

**PRESENTATIONS, REGULAR MEETING, WORKSESSION
AND EXECUTIVE SESSION**

Monday, December 9, 1996

Executive Session 11/25/96 - Moved by Porter; seconded by Williams. Council convened in Executive Session by unanimous vote at 10:10 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Elrich (arrived late), Porter, Rubin, Williams. STAFF PRESENT: Habada. Council continued discussion of the City Administrator's evaluation; no action taken (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(I)).

Executive Session 12/02/96 - Moved by Williams; seconded by Porter. Council convened in Executive Session by unanimous vote at 10:30 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Elrich, Porter, Rubin, Williams. OFFICIAL ABSENT: Davenport. STAFF PRESENT: Habada, Grimmer, Sartoph, Kowaluk, Sanford, Bill Bailey (telephone). Council discussed land acquisition; further direction was given to staff. All staff members left the conference room. Council continued discussion of the City Administrator's evaluation (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(3) and (1)(i)).

OFFICIALS PRESENT:

Councilmember Davenport
Councilmember Elrich
Councilmember Porter
Councilmember Rubin
Councilmember Williams

City Administrator Habada
City Clerk Sartoph
Corporation Counsel Silber
Senior Planner Schwartz
Engineer Monk
Executive Director COLTA Lee-Bryant
Housing Services Coordinator Walker

OFFICIALS ABSENT:

Mayor Sharp
Councilmember Chavez

ANNOUNCEMENTS

Councilmember Elrich noted that he will be acting as Mayor Pro Tempore in the absence of Mayor Sharp who is away this evening. He also explained that the Council will be meeting in

Executive Session on Monday, December 16, to discuss the City Administrator's evaluation. There will, however, be no public meeting that evening for discussion of items or any Council actions; the Council will convene in the Council Chambers that evening only long enough to vote to hold the closed session.

CITIZEN COMMENTS

Benjamin Onyeneke, 7667 Maple Avenue, questioned whether the City Administrator and Councilmember Davenport are aware of a complaint regarding the soccer league.

Ms. Habada noted that a letter regarding the complaint was directed to the Mayor, who passed it on to her. She said that the complainant, Ms. Gina Sharp, has been contacted. It has been explained to her that the City does not sponsor the soccer league, but that staff will be in contact with the league's sponsor about the complaint.

Mr. Onyeneke expressed condolence to family and friends of Jessica Miller (a D.C. teen) who committed suicide. He proposed that the City contact Montgomery County about installing a bus shelter for students on Maple Avenue. He commented on the recent incidents involving maltreatment of reporters at D.C. schools, in particular, the recent clash of students and faculty with a reporter. He said that the principal should have acted as a leader rather than being a party to the conflict. Mr. Onyeneke noted that the sanitation carriers do not clear the trash from the Elementary school until 7:30-8:00 a.m. when the students are coming to school, posing a safety threat. He urged teens and youth to participate in volunteer work for the City and County, and called on parents to caution their children (especially their daughters) not to accept rides from young men and strangers. Mr. Onyeneke concluded by expressing his support for Federal efforts to designate English as the official language in the United States of America.

PRESENTATIONS

#1 FY96 Audit Report. Frank Bitzelberger, auditor with Wooden & Benson, stated that the audit is complete, but explained that the documents are still in draft because the statistics have not been finalized. He said that he does not anticipate significant changes from the draft, and that the final report is forthcoming. He explained a new section on the Combined Balance Sheet under "Liability", titled "Due to property owners." He also noted the "Unreserved, undesignated" fund balance, explaining the big drop as related to annexation (i.e., inability to collect property taxes from annexation areas).

Councilmember Williams questioned whether \$36,729 is an actual or pro forma amount (page 10, Special Revenue Funds (b)).

Treasurer McKenzie responded that when the City first set-up the rehab loan program, we did not secure the loans. Now, the loans are secured by a lien on the property. The \$36,729 roughly estimates unrecovered funds.

Mr. Williams asked to what is the \$315,000 related (page 14, Long Term Debt).

Ms. McKenzie stated that this money funded a portion of the purchase of the Zarpas property.

Councilmember Porter remarked that she found the cover memo interesting, but requested that Ms. Habada provide a "walk-through" of the figures regarding the reserves.

