

Resolution No.: 15-1284

Introduced: January 17, 2006

Adopted: January 24, 2006

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of a Memorandum of Understanding between the City of Rockville and Montgomery County regarding the improvements eligible for funding with Development Impact Tax for Transportation Improvements revenue collected in the City of Rockville

Background

1. Section 52-49(e) of the County Code states that development impact taxes collected from developments located in the City of Rockville must be used only to fund transportation improvements listed in a memorandum of understanding between the County Government and the City, which must be approved by the County Council.
2. The City approved a memorandum of understanding on October 18, 2005, and the County Government approved the same memorandum of understanding on January 12, 2006.

Action

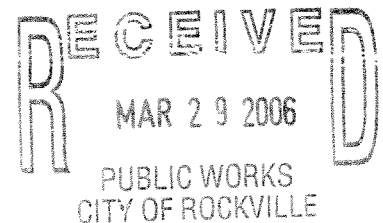
The County Council for Montgomery County, Maryland, approves the following resolution:

The attached memorandum of understanding between the City of Rockville and Montgomery County, regarding the improvements eligible for funding with Development Impact Tax for Transportation Improvements revenue collected in the City of Rockville, is approved.

This is a correct copy of Council action.

Linda M. Lauer

Linda M. Lauer, Clerk of the Council



MEMORANDUM of UNDERSTANDING
Development Impact Taxes

THIS MEMORANDUM OF UNDERSTANDING (the "MOU"), is made and entered into this 12th day of January, 2006 by and among the Mayor and Council of Rockville ("City"), an incorporated municipality in Montgomery County, in the State of Maryland, and Montgomery County, Maryland, a body corporate and politic ("County").

WITNESSETH:

WHEREAS, On March 12, 2002, and effective July 1, 2002, the Montgomery County Council enacted Amendments to the Development Impact Tax, Article VII, Chapter 52, of the Montgomery County Code ("Impact Tax Law"), establishing impact tax districts for the Cities of Gaithersburg and Rockville, as well as the entire County.

WHEREAS, the newly-adopted amendments provide for separate accounting of development impact taxes collected from developments located in the cities of Gaithersburg and Rockville, as well as provisions for, in certain instances, refunds and credits.

WHEREAS, tax revenues collected from, and separately accounted for, the respective municipalities must be used to fund transportation improvements listed in an MOU between the County and the City, and approved by the Montgomery County Council.

WHEREAS, it is the intent of the County to further the public purpose of ensuring that an adequate transportation system is available in support of new development.

WHEREAS, the City recognizes the need to fund transportation improvements within City limits to support growth and development

WHEREAS, as provided for in the Impact Tax Law, the City may enter into an MOU with the County, which will include a list of transportation improvements for priority funding with Impact Tax revenues collected from developments within the City limits.

WHEREAS, the City and the County agree that it is in the best interest of the City to enter into and agree to the terms and conditions of this MOU.

WHEREAS, the City has authorized the City Manager to enter into this MOU on behalf of the City.

NOW, THEREFORE, in consideration of the above and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1) In accordance with the provisions of Section 52-49(e) of the Montgomery County Code, the parties agree that the development impact taxes collected from developments located in the City must only be used to fund the transportation improvements that meet the following criteria:

- a) Improvements should be consistent with the approved and adopted City Master Plan or Neighborhood Plan; and
- b) Contained in an adopted City Capital Improvements Program; or
- c) Approved as a condition of a City development approval when the improvement is for an offsite improvement that meets the criteria contained in Section 52-58 or is an on-site arterial highway.

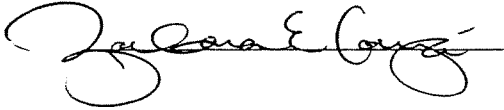
Below is the list of eligible transportation projects. FY 2006 Capital Improvements Program projects include the CIP project number, and the remaining improvements are either listed in the Adopted 2002 Comprehensive Master Plan or are under consideration for small scale capacity improvements. Impact Tax funds can be used only on the portions of the road projects listed below that creates new capacity in accordance with Section 52-58. Impact Tax funds can not be used for any improvement to or other action limited to a State road. Where the City or County has required a developer to fund all or part of an improvement, use of County impact tax funds must not replace the obligation of the developer to provide such an improvement. However, the developer may be eligible for a credit subject to approval by MC DPWT. The City may update this list on a semi-annual basis by providing MC DPWT with a revised list without amending this MOU. Any revised list shall be approved by the County Council.

