated share of the local match used to purchase the buses pursuant to the Vehicle Procurement and Funding Plan as shown in Appendix A.
- M. Recitals. The Recitals are hereby incorporated into this MOU.
- N. Notice. Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered to the following addresses and individuals or at such other addresses and/or individuals a Party may identify in writing to the other Parties:

For Montgomery County		For Howard County	
Name	Christopher Conklin	Name	Clarence Dickerson
Title	Director	Title	Administrator
Office	Montgomery County Department of Transportation	Office	Howard County Office of Transportation
Address 1	101 Monroe Street, 10 th Floor	Address 1	3430 Court House Drive
Address 2	Rockville, MD 20850	Address 2	Ellicott City, MD 21043
Telephone	(240) 777-7198	Telephone	(410) 313-0702
Fax	(240) 777-7179	Fax	(410) 313-1655
Email	Christopher.Conklin@montgomerycountymd.gov	Email	cdickerson@howardcountymd.gov
Name	John Markovs	Name	Gary Kuc
Title	County Attorney	Title	County Solicitor
Office	Montgomery County Office of the County Attorney	Office	Howard County Office of Law
Address 1	101 Monroe Street, 3rd Floor	Address 1	3450 Court House Drive
Address 2	Rockville, MD 20850	Address 2	Ellicott City, MD 21043
Telephone	(240) 777-6725	Telephone	(410) 313-2100
Fax	(240) 777-6706	Fax	
Email	John.Markovs@montgomerycountymd.gov	Email	Gkuc@howardcountymd.gov

ATTEST:

HOWARD COUNTY, MARYLAND

Brandee Ganz
Chief Administrative Officer

By: _____
Dr. Calvin Ball
County Executive
Date: _____

APPROVED FOR SUFFICIENCY OF FUNDS:

Rafiu Ighile
Director, Department of Finance

Dr. Holly Sun
Director, Office of Budget

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

Gary Kuc
County Solicitor

Norman E. Parker, Jr.
Assistant Deputy County Solicitor

APPROVED FOR PROGRAM SUFFICIENCY:

Clarence Dickerson, Administrator
Office of Transportation

ATTEST:

MONTGOMERY COUNTY, MARYLAND

Witness Name:

Ken Hartman
Assistant Chief Administrative Officer
Date: _____

DEPARTMENTAL RECOMMENDATION:

Christopher Conklin, Director
Department of Transportation

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

Trevor Ashbarry
Chief, Division of Finance and Procurement,
Office of the County Attorney

Appendix A: Vehicle Procurement and Funding Plan

Vehicle Procurement Cost and Prorated Value

MOCO agrees to purchase four 40-foot electric BRT vehicles, using in part \$3,350,000 it intends to receive with a Community Designated Project Grant. HOCO agrees to contribute up to \$1,450,000 to assist in this purchase. MOCO and HOCO must work cooperatively to determine the procurement cost share should the total bus procurement exceed \$4,800,000. These vehicles will be owned by and titled to MOCO. All prorated valuation and expenses will be determined by the process used by FTA in situations where its procurement funds are affected because of reassignment of the purchased buses to a use other than originally planned. This prorated valuation will be used in the event of an early withdrawal from this MOU.

The Parties will determine the initial value per bus prior to start of service. This value may include the initial purchase price, delivery costs, functional modifications and enhancements to match the existing BRT fleet, and other related expenses as agreed to by both Parties.

Operational Commitment and Notice of Termination

HOCO commits to at least two years of operations and operational cost sharing. Operational plans beyond two years must be determined prior to the anniversary date of "first day of service" to commit to each successive year. One hundred and eighty (180) calendar days' written notice prior to the start of the next fiscal year must be given by HOCO if it decides to terminate operations. Operational commitment will be based on whole years and cost sharing will be based on a whole year from "first day of service". The Parties will agree and make this date official.