Ms. Habada noted that the numbers reported are from prior years' audit reports. The first table reflects what was budgeted and what was actually taken in each year. The table shows the years that we relied on surplus to make-up the difference in terms of the available amount of money versus the actual.

Ms. Porter said that it looks like the total surplus is being impacted by the surplus draw down, and questioned is this where the changes in expenses also come in--when a surplus is designated for the next fiscal year. She commented that she is having trouble going through three columns and deriving the third column in the second table.

Ms. Habada explained how the undesignated surplus remaining is rolled into the next fiscal year. She further elaborated using the example of FY91.

Jack Mitton, 501 Philadelphia Avenue, said that he assumes there was a review of the internal controls as part of audit, and asked who gets a copy of this report. He questioned whether there is an audit committee, and if so, who are the members. If there is no committee, he asked why not.

Mr. Bitzelberger stated that an internal control report is done annually, and that it will be forthcoming.

Councilmember Rubin remarked that the Council does not appoint an audit committee, and further stated that the City is not operated in this way.

Mr. Elrich added that the Council relies on professional auditors to conduct annual audits.

Mr. Rubin said that the Council is "a committee of the whole" on such an issue as the audit.

Mr. Mitton asked whether the Council is receiving reports since it is operating in the capacity as the committee of the whole, or whether these reports are going to the City Administrator only. He questioned whether the Council is allowing the entire operation to be handled by the City Administrator.

Mr. Elrich stated that his recollection is that Council has seen internal control reports in the past, and has even discussed the issues contained therein.

Mr. Bitzelberger noted that the audit management letters are directed to the Council, not the City Administrator.

Mr. Rubin said that in response to Mr. Mitton's analogy, the City Administrator is the Chief Executive Officer.

#2 Montgomery College Expansion Plan. Senior Planner Schwartz introduced John Carter (M-NCPPC), John McClain, Facilities Office (Montgomery College), and Heijia Wheeler, Provost at Takoma Park Campus (Montgomery College). She noted a letter received from Randy Boehm, on behalf of The Gateway Coalition, in support of the expansion of the college in south Silver Spring. Ms. Schwartz reported that a public hearing is being held by the Board of Trustees of Montgomery College on Monday, December 16. She said that she has had some discussions with college and M-NCPPC staff about the expansion plan, and that she feels it might be prudent for the Council to hold a public hearing/forum to hear citizen comments on this issue. She briefly summarized the topic.

Ms. Wheeler said that the study has been going on for quite a while. Park & Planning hired a consultant to look at expansion options for the college. The options were presented to a joint board (Park & Planning, and college Board of Trustees). She explained that the Takoma Park campus is in need of space. The State Department of Education has done a survey of enrollment and usage of buildings, and has determined that there is a space deficit. In order to deliver educational services to students, the college needs adequate space. She said that there has been the problem of no space to expand, but that when the possibility was raised about moving some facilities to the other side of the Metro tracks (i.e., near Blair Park), this led to consideration of some additional buildings on Georgia Avenue. She concluded that the expansion project has become a part of the Silver Spring Revitalization project.

Mr. Carter said that the components of each option are a park, road and college, and that for Park & Planning, Blair Park is a primary concern. The park is viewed as being very large, quiet, a little dangerous, and not linked well to the surrounding communities. There is a need to do some things to improve the park (e.g., facilities and lighting to make it more locally oriented and secure). There are also problems along Blair Road (i.e., speeding, lots of apartments to the south). Finally, the college itself needs room for expansion. He described the three expansion options. (1) Expand the college by 70,000 sq.ft. on its current site, and make renovations to existing facilities. Because of changes in the way classroom education is offered, the college now needs a mix of small and large classrooms. If the college stays in Takoma Park, the most plausible way to expand is along Fenton Street. Additionally, a bridge could be constructed over the tracks and into the park. This would help link the college campus to renovations in the park and changes along Blair Road, by providing a passage for students to access the park. (2) Look for other expansion options--i.e., move some programs to sites along Georgia Avenue, and build new intake facility near the tracks and new buildings in the park and Georgia Avenue.

Mr. Rubin questioned how expansion along Fenton will affect the community.