- a) Bus Stop Shelters (CIP Project 420-850-2A80) new bus shelters (not replacement shelters)
- b) Dawson Avenue Extended (CIP Project 420-850-5A11)
- c) Town Square Public Improvements (CIP Project 420-600-0A80) that create new capacity including Maryland Avenue Extended – Phase I, Middle Lane to Beall Avenue
- d) Maryland Avenue Extended – Phase II, north of Beall Avenue (CIP Project 420-850-5C11)
- e) Pedestrian Safety/Traffic Improvements (CIP Project 420-850-4B71) that provide sidewalk connections to major activity centers or along arterial or major highways
- f) Town Center Capacity (CIP Project 420-850-6A81)
- g) Town Center Shuttle Bus (CIP Project 420-850-6B81)
- h) West End Sidewalks (CIP Project 420-850-6B21) that provide sidewalk connections to major activity centers or along arterial or major highways
- i) Chapman Avenue, North of Halpine Road
- j) MD 355/Gude Drive (funds can not be applied to State road portion of improvement)

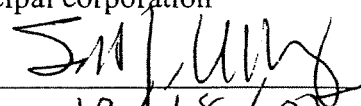
- k) MD 355/Wootton Parkway (funds can not be applied to State road portion of improvement)
 - l) MD 355/Park Road/Middle Lane (funds can not be applied to State road portion of improvement)
 - m) I-270/Gude Interchange (funds can not be applied to State road portion of improvement)
 - n) MD 355/King Farm Boulevard (funds can not be applied to State road portion of improvement)
 - o) MD 355/Redland Road (funds can not be applied to State road portion of improvement)
 - p) Shady Grove Road/Research Boulevard
- 2) Impact taxes collected within the City shall be appropriated or otherwise formally designated for the above-listed projects as impact tax revenues become available, in accordance with the Impact Tax Law, and in all instances, by the end of the sixth fiscal year after the tax is collected.
- 3) The City will notify the County when a commencement of an eligible transportation project is authorized by the City. The County shall provide available funds from the City impact tax account within 30 days. If the available funds in the City impact tax account are insufficient to totally fund the project and the City pays the balance of the project cost, then the County will forward the difference on a quarterly basis to the City upon receipt of eligible payments to the City impact tax account up to the full amount of the project cost.
- 4) The Chief Administrative Officer of Montgomery County and the City Manager of Rockville are authorized to execute such further documents and agreements that they determine to be necessary to implement this MOU.
- 5) **Dispute/Resolution:** In the event a dispute arises as to the interpretation or implementation of this MOU which cannot be resolved, the parties agree that the matter will be referred to the City Manager and the CAO of Montgomery County for consideration, review and resolution. If the City Manager and the CAO are unable to resolve the dispute they may agree to submit the dispute to mediation or binding arbitration or file an appropriate action in the Circuit Court of Montgomery County for resolution of the dispute.
- 6) This MOU shall be considered for amendments as proposed by either party, from time to time.

IN WITNESS WHEREOF, the CITY and the COUNTY have executed and sealed this
MOU as of the date first written above.

WITNESS:

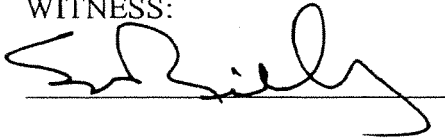


THE MAYOR AND COUNCIL OF
ROCKVILLE,
a municipal corporation

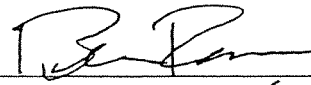
By: 

Date: 10/18/05

WITNESS:



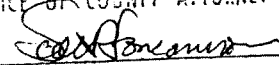
COUNTY OF MONTGOMERY, MARYLAND

By: 

Date: 1-12-06

APPROVED AS TO FORM AND LEGALITY.

OFFICE OF COUNTY ATTORNEY

BY 

DATE 11-30-05