Appendix B: Joint Operating Plan

Operating & Maintenance Costs

MOCO will have full upfront financial responsibility for the Flash Extension Service and will provide stable and reliable funding for operating and maintenance (O&M) costs. Ongoing O&M costs attributable to operation of the Flash Extension Service, both those that occur within MOCO and in HOCO, will be MOCO's financial responsibility.

Although MOCO will be financially responsible for operating and maintaining the Flash Extension Service as part of the expanded Flash network consistent with all its policies, standards, practices, and procedures, HOCO will reimburse MOCO for the agreed upon portion of the O&M costs of the Flash Extension Service. Specifically, HOCO will be responsible for the fully allocated O&M costs directly attributable to the Flash Extension Service to provide the Flash Extension Service within HOCO, and this cost will be billed based on service hours. This hourly cost will exclude the cost of station maintenance in Howard County and the true cost of service will be reconciled on a quarterly basis.

In the event MOCO incurs unanticipated costs attributable to the Flash Extension Service, the parties shall review the nature and scale of the unanticipated costs and develop a strategy to address such costs.

All appropriations for Flash BRT operations are subject to approval by the respective County Councils.

Frequency and Span of Service

MOCO will manage all aspects of the street operation of the Flash service extension including service quality, communications, and safety. Security needs will be assigned to each Party based on the location of the need (see Security section in this Appendix). MOCO will provide drivers, first line supervisors, management, and administrative personnel, as well as any other resources required to operate the Flash service.

At this time, a tentative Flash Extension Service operation plan has been prepared, with service scheduled to begin in the first quarter of calendar year 2026. The service pattern will be integrated and provide seamless interconnectivity with MOCO's Burtonsville Flash Blue Route:

- Service span: Monday through Friday, during rush hours only:
 - Morning: 4.5 hours, 5:00AM-9:30AM, five northbound and eight southbound trips
 - Afternoon: 4.5 hours, 3:30PM-8:00PM, eight northbound and six southbound trips
- Service frequency: the existing Flash Blue service to/from Burtonsville is every 15 minutes. The Flash Extension Service schedule is intended to provide approximately 30-minute headways service into Howard County.
- Fleet requirements: Four 40' buses will be procured to supplement the existing Flash BRT fleet.
- Unforeseen circumstances may require MOCO to temporarily reroute or cancel a trip.

Route Planning

MOCO will coordinate with HOCO concerning changes proposed for the Flash Service Extension that may affect service provision, schedules, or route alignment.

- Parties acknowledge that HOCO must comply with its own policies regarding route changes.
- HOCO's comments will be considered and incorporated in the decision-making process.
- No service changes will affect the bus fleet requirements or seating and standing capacity without prior discussions and resolution agreed to by the Parties. If additional buses are needed, MOCO and HOCO will assess where more capacity is needed, develop a proposed new operations schedule, and determine the cost share responsibility for each county.
- If service is increased incrementally in HOCO using the existing Flash fleet resources, Montgomery County will provide additional personnel to implement service changes funded by HOCO.
- Should the modified Flash service necessitate changes or improvements to any of the following Flash Extension Service infrastructure within HOCO, MOCO will coordinate with HOCO to facilitate its design, construction, and installation: siting, installation and maintenance of stations, bus shelters, signage, wayfinding signage; transit signal priority; bus layovers, restroom access for transit operators and/or riders, etc.
- The Parties will be responsible for community outreach to obtain feedback and then inform the public about service changes within their respective service coverage areas. The Parties will follow the protocols outlined in the Joint Marketing Plan as shown in Appendix D.
- The Parties will choose an appropriate date for service changes and the cost share will be calculated based on this change date.

Security

The Parties' police and fire departments will provide security services and respond to emergencies and incidents that occur in the respective county borders and locations along the US 29 Flash Service Extension route. This includes any existing and proposed Flash extension public facilities and bus shelters. Although it is envisioned that the Parties' police departments would be the primary contact for most safety and security issues, police emergencies, natural disasters (e.g., flooding, tornadoes), fires, and crashes may require immediate attention from local law enforcement agencies to avoid potential dangers and mitigate damages.