Mr. Carter responded that it will not affect the community, since the college would utilize existing commercial buildings. No residential buildings would have to be purchased. He pointed out, however, that the campus would begin to surround more of the neighborhood possibly increasing concerns about student parking spilling over into the community. (3) He stated that this alternative has been referred to as "Option #2," and would involve closing the campus entirely and moving it to East West Highway. The campus would move onto the site currently occupied by the Canada Dry buildings, as well as the adjacent CSX site on the other side of the tracks (for a sports facility). The train station would remain. This development option would require a series of high-rise buildings to be built for the college campus. Mr. Carter noted that the question most often raised about this option is what would replace the campus if it were to move entirely out of the City. He said that one idea is to turn the property back into housing, and that another option is to use it as a site for a new elementary school (needed with unification). He noted that the costs associated with alternatives (1) and (2) are approximately \$70,000,000, and that (3) is estimated at \$120,000,000.

Mr. Rubin remarked that this presentation has been made to the North Takoma Citizens Association, and that it raised a lot of discussions. However, no conclusions were reached by the neighbors at that meeting; their opinions have not coalesced. He commented that the residents are also concerned about what will happen to the land if the college moves.

Mr. Carter noted that the college owns the land until it is sold, but that funding for new development is a 50/50 split with the State, so the State may have some say in the disposition of the land.

Ms. Wheeler stated that the College Board of Trustees would like as much input from the community as possible, because the Board will have to make a recommendation about the alternatives at some future time.

Ms. Porter asked when will a decision be made on any option.

Ms. Wheeler stated that she is not sure. The alternatives go to the Planning Board for review in February. However, this is not to say that a decision will be made then. In terms of phasing-in the expansion, alternative (1)--the "baseline" plan--would be the easiest and involve acquiring the triangular piece of commercial land sandwiched along the Metro tracks. Then there would be the issue of revitalizing the current buildings, since the campus must undergo major renovations. Alternative (2) also involves a phased-in process that would most likely site the triangular commercial area first and put in the Georgia Avenue buildings all at once (plucking-out and relocating specific programs e.g., "Allied Health" and "Creative Arts" to Georgia Avenue buildings). The last step would be putting a building in the park. She commented on the difficulty of maintaining a "connectedness" if the campus is split by the tracks and park. Alternative (3) requires starting all over, which would enable a technical infrastructure to be put into the buildings from the start. The campus could be rebuilt with the future in mind, rather than catching up. She said that if money were no object, the college would prefer a new campus.

Ms. Wheeler said that these are very complicated issues, since they want to accomplish several things with the expansion of the college. It is a part of the Silver Spring revitalization, including the park. She remarked that she thinks the college would be a good anchor for the revitalization effort. She commented that the college is very well aware of the need to include their neighbors in the discussions about expansion, and that there really needs to be buffer zones between the campus and residential neighbors for the college to be a good neighbor. She emphasized that it is hard for the college to manage under constraints like these.

Ms. Porter remarked that presumably, alternative (3)--Option #2--would take longer to realize.

Ms. Wheeler stated that she does not know the answer, but that alternative (1) would take a couple of years, after purchasing the property and finding the funding, and alternative (2) would be phased-in over 5 years.

Mr. McClain commented that if funding were available for alternative (3), the development could be brought forward in the 3-5 year range. He said, however, that funding needs to show up in a large clump in the beginning. The campus needs to come to fruition in one swoop; the complex would need to be developed all at once. With alternatives (1) and (2), funding and construction could be more spread out.

Mr. Davenport confirmed that if alternative (1) is chosen, expansion similar to that described in alternative (2) could be done in the future. He said that the goal is to develop a facility to accommodate the ever growing student population.

Mr. Elrich asked about possible housing projects that would be suitable for the Canada Dry and/or CSX properties.

Mr. Carter remarked that he is aware of none, but that there are other ideas for the Canada Dry property.

Mr. Elrich questioned what are the implications of taking two large pieces of land (tax generators) off the tax rolls, and what does this do to development as a whole, when tax revenue is removed. The gateway entrance along Georgia Avenue is a key issue in the revitalization effort. He wondered why the county would want to go with an option that moves the campus off of Georgia Avenue which has been a primary focus.

Mr. Carter stated that he has heard this argument, but reminded the Council that we are only to the stage of presenting alternatives. Opinions and arguments have only begun to be articulated. He said that one appeal of alternative (3) is to finish East-West Highway development all the way to the tracks, and that with this end in mind, there might be some benefit to taking the properties off the tax rolls. Mr. Carter said that a college campus is a lot less development than what could be done on these sites. He commented that part of what the county is doing is not spending a lot of time on any one project but looking at several target areas.

Mr. Rubin invited persons from the audience to speak.

Paul Chrostowski, 7708 Takoma Avenue, noted that his wife is also present. He said that there has not been a lot of information put out in the community about this issue. He pleaded to the county and college to get more information to the citizens in Takoma Park and Silver Spring. He commented that with all due respect to the representatives from the college, the college has not had a good track record about getting information to citizens. He remarked that residents want more information about this project. He stated that on another note--the comment made earlier regarding problems with students in the area around the college--he personally does not have problems with the students and finds the college to generally be a good neighbor. He said that the college is directly behind his house, and that he would like to see it remain there. He commented that he attended an inner-city campus which was split by much worse things than railroad tracks, but that this did not hinder the quality of his educational experience. He urged the Council to study this proposal and to pass a resolution in favor of alternative (1) or (2), to keep the college a neighbor.

Benjamin Onyeneke, Maple Avenue, said that he feels this is a positive plan, but that he is concerned about the safety of students who attend the school. He remarked that he did not hear mention of a police satellite post for the campus, nor anything about recreation activities and facilities (e.g., athletic field) other than an indoor pool.

Mr. Carter said that a major feature of Blair Park is the large soccer field. However, one of the problems from a community perspective is that the 18+ year old soccer leagues use this field regularly. One option is to move these leagues to Blair High School in the future, and turn the Blair Park field back into more of a community field with scheduled events. He commented on adding a tennis complex, jogging trails and parking, fixing-up the basketball court, putting in a community center, keeping the tot lot and adding a 5-10 year old lot, adding a gathering space towards Georgia Avenue, and putting in a new road through the park to enable police surveillance and separate the community space from the recreational areas. He remarked that depending on how renovation of the park evolves over coming years, it could be used by the college and community. A bridge over the tracks would link the campus to the park. Blair Road would be resurfaced, with curbs installed on one side of the street to reduce parking. Other speed control devices would also be installed. He described a new tot lot that is envisioned for the apartment complex. Mr. Carter said that a police satellite station has not been discussed, but that one could possibly be located on Georgia Avenue.

Ms. Porter suggested that a public hearing be scheduled and advertised in the next *Newsletter*. She also requested that an article, summarizing the development alternatives be put in the *Newsletter*.

The Council reached consensus to schedule the public hearing for January 27, 1997.

Ms. Schwartz asked whether the Council wants to submit comments for the December 16 public

hearing being held by the college.

Mr. Rubin remarked that this might be a bit premature, and that the Council needs to work to ensure community input and to study the in's and out's of the alternatives before coming-up with an opinion.

Mr. Elrich stated that it is very clear from tonight's discussion that the neighbors who are most affected by the expansion project, need information to formulate an opinion, and that they will not have this information or be able to comment by December 16. He urged the college to slow down its process.

Mr. Rubin stated that he would like a guarantee that the college will effectively study the transcript of the City's public hearing in January.

Ms. Porter suggested that representatives from the college and Park & Planning be invited to attend the public hearing.

Ms. Wheeler said that this would be fine, and emphasized that the college is just a player in this project. The bulk of the plan is in the hands of Park & Planning.

Ms. Schwartz stated that she will draft a letter for the December 16 public hearing, explaining that the Council will be holding a hearing on January 27. Mr. Rubin said that it should include a strong statement about the need for citizen input. Residents should have an effective voice in the decision.

REGULAR MEETING

#3 Resolution re: Montgomery County Martin Luther King, Jr., Commemoration Committee. Moved by Davenport; seconded by Rubin.

Mr. Davenport remarked that he had a recent conversation with Tom Espinosa, and that he thinks Mr. Espinosa is an excellent choice to serve on the committee. He noted that Mr. Espinosa has been keeping him informed of the committee's work, and that there has been discussion about whether Ms. Anna Wynn would be generous enough to allow the County to borrow the portrait she painted of Dr. King. Mr. Davenport said that certainly, the City will do all we can to help the County with its effort.

Benjamin Onyeneke, Maple Avenue, commended the City Administrator for asking Mr. Espinosa to serve on the committee and to Mr. Espinosa for accepting the charge. He wished Mr. Espinosa luck in this task, and urged the Council to adopt the resolution.

Resolution #1996-77 was adopted unanimously, appointing Thomas Espinosa, Deputy City Clerk, to serve as the City's representative on the Montgomery County, Martin Luther King, Jr.,

Commemoration Committee (VOTING FOR: Davenport, Elrich, Porter, Rubin, Williams;
ABSENT: Chavez, Sharp).

RESOLUTION #1996-77
(Attached)

#4 2nd Reading Ordinance re: Bond Issuance. Moved by Williams; seconded by Rubin. Mr. Elrich explained the ordinance.

Mr. Rubin noted that there is disagreement among Councilmember regarding the bond, but that the matter has been discussed at length, repeatedly.

Ms. Porter stated that she thinks everyone on the Council is trying to be prudent with the City's money, but that she disagrees with the rest of the Council on this matter. She explained that the idea is to put money away so as to make more interest than what will be spent on the bond itself, with an aim to make the City money. She remarked, however, that the desired outcome is based on the premise that future Council's will not spend the money that is being set aside, and that it is likely that the money will be spent in the future. Ms. Porter stated that consequently, it is her judgment to not go forward with the bond issue.

Pat Arey, Bond Counsel, said that he has nothing to add to the discussion, except to answer questions.

Ordinance #1996-40 was adopted, authorizing the issuance of general obligation bonds of the City of Takoma Park in connection with the city's participation in the MEDCO pooled loan program (VOTING FOR: Davenport, Elrich, Rubin, Williams; NAY: Porter; ABSENT: Chavez, Sharp).

ORDINANCE #1996-40
(Attached)

#5 Single Reading Ordinance re: Roof Replacement. Moved by Rubin; seconded by Davenport.

Mr. Rubin commented that the Council has toured the Public Works compound and saw the sad shape of this roof. He added that the replacement is long overdue.

Mr. Davenport noted that the whole facility is in need of repairs.

Mr. Rubin said that he is convinced that the bid process was done in the best way, and that the work needs to be done.

Ms. Porter commented that the original idea was to replace the roof over the mechanics shop. She attributed the increase in the estimate for the work (i.e., from \$10,000 to \$25,000) to (1) the cost estimate being underestimated in terms of what we originally intended to do, and (2)

inclusion of replacement of an additional roof as a cost savings measure.

Mr. Elrich noted the funding sources, and questioned whether funds can be reasonably transferred.

Ms. Porter asked whether we will lose any energy reduction.

Ms. Habada responded that Public Works staff feel that the transfers are reasonable.

Single Reading Ordinance #1996-41 was adopted unanimously, awarding the contract for roof replacement on Public Works buildings to Denchfield Roofing Corporation in the amount of \$24,390 plus labor and material charges @ \$2.30 sq.ft. to be charged to Capital Expenditures Account #9100-8000.

ORDINANCE #1996-41
(Attached)

#6 2nd Reading Ordinance re: Street Construction Permit Fee. Ms. Habada referred to her memorandum, explaining that staff is recommending deferral of action on this ordinance. She noted that the City did get a letter of commitment from Washington Gas that they will proceed with the work for which they are currently seeking a permit, and agree to pay fees associated with any legislation later adopted regarding street construction permit fees. She commented that staff met with Washington Gas today to look at their plans for work on Trescott, Garland and Hilton. She noted that the work on Trescott and Hilton will be done in the right-of-way behind the curb.

Ms. Porter confirmed that the work, while in the right-of-way, would be done in areas residents tend and maintain as their own yards. She asked if there will be advance notice.

Ms. Habada remarked that there will be a pre-construction meeting, and that she will request that notice be given to residents before work is done.

Ms. Porter stated that the notice has to be clear that digging will be behind the curb, adding that this has the potential for being a big problem. She questioned what the City can do in advance to ensure that Washington Gas will replace yards in a way that is acceptable to the residents.

Ms. Habada said that this might need to be included in our inspection fee, once the proposed fee schedule is formulated. The only way to ensure satisfactory work is to inspect and re-inspect the work sites.

Ms. Porter asked about applying a performance bond.

Ms. Habada noted that there is current legislation in the Code regarding such bonds, but that it is the utilities' interpretation that this does not apply to them. She remarked that we would have to negotiate the applicability of a performance bond with them before they start work.

Ms. Porter asked what will happen if there are trees in the way, and whether they will work around them.

Ms. Habada noted that City Forester, Marc Busciano, will be attending the pre-construction meeting to discuss the impact on trees. She remarked that the work on Garland, up to Trescott, will be in the roadway.

Mr. Rubin said that he wants to be sure that adoption of the ordinance is not being postponed because of the concerns raised by the utilities. He remarked that he is satisfied with the postponement as long as staff feels this is the best approach.

Ms. Habada assured Mr. Rubin of the latter. She commented on a conference call earlier today with representatives of Gaithersburg and Rockville, and referred to their processes. Both cities have a list of standards/conditions that apply to street construction permits. Copies of these lists have been requested.

Mr. Elrich asked for more explanation of their fee structures.

Ms. Habada explained Rockville's fee structure (i.e., 30 cents/linear foot outside the roadbed, and 60 cents/linear foot in the roadbed) and \$25 permit fee. Regardless of how their Code reads, Gaithersburg does not charge a fee.

Mr. Rubin questioned whether this is a matter for negotiations or for a legal opinion. He said that permit fees and/or performance bonds are not necessarily things we should negotiate with the utilities.

Ms. Habada summarized the discussion for Corporation Counsel Silber who arrived.

Ms. Silber said that the fee structure is a big issue for the utilities because they are creatures of public licensing. They have some kind of universal bond for all that they do. In that sense, they do not feel that they come under the rules for a performance bond. She remarked, however, that she doubts there is any law that prohibits the City from requiring a bond.

Mr. Rubin commented that we know their interpretation (i.e., no bond), but that now we are faced with a situation where it would make sense that the people doing the work should post a bond. He noted that there are subcontractors involved, creating divisions of responsibility, and that it takes pushing to get them to correct mistakes. He questioned whether the City can proceed with what we feel is best.

Ms. Silber noted that the bond option is already in the Code and applied at the discretion of the Public Works director. She said that under the current agreement with Washington Gas, a bond could be applied retroactively. She commented that staff has been trying to explore what other jurisdictions are doing in this regard.

Mr. Rubin said that he is speaking to the “mind set” that we negotiate with utilities about fees and performance bonds.

Ms. Silber responded that she understands and agrees that the Council has the authority to legislate. However, she urged proceeding on a more thoughtful and slower paced track.

Ms. Porter described a situation on a City street where a contractor made a mess cutting across peoples’ yards. Since the City had hired that contractor, we could make them go back and correct problems. She said, however, that with the utilities she is concerned that this might not be done, and that she thinks people are going to be very concerned about having their lawns restored. She stated that we need something in place to remedy attempts by Washington Gas to correct problems and which may not be to the satisfaction of residents.

Mr. Davenport described a similar experience with WSSC, who did not respond to requests to correct problems. He emphasized that he does not want the costs put back on the residents.

Mr. Williams said that he wants the City to have less accountability for these types of projects, and that one approach is to go in from the start to get our hooks in on the “accountability.”

Ms. Silber agreed. She stated that she thinks setting forth standards is the first approach, and that she will further consider the question about financial security (e.g., bond, line of credit, etc.). She commented that she and Ms. Habada are both surprised by the little amount of money being charged by Gaithersburg and Rockville. She stated that we need to set a fee proportionate to the work.

Mr. Elrich said that he does not think the utilities should be party to negotiations about what good or appropriate fees should be. He remarked that he would prefer that staff do the research and hold discussions. Utilities will have the opportunity to speak at public meetings, but should not otherwise be part of any type of negotiations. Mr. Rubin agreed.

Ms. Porter remarked that another issue is whether we can put some requirement about a post-inspection having to be satisfactory to the City. She asked that the guidelines also include some provisions about work being done in the right-of-way behind the curb.

Ms. Habada asked Engineer Monk when the pre-construction meeting is scheduled.

Mr. Monk responded that he is not sure, but that staff is invited to attend. He commented that Washington Gas will not set the date for the meeting until they receive an approved permit.

Ms. Habada stated that the problem with approving the permit is that we need conditions to address Ms. Porter’s concerns.

Mr. Williams referred to the statement in the memo about Gaithersburg re-evaluating their

process.

Ms. Habada said that she thinks they are interested in looking at their process since we have started examining ours. She noted that the Gaithersburg representative clearly said this morning that they have not had the problems with the utilities that we have experienced.

Mr. Williams stated that there is right-of-way behind the curb, and that while he agrees with Ms. Porter's concerns, the work is being done in the right-of-way. He suggested that it might be helpful to go through and take photographs and commentary before work begins.

Ms. Habada proposed that a video might work best.

Mr. Elrich said that costs associated with the video need to be recovered in the fee.

Mr. Rubin remarked that for some agencies, pre-work videos/photographs are a standard operating procedure. He explained that the State Highway Administration video taped before doing work on Philadelphia, to include recording of the interiors of some homes. The tapes are useful in evaluating complaints.

Ms. Porter questioned when the project will begin.

Ms. Habada stated that Washington Gas wants to begin the project before the end of this year.

Consideration of second reading Ordinance #1996-38 was deferred.

ORDINANCE #1996-38
(Attached)

#7 1st Reading Ordinance re: FY97 Budget Amendment. Moved by Davenport; seconded by Porter.

Ms. Porter asked where the money that otherwise would have been spent on things being covered by the bond is being set aside. She suggested that the monies be put in some place where they will be sequestered and easily identified by future Councils.

Ms. Habada stated that this was discussed with the auditors, and that the decision was to put these monies into the Undesignated Fund balance. She said, however, that she sees Ms. Porter's point.

Mr. Elrich requested that future budget commentaries note the amount of the "reserved funds."

Mr. Williams questioned whether funds for police vehicles normally come from unappropriated reserves.

Ms. Habada explained that although purchase of police vehicles is not normally handled this way, this particular purchase was planned this way all along.

Mr. Davenport noted that in the section under Special Revenue Fund, items (2) and (3) have an extra zero digit.

Ms. Habada acknowledged the needed correction.

Ordinance #1996-42 was accepted unanimously, authorizing FY97 Budget Amendment No. 1 (VOTING FOR: Davenport, Elrich, Porter, Rubin, Williams; ABSENT: Sharp, Chavez).

ORDINANCE #1996-42
(Attached)

#8 Resolution re: 1996 Holiday Season Recess. Mr. Elrich explained the resolution. Moved by Davenport; seconded by Rubin.

Resolution #1996-78 was adopted unanimously, setting forth the City Council's 1996 Holiday Recess to begin on Tuesday, December 17, 1996, and concluded on Friday, January 10, 1997 (VOTING FOR: Davenport, Elrich, Porter, Rubin, Williams; ABSENT: Sharp, Chavez).

RESOLUTION #1996-78
(Attached)

Mr. Elrich reminded the Council of the Executive Session scheduled for December 16.

WORKSESSION

Moved by Davenport; seconded by Rubin. The Council adjourned to Worksession at 9:30 p.m.

ADJOURNMENT

The Council convened in Executive Session at 10:30 p.m. to discuss matters related to land acquisition. The Council later adjourned for the evening.

EXECUTIVE SESSION

Executive Session 12/09/96 - Moved by Rubin; seconded by Davenport. Council convened in Executive Session by unanimous vote at 10:30 p.m., in the Conference Room. OFFICIALS PRESENT: Davenport, Elrich, Porter, Rubin, Williams. OFFICIALS ABSENT: Sharp, Chavez. STAFF PRESENT: Habada, Sartoph. Council discussed land acquisition. Staff was asked to obtain additional information on the subject property (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(3)).

Introduced By: Councilmember Davenport

RESOLUTION NO. 1996 - 77

**APPOINTING CITY REPRESENTATIVE ON THE MONTGOMERY COUNTY
DR. MARTIN LUTHER KING, JR., COMMEMORATIVE COMMITTEE**

WHEREAS, Montgomery County, Maryland, Executive Order 192-91, as amended, gives the County Executive authority to appoint a committee to advise the Executive on plans for an annual program or other activities in appreciation of the life and works of Dr. Martin Luther King, Jr.;
AND

WHEREAS, Executive Order 192-91, as amended, provides that the Executive may appoint one ex-officio voting member from any appropriate public agency/organization including, but not limited to, the City of Takoma Park; AND

WHEREAS, the Montgomery County Executive has requested that the City of Takoma Park appoint a member of the Montgomery County Dr. Martin Luther King, Jr., Commemorative Committee;
AND

WHEREAS, the City Administrator has asked Thomas Espinosa, Deputy City Clerk, to serve as the City's member of the Commemorative Committee, and he has agreed to serve.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT Thomas Espinosa, Deputy City Clerk, be and is hereby appointed as the City's member of the Montgomery County Dr. Martin Luther King, Jr., Commemorative Committee; AND

BE IT FURTHER RESOLVED, THAT this appointment is effective immediately, with an expiration date of April 1, 1998; AND

BE IT FURTHER RESOLVED, THAT the City Clerk transmit a copy of this Resolution to the Montgomery County Executive.

ADOPTED this 9th day of December, 1996.

Introduced By: Councilmember Davenport

RESOLUTION NO. 1996 - 78

SETTING FORTH THE CITY COUNCIL'S 1996 HOLIDAY RECESS

WHEREAS, it has been decided that in order to accommodate vacation schedules of the City Council, a holiday recess shall be called; **AND**

WHEREAS, this recess shall commence after an Executive Session scheduled for Monday, December 16, 1996; **AND**

WHEREAS, the Council will reconvene their meetings on Monday, January 13, 1997, with a Regular Meeting.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby set forth its holiday recess to begin on Tuesday, December 17, 1996, and conclude on Friday, January 10, 1997.

Dated this 9 day of December 1996.

Introduced by: Councilmember Williams

1st Reading: 11/25/96

2nd Reading:

ORDINANCE #1996-38

AMENDING CHAPTER 11. STREETS, ARTICLE 3. PERMITS AND IMPROVEMENTS, SECTION 11-21. PERMIT FEE, TO EFFECT AN INCREASE IN THE PERMIT FEE

WHEREAS, the importance of protecting public rights-of-way against private and public entities, and ensuring that rights-of-way are restored for safe public use after construction projects is recognized; **AND**

WHEREAS, a staff team has been formed to study and make recommendations regarding street construction permits, fees and conditions; **AND**

WHEREAS, research has discovered that the City of Takoma Park charges a below average permit fee based on a percentage rate of the estimated cost of the project; **AND**

WHEREAS, staff recommends that this rate be increased to a level that more accurately reflects the costs related to infrastructure repairs and improvements.

NOW, THEREFORE, BE IT ORDAINED THAT City Code Chapter 11. Streets, Article 3. Permits and Improvements, shall be amended as follows:

Sec. 11-21. Permit fee.

(a) Before any street, sidewalk, gutter, curb or drainage project (except a project which is entirely a grading project) may be begun on a road or street or within the boundaries of a dedication to the public use, the applicant for a permit to undertake the project shall pay to the Treasurer [four percent (4%)] eight percent (8%) of the estimated cost of the project as determined by the [Director] City Administrator or designee, as an inspection and engineering fee.

BE IT FURTHER ORDAINED THAT this ordinance shall become effective upon adoption.

ADOPTED this ____ day of _____, 1996.

NOTE: Deletions are [bracketed]; additions are underlined.

AYE:

NAY:

ABSTAIN:

ABSENT:

Introduced by Council Member Williams
First Reading: December 2, 1996
Second Reading: December 9, 1996

ORDINANCE NO. 1996-40

CITY OF TAKOMA PARK

**ADJUSTABLE RATE GENERAL OBLIGATION BONDS
(MARYLAND MUNICIPAL BOND FUND), 1996 SERIES**

ORDINANCE OF THE COUNCIL OF THE CITY OF TAKOMA PARK, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND, PROVIDING FOR THE ISSUANCE AND SALE OF ONE MILLION THREE HUNDRED NINETY-FOUR THOUSAND FOUR HUNDRED DOLLARS (\$1,394,400) AGGREGATE PAR AMOