

NORTH BETHESDA METRO STATION DEVELOPMENT MEMORANDUM OF UNDERSTANDING

This non-binding Memorandum of Understanding ("**MOU**") is entered into this 29th day of July, 2024 ("**Effective Date**") by and between Montgomery County, Maryland ("**County**") and the Washington Metropolitan Area Transit Authority ("**WMATA**") (each a "**Party**," together the "**Parties**") to record the mutual understanding and intent of the Parties to redevelop approximately 13.9 acres of land owned by WMATA adjacent to the North Bethesda Metro Station in North Bethesda, Maryland.

WHEREAS, the County is implementing an economic development strategy to attract private investment and jobs that will increase the County's tax base by expanding the life sciences sector in the County that benefits from the presence of the National Institutes of Health, the Food and Drug Administration, and other research and development agencies headquartered in the County; and

WHEREAS, for the County to continue to attract and grow the biotech industry sector and related fields, particularly in recognition that life sciences are increasingly converging with such areas as health, artificial intelligence, and quantum computing, it must compete against other major technology centers in vibrant mixed-use neighborhoods, such as Cambridge, Massachusetts, and the San Francisco Bay Area; and

WHEREAS, such dynamic live/work/learn/play ecosystems are anchored by high quality amenities that attract educational institutions, private companies, and research organizations, such as convenient access to public transit, attractive public open spaces and social gathering spots for informal social interactions; diverse housing options for employees, as well as recent post-doctoral candidates, graduate students, and visiting professors; and office and lab space to accommodate spin-off companies; and

WHEREAS, the County approved the White Flint Sector Plan in 2010 to transform the 430-acre neighborhood around the North Bethesda Metro Station (formerly known as the White Flint Metro Station) into a dense, walkable transit-oriented development, promote economic development, and support significant residential and commercial growth; and

WHEREAS, to further this strategy, the County wishes to create an urban, transit-oriented, mixed-use life sciences/advanced technology anchored community (the "**Project**") at the North Bethesda Metro Station; and

WHEREAS, to support this vision, the County entered into a Memorandum of Understanding with the University of Maryland, College Park; the University of Maryland, Baltimore; and the University of Maryland Medical System Corporation, resulting in \$65 million in local and university investments to establish the University of Maryland Institute for Health Computing in North Bethesda, which is intended to be relocated to the Project; and

WHEREAS, WMATA encourages transit-oriented development of its station properties to increase Metro ridership from new residents, workers and visitors; generate fare and real estate revenue that support and advance Metro's Strategic Transformation Plan; foster sustainable regional

growth; and generate new state and local taxes on formerly undeveloped and tax-exempt land; and

WHEREAS, the County enacted the More Housing at Metro Act, that provide a 15-year tax abatement for high-rise residential development on Metro-owned property to increase production of housing at Metro Stations; and

WHEREAS, real estate consultant analysis over the past three years, suggests that a mixed-use, life science focused development on the North Bethesda Metro Station site is feasible if public funding assistance is available for the initial on-site infrastructure; and

WHEREAS, WMATA's IO-year Strategic Plan for Joint Development calls for WMATA to collaborate with local jurisdictions on site infrastructure needs and leverage local, state, or federal funding to accelerate development; and

WHEREAS, the Parties wish to work together to implement the Project, recognizing the long-term benefits to the County and the State of Maryland ("**State**") in the form of tax revenues and jobs; and the benefits to WMATA in the form of transit ridership and potential future real estate revenues; and

WHEREAS, the Parties entered into that certain White Flint Metro Station Development Memorandum of Understanding on October 8, 2020 ("**October 2020 MOU**"), to explore development of the Project and the Parties' discussions have evolved and, therefore, the Parties wish to terminate the October 2020 MOU and enter into a new Memorandum of Understanding for the Project;

NOW, THEREFORE, it is mutually understood as follows:

I. PURPOSE OF THE MOU

This MOU sets out the basic terms to promote cooperation between the Parties to support development of the Project.

II. TERMINATION OF OCTOBER 2020 MOU

Pursuant to Article VI.A. of the October 2020 MOU, the Parties hereby terminate the October 2020 MOU with immediate effect.

III. THE PROPERTY

WMATA owns approximately 12.6 acres of land, plus an additional 13 acres of potential air rights above the Red Line track, to the east of Maryland Route 355 (i.e., Rockville Pike) between Marinelli Road, Old Georgetown Road, and Citadel Avenue as well as a parcel north of Marinelli Road between Citadel Avenue and Nebel Street in North Bethesda, Maryland (the "**Property**"). Attachment A depicts the Property.

IV. PROJECT GOALS

The goals for the Project include:

- Establish a transit-oriented development on the Property at the North Bethesda Metro Station, up to 3.7 million square feet of development;
- Foster a vibrant community and sense of place through life-science anchored mixed-use development where people will live, work, shop, learn, and play;
- Generate new revenues for WMATA through increased transit ridership and real estate proceeds; and
- Generate new State and County taxes on currently tax-exempt land.

The Parties aim to achieve the following within the next three (3) years:

- Issuance of a joint development solicitation, selection of a master developer, and execution of a joint development agreement with the selected master developer ("**Developer**");
- Developer-led creation and entitlement of the master plan for the Project, in collaboration with WMATA and the County; and
- Approval of an Infrastructure Funding and Financing Package for Project infrastructure (as defined in Section V).

V. RESPONSIBILITIES OF THE PARTIES

WMATA and the County intend to continue to work collaboratively to pursue development of the Project as follows.

A. WMATA has previously executed four phases of development on the North Bethesda Metro Station site, including three residential buildings with 947 units, 63,000 SF of retail, 362,000 SF of office, and approximately \$10 million in site infrastructure investments; generating \$15.7 million in annual tax revenues for the County and State with a net present value of \$346 million over a thirty year period; and recently closed on the fifth phase that will develop 354 residential units.

B. WMATA intends to continue to:

- i. Lead developer selection process, to include development of the joint development solicitation, market sounding and industry outreach, establishment of developer selection criteria, review of proposals, and developer selection.
- ii. Coordinate with the County during the developer selection process, to include development of the joint development solicitation, prioritization of the developer selection criteria, review of proposals, attendance in interviews, and input on proposed Project plans.
- iii. Negotiate and execute relevant transaction documents including, but not limited to, the joint development agreement and ground lease(s) that identify Developer contributions where feasible to public infrastructure and placemaking and contribute WMATA's initial land value (if any) to the funding of the Initial Public Site

Infrastructure (defined below). This also includes one or more agreements for the funding, design and construction of the North Entrance Project (defined below), addressing – among other things - developer contributions for any potential residual land value from the build-over site created by the project, as well as the reimbursement to WMATA of all costs WMATA incurs in the design and construction of the North Entrance project. Except for contribution of WMATA's initial land value (if any) as referenced above, consistent with its long-standing practice for new station entrances, the North Entrance Project will not be funded in whole or in part by WMATA.

- iv. Seek required approvals from WMATA's Board of Directors and the Federal Transit Administration ("FTA").
- v. Work with the Developer to master plan the site with County input, secure entitlements, and complete WMATA-required review of Project design documents.
- vi. Support the County and the Developer in marketing efforts and in making the Project attractive to prospective tenants.
- vii. Coordinate with the County on Project implementation.

C. Montgomery County:

- i. Has identified \$96.6 million for the Project, including County and State appropriations, funds programed in capital budgets, pre-authorizations, and other commitments. This includes:
 - \$10M in appropriated State funds for the redevelopment project (State Capital Improvement Program of 2022)
 - \$6 M in appropriated State funds for the redevelopment project (State 2023 CIP)
 - \$2.6 M in appropriated state funds the North Entrance (State 2023 CIP)
 - \$3M in appropriated state funds for the project (State 2024 CIP)
 - \$8.115M programmed for North Bethesda North Entrance development in the County Capital Improvement Plan (CIP),
 - \$1.9 M programmed for station access improvements in the County CIP, and
 - \$65M over six-years, committed through another MOU partnership with the University of Maryland College Park and the University of Maryland Baltimore, (\$40M from the County and \$25M from the Universities for the Institute for Health Computing) which is intended to be an anchor for the development of the WMATA land at the North Bethesda Metro Station.
- ii. Has successfully sought federal funding working with the County's Congressional delegation, with \$5M in Congressionally Directed Spending for the North Bethesda Metro Station North Entrance Project included in the recently enacted FY24 Omnibus Spending Bill
- iii. The County also acknowledges that public and governmental support for infrastructure expenditures, in addition to WMATA and Developer support, may be necessary to move development forward in the current economic environment.

D. The County Executive, on behalf of the County, intends to:

- i. Appoint county staff to participate in the selection of a Developer, to include continual engagement during the joint development solicitation process, review of developer selection criteria, review of proposals, attendance in interviews, and input

- on proposed Project plans.
- ii. Seek funding to complete:
 - Initial public site infrastructure that cannot be funded by private development. The “**Initial Public Site Infrastructure**” includes streets, sidewalks, utilities, open space and other required public facilities on the Property and, in collaboration with WMATA and the Developer, contribute to select placemaking amenities that will be attractive to life science users. (See preliminary cost estimates in Attachment B);
 - A new Metro entrance to the North Bethesda Metro Station at the corner of Rockville Pike and Old Georgetown Road (“**North Entrance Project**”), to improve transit access and promote development in the North Bethesda area. The North Entrance Project is proposed to include a new entrance to the North Bethesda Metro Station, improvements to support a private building over the entrance and platform, and construction of a public plaza. The County may include station elements of the planned Rockville Pike and Old Georgetown Road Bus Rapid Transit projects. The County Executive intends to seek funding for the North Entrance project (see preliminary cost estimates in Attachment C), including applying for a U.S. Department of Transportation RAISE grant.
 - iii. Address gaps in funding for the North Entrance Project and Initial Public Site Infrastructure by applying for and/or coordinating with the State on one or more federal and/or state grants, seeking additional County or State appropriations, or identifying other policy tools or funding. The funding and delivery of the North Entrance Project and Initial Public Site Infrastructure may be addressed in one or more agreements among the relevant Parties or other entities, as applicable, upon the completion of the master plan (the “**Infrastructure Funding and Financing Package**”);
 - iv. Continue to facilitate plans and funding for the University of Maryland Institute for Health Computing (“**Institute**”) to locate on the site, as described in the County’s MOU with the Institute members;
 - v. Lead the marketing and economic development efforts to plan and implement a life sciences/advanced technologies cluster at the North Bethesda Metro Station that builds on County-wide industry strengths and assets:
 - Leverage the Institute’s presence by marketing the site to other complementary higher education partners, government agencies, life science and other companies and institutions.
 - Work with the selected Developer to secure life science tenants by prioritizing the site for existing or new local and State economic development incentives.
 - Expedite entitlement and permit approvals for the Project.
 - Review and update zoning and building codes to support construction of high-rise life science buildings; and
 - vi. Work with the Developer and the Institute to implement additional economic development or housing initiatives in support of the Project goals, such as housing for recent post-doctoral candidates, graduate students, and visiting professors, incubator space.

The performance of the County under the MOU and the implementation of these activities is subject to the discretionary decisions of the County Executive and the Montgomery County Council, including the appropriation of funds by the Montgomery County Council or the State of Maryland. The dollar values used in this MOU are estimates based on preliminary concepts developed in 2023 and are subject to change.

VI. IMPLEMENTATION

- A. Term of the MOU. The term of this MOU is three (3) years from the Effective Date. The MOU may be extended for an additional twelve (12) month period by written mutual agreement of the Parties. Either Party may terminate this MOU with immediate effect by providing written notice to the other Party.
- B. The County and WMATA intend to assign staff and hire advisors, in their respective sole discretion, to plan and implement the Project, as well as conduct regular coordination meetings with each other.
- C. After a master plan has been created in approximately two years, WMATA and County intend to work cooperatively with the Developer to finalize an Infrastructure Funding and Financing Package.
- D. Based on the timing of any state or federal grants awarded, the County intends to work with WMATA and the Developer to execute necessary agreements to implement the North Entrance Project as a WMATA reimbursable project (the process WMATA uses for similar projects across the region – which are fully funded by the state and or local jurisdictions).

VII. OTHER TERMS AND CONDITIONS

- A. Non-Binding Agreement. The Parties agree that, except for Paragraph VII. B and C, this MOU reflects only a statement of current intent to cooperatively pursue a mutually beneficial joint development plan at North Bethesda Metro Station and does not constitute a binding agreement. Neither Party shall have the authority to make commitments of any kind for or on behalf of the other Party without its prior written consent. A binding agreement regarding a potential joint development project at North Bethesda Metro Station may be entered into only when all material rights, obligations, and terms have been set forth in a written agreement mutually agreeable to WMATA and the Developer and it has been executed and delivered by WMATA and the Developer.
- B. Costs and Expenses. Each Party will bear its own costs and expenses incurred to implement the activities described in this MOU. The Parties acknowledge that each Party must obtain budgetary approval to ensure funds are available prior to such Party making any commitments or incurring any obligations.
- C. No Waiver of Sovereign or Governmental Immunity. This MOU will in no way interfere with or prohibit the Parties from engaging in their normal and sovereign activities,

respectively. The Parties acknowledge that nothing in this MOU shall constitute a waiver of sovereign immunity or governmental or public official immunity by WMATA or the County.


- D. Publicity. Any news release, public announcement, advertisement, media interview, speech, presentation, brochure, video, exhibit or Internet posting prepared by either WMATA and the County Executive for release in connection with this MOU and the subject matter hereunder shall have the written concurrence of both WMATA and the County Executive prior to release.
- E. Compliance with laws, policies and regulations -The Parties acknowledge and understand that the Project must comply with WMATA's and FTA's respective joint development policies, regulations, and guidelines. Nothing in this MOU shall require WMATA to violate any applicable Board resolutions, FTA guidelines, WMATA's Joint Development Policies and Program Guidelines, WMATA's Station Area Planning Guide, or any applicable laws or regulations.

The Parties acknowledge and agree that the Project must comply with applicable County laws and regulations. Nothing in this MOU shall require the County to violate any applicable laws or regulations.

IN WITNESS WHEREOF, WMATA and the County have caused this Memorandum of Understanding to be executed by their duly authorized officers as of the date first above written.

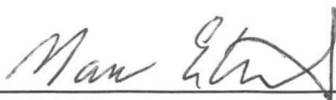
Washington Metropolitan Area Transit Authority

By:


 Randy Clarke
 General Manager and Chief Executive Officer
 Date: 07/29/24

Montgomery County, MD

By:


 Marc Elrich
 County Executive
 Date: 7/29/24

ATTACHMENT A: THE PROPERTY



ATTACHMENT B: Initial Public Site Infrastructure

As described in Section V above, the following provides preliminary cost estimates for the Initial Public Site Infrastructure. It is assumed the selected development team will create its own proposed budget based upon an overall master plan/development plan for the site, identifying public infrastructure needs, providing cost estimates, and creating a phasing plan for the infrastructure. NOTE: *This attachment may be updated from time-to-time by mutual written agreement of the Parties.*

Site infrastructure sources and uses	
Sources	
State Total	\$5,600,000
State appropriation (FY24)	\$2,600,000
Redevelopment Infrastructure (State CIP FY25)	\$3,000,000
Local Sources - Total	\$9,200,000
County FY24 CIP (P502315) - Redevelopment Infrastructure (Encumbered state aid)	\$8,100,000
County FY24 CIP (P502315) – Redevelopment Infrastructure (unencumbered state aid)	\$1,100,000
Total All Sources	\$14,800,000
Uses	
Construction of Chapman Avenue and segment of McGrath Blvd.	\$8,100,000
Additional streets (<i>order of magnitude estimate</i>)	\$6,000,000
Enhanced public space (<i>order of magnitude estimate</i>)	\$13,000,000
Total All Uses	\$27,100,000
Gap	\$12,300,000
Potential strategies to address the gap	
Phasing of infrastructure investments	
WMATA land value/developer contributions – initial phase	
Potential future appropriations/grants/other public support (described in Section V)	

ATTACHMENT C: North entrance preliminary budget

Below is a budget prepared in February 2024 for a federal grant application submitted by Montgomery County Department of Transportation for *Project Connect: Accelerating Life Science at the North Bethesda Transit Oriented Development*. USDOT has indicated the potential for a second round of applications in 2024.

North entrance project sources and uses

Sources

Federal – Total	\$30,000,000
RAISE Grant (Feb. 2024 application request)	\$25,000,000
Maryland Delegation Community Funding Projects	\$5,000,000
Local Sources – Total	\$16,780,000
County FY24 CIP (P502106) - Station Access Improvements (unencumbered)	\$1,858,000
County FY24 CIP (P502315) - Redevelopment Infrastructure (state aid unencumbered)	\$6,807,000
County FY24 CIP (P501914) - North Entrance	\$8,115,000
Total All Sources	\$46,780,000

Uses

North Entrance + Transit Plaza + Station Access Improvements + Build-over foundation elements	\$46,780,000
---	--------------