Prior to the start of operations, HOCO, in coordination with MOCO, will establish a single point of contact and a contact list of relevant HOCO and MOCO agencies, to make inquiries and to manage and maintain records of Flash service activities, detailed incident logs, security concerns, and to help identify hot spot security locations. HOCO will notify MOCO of any National Transit Database reportable incident within 24 hours of its occurrence. The reports will include a description of the incident and circumstances in a report format suitable for both parties.

Camera feeds from the buses and will follow MOCO Standard Operating Practices and will be provided to HOCO on request and available.

Camera feeds from BRT stations in Howard County will be linked to HOCO Department of Police.

Vehicle Maintenance

MOCO, as the Service Provider, is responsible for maintenance of the Flash Service Extension fleet. Maintenance protocols will follow MOCO's standard maintenance procedures:

- Provide and secure the bus storage and maintenance site.
- Develop and implement an efficient operations plan and create schedules that account for buses designated for midday storage and charging.
- Perform preventative maintenance at manufacturer's recommended intervals.
- Provide all materials and supplies needed to operate, maintain, and repair the bus fleet, including fuel, lubricants, tires, repair parts, and other supplies.
- Inspect and clean buses daily.
- Maintain electronic records of repairs for each impacted fleet vehicle that include bus ID number, mileage, date of repairs, description of repairs, required materials, cost of labor, and out of service duration.
- Make maintenance bus logs and files available to HOCO on request.

The Parties will meet annually to discuss Flash service fleet condition and replacement needs.

Substitution / Cross-Use of Fleet

The Parties expect that there will be circumstances under which MOCO may substitute its branded Ride On buses to provide the Flash service.

- The cross-use of the fleet is expected to be minimal, infrequent, and must be necessitated (e.g., due to severe weather conditions when articulated buses might have trouble operating safely, or during other public emergencies).
- Although the frequency of cross-use of fleet cannot be predicted with a high degree of accuracy ahead of time, upon its occurrence, MOCO will notify HOCO's designee as soon as practical via email, phone, or in person.
- MOCO will detail and report any cross-use in the daily report and include date, times, number of trips, revenue hours, revenue miles, type of cross-used bus, and reason for substitution.
- MOCO reserves the right not to cross-use its branded fleet for the Flash service if such use would adversely impact the local bus service it provides.

Insurance

MoCo must purchase and maintain at its sole expense and on a primary basis during the life of the Agreement, including any subsequent renewal terms, such insurance coverage, acceptable to the HoCo as will protect MoCo and HoCo from claims or losses, due to claims or losses resulting from the negligent actions or negligent omissions of MoCo. MoCo shall have the right to self-insure. MoCo is a member of the Montgomery County Self-insurance Program, which is a group of public entities that pool their resources together to self-insure their exposures in accordance with the statutory caps set forth in the Local Government Tort Claims Act and the Annotated Code of Maryland. MoCo is entitled to all applicable limitations on liability and damages provided for by law, including those set forth in Md. Code Ann., Cts. & Jud. Proc. § 5-524, the Local Government Tort Claims Act, as codified in Md. Code Ann., Cts. & Jud. Proc. § 5-303, et. seq., and Md. Code Ann., Transp. § 17-103. For claims against MoCo only, automobile liability coverage limits are \$30,000 per person, \$60,000 per accident for bodily injury and \$15,000 for property damage. For claims against a MoCo employee, MoCo's insurance coverage limits for general liability coverage are \$400,000 for each person and \$800,000 for all claims per occurrence. For workers' compensation claims, the state of Maryland's statutory limits will apply. The statutory caps outlined here are the maximum limits of liability for which MoCo is responsible. If a subcontractor is engaged, , the subcontractor shall

maintain the coverages indicated below. The following coverages and policy limits are mandatory but may not be all inclusive, based on subsequent changes to the scope of work over time and shall not in any manner limit or qualify the liabilities or obligations assumed by MoCo's subcontractor under any resulting agreement.

1. Workers' Compensation Insurance covering statutory obligations in accordance with Maryland workers' compensation law or federal Law when applicable, including other states Insurance.
2. Employers' Liability Insurance with minimum limits of \$5,000,000 each accident for bodily injury by accident. This insurance shall name Howard County, Maryland and their respective officials, employees, and agents as Additional Insured(s).

Commercial General Liability Insurance with combined single liability limits of \$5,000,000 each occurrence. This insurance shall name Howard County, Maryland and their respective officials, employees and agents as Additional Insured(s).

3. Auto Policy consisting of the following:
 - a. Auto Liability Insurance with a combined single liability limit of \$5,000,000 any one accident.
 - b. Auto Physical Damage for all buses and vehicles used for this program.
 - c. The policy shall name Howard County, Maryland and their officials, employees and agents as Additional Insured(s).
4. Cyber Liability Insurance is required as part of business continuity, with minimum limits of \$2,000,000 each claim and aggregates. This insurance shall be maintained for three (3) years following termination of the Contract.
5. Commercial Crime Coverage with a policy limit sufficient to protect the interest of the parties for loss of funds and fare receipts managed by the Contractor under the terms of the Agreement.
6. MoCo shall assure that all subcontractors and subsidiaries performing services in accordance with this Agreement carry identical insurance coverage as detailed above. Exceptions may be made only with the approval of the HoCo.
7. All required insurance coverages must be acquired from insurers allowed to do business in the State of Maryland and acceptable to the HoCo. The insurers must have a Best's Financial Strength Rating of "A-" or better, and a Financial Size Category of "Class VII" or better, unless HoCo grants specific approval for an exception.
8. If any of the required insurance policies are written on a claims-made basis, the sub-contractor shall continue to maintain such insurance for a period of three (3) years after termination. The limits of liability and the extensions to be included remain the same. The sub-contractor must comply with one of the following additional conditions:
 - a. Agree to provide Certificates of Insurance to HoCo evidencing the claims-made insurance for the period above. Such certificates shall evidence a retroactive date no later than the beginning of work under the Agreement; or
 - b. Purchase an extended reporting period endorsement for each such claims-made policy in force as of the date of termination of the Contract, and evidence the purchase of this extended reporting period endorsement by means of a Certificate of Insurance and a copy of the endorsement itself.

Such certificate and copy of the endorsement shall evidence a retroactive date no later than the beginning of work under the Agreement.

9. MoCo shall provide HoCo with Certificates of Insurance within thirty (30) days of signature and upon renewal of all required insurance policies, evidencing the coverages required.
10. HoCo requires notification of the cancellation of all required insurance and all insurance policies required hereunder shall be endorsed to require the insurer to provide thirty (30) days prior written notice of cancellation to the Contract Administrator. If MoCo aware of any cancellation they must provide written notice of cancellation within 5 days to HoCo.
11. The providing of any insurance required herein does not relieve the MoCo of any of the responsibilities or obligations assumed by MoCo in the Agreement awarded or for which the MoCo may be liable by law or otherwise.

Appendix C: BRT Station Implementation Plan

It is the intent of both Parties to develop BRT stations which are compatible for BRT operations. MOCO agrees to share design standards and details for its station elements, including but not limited to:

- Platform
- Canopy
- Wind Screen
- Marker
- Ticket Vending Machine
- Benches
- Communications
- Cameras
- Art in Transit

HOCO has the option to utilize these design standards and details or develop its own. See Appendix D for Flash branding considerations. HOCO will fund the planning, design, and construction of its BRT stations. The Parties will coordinate on the design of the BRT infrastructure and planned bus routing to ensure that they are compatible with the BRT operations and buses. When construction is complete, MOCO will perform enough test runs using both 40' and 60' buses to confirm that the BRT service extension can effectively utilize each station prior to beginning of service.

Appendix D: Joint Marketing Plan

MOCO's BRT system is branded as "Flash BRT". It is beneficial to passengers that all related components (buses, stations, etc.) use a uniform branding. HOCO agrees to incorporate this branding to the greatest extent it considers reasonable, including MOCO's design standards for its portion of the BRT system, signage, and marketing. However, HOCO has no obligation to use these beyond what is needed for safe and efficient operations of the BRT fleet.

HOCO will assume responsibility of marketing and promotions of the of the BRT service within HOCO and has the right to develop its own marketing material. MOCO shall have the right to review and approve this marketing material. Each county is expected to share original marketing and promotional content for use by the other county at no additional cost. Any and all copyrights, trademarks, etc. owned by MOCO related to Flash BRT will be shared at no cost to the other county. HOCO will not be permitted to copyright, trademarks, etc. any component of the BRT system without the express written consent of MOCO.

All maps and schedules (in stations, on vehicles, on social media, and on County websites) shall be updated to reflect the route extension. HOCO is responsible for public outreach and engagement for services in HOCO and will coordinate appropriately with MOCO on corridor BRT issues. Media relations shall be coordinated between respective county communications specialists.

Appendix E: Fare Policy Plan

Fares for each ride will be set at a uniform fare amount. This fare will not be zone or distance based. HOCO will work with MOCO and the Washington Metropolitan Area Transit Authority in setting fares that impact service on the US 29 Flash service and has the right to oppose or propose fare changes. Parties acknowledge that HOCO must comply with its own policies regarding fare policy. MOCO will brief HOCO of any proposed fare changes and allow HOCO to comment at least sixty (60) days prior to implementation. If all Parties agree to modify and/or eliminate fare collections, the Parties agree to negotiate in good faith to determine how financial impacts will be managed and may include other County departments in discussions as warranted.

Fare collection in MOCO for seniors, school aged children, Montgomery College students, and transit transfers will follow policies currently in place. MOCO will notify HOCO should these policies change. All other users will be subject to fare collection.

HOCO has determined that no fares will be collected in Howard County but reserves the right to change this policy in the future. HOCO has no obligation to pay MOCO for the number of riders who board at Howard County stations. In addition, HOCO will receive no credit for any fares collected in Montgomery County, including those passengers riding to Howard County stations. Unless the parties agree otherwise, HOCO's financial responsibility to MOCO for operations and maintenance will be limited to the per hour rate established in the Joint Operating Plan as shown in Appendix B.

If and when HOCO decides to initiate fare collection, fare collection in HOCO for seniors will follow MOCO policies currently in place. MOCO will notify HOCO should these policies change. All other users will be subject to fare collection.



3430 Court House Ellicott City, Maryland 21043

Transportation@howardcountymd.gov

Phone: 410-313-4312

Fax: 410-313-1655

TDD: 410-313-2323

Clarence Dickerson, Administrator

Memorandum

To: Brandee Ganz, Chief Administrative Officer
From: David Cookson, Administrative Manager, Office of Transportation *DC*
Date: December 20, 2024
Subject: Staff Testimony in support of legislation authorizing Howard County to enter into multiyear agreement with Montgomery County.

Council Bill 4 represents the enabling legislation for Howard County and Montgomery County to enter into a memorandum of understanding for the counties to collaborate to plan, design and operate a project to extend the Flash Bus Rapid Transit Service (US 29 Flash Extension Service) on US 29 to Howard County.

The US 29 Flash Extension Service will build upon the existing Flash service operated by Montgomery County, extending the service from its existing terminal stop in Burtonsville to new terminal stops in Downtown Columbia with stops on Maple Lawn Boulevard in Fulton and at the Applied Physics Laboratory on Johns Hopkins Road. This service will provide a seamless, one-seat ride for passengers traveling between key locations in Howard and Montgomery Counties, including Downtown Columbia, during peak AM and PM periods and is expected to begin in 2026. The US 29 Flash Extension Service represents a significant step toward enhancing regional connectivity and improving transit services for residents and businesses in both counties.

The memorandum of understanding defines the roles and responsibilities of each party, with the appendices providing detailed guidance and direction on how the counties will plan, design, and operate the service.

These appendices include:

- Appendix A: Vehicle Procurement and Funding Plan
- Appendix B: Joint Operating Plan
- Appendix C: BRT Station Implementation Plan
- Appendix D: Joint Marketing Plan
- Appendix E: Fare Policy Plan

Roles and Responsibilities

The memorandum of understanding outlines the roles and responsibilities for each party.

For Montgomery County:

- Operate the service and maintain the buses.
- Purchase four 40-foot electric buses with federal funding matched with Howard County funds.
- Provide reporting as required by state and federal transportation regulations.
- Implement signage, maps and other informational material to support the service

For Howard County:

- Design, construct, and maintain stations in Howard County.
- Support the procurement of buses to match the federal funding already secured.
- Fund the operating costs for the first two years of the service.
- Ensure compliance with Title VI.

For Howard and Montgomery County:

- Maintain all books and records pertaining to the US 29 Flash Extension Service in compliance with all applicable state and federal audit procedures.
- Provide personnel resources to support the project.
- Make reasonable efforts to avoid any unreasonable delay in the allocation, provision, and expenditures to support the Flash Extension Service.
- Work collaboratively to secure grants and funding
- Cooperate on marketing and public engagement efforts.

Term

The term of the memorandum of understanding is six years from the time of signing and commits Howard County to provide funding for at least two years of operations and continues operation beyond the two-year period unless the county provides written notice at least one hundred and eighty calendar days before the start of the next fiscal year.

Fiscal Impact Statement

- The buses will be purchased by Montgomery County using a \$3,350,000 Federal Congressionally Directed Spending (CDS) grant and Howard County will provide \$1,450,000 as the match. This is a one-time expense. The cost estimate is based on current cost and available production slots and could change when an order is placed.
- The operating expenses for the service are estimated at \$727,000 per year, based on the 2024 hourly cost estimate from Montgomery County. The projected 2026 hourly cost is expected to increase, reflecting inflation in materials used to maintain buses and rising driver wages. Using a 4% inflation factor, the estimated cost to provide service for two years is \$1,510,600 based on the forecasted number of service hours. The service model estimates the number of hours the service will need to operate to provide the planned number of trips. However, as the service will be also operating in existing traffic and weather conditions, the total numbers of hours, and resulting annual cost of service, will vary.
- Other costs associated with service implementation, maintenance and operations of the bus stations are estimated at \$25,000 per year. For the obligated two-year term, the total is \$50,000.
- The County will use personnel resources to support implementation and operations. This includes staff from the Office of Transportation to implement, manage, and oversee the service and the Department of Public Works to design and construct bus stops and supporting infrastructure. The Department of Police and the Department of Fire and Rescue will also support the service by responding to calls for service at bus stations and incidents involving US 29 Flash Extension operating in Howard County. For the current RTA service, these costs are absorbed into each agencies' operating budget; costs for the Flash Service Extension will be handled in the same manner.

The long-term fiscal impacts of the Flash Service Extension are expected to be manageable when all the benefits are considered as providing this service will have a net positive economic and environmental impact for Howard County by:

- Providing connections to job centers in Downtown Columbia, Maple Lawn, the Applied Physics Lab, White Oak/FDA complexes, and Downtown Silver Spring.
- Providing connections to the WMATA system and MTA's Purple Line.
- Providing reliable and consistent travel times.
- Reducing congestion and emissions on US 29 by offering an alternative travel option.
- Improving safety by providing an alternative travel option to using an automobile.
- Offering more cost-effective travel options for residents without access to an automobile.

Implementation of the US 29 Flash Extension Service is also guided by Howard County's General Plan, HoCo By Design, where this project is cited as a significant transportation investment to support growth and redevelopment in the county.

The Office of Transportation supports this legislation and recommends approval by the County Council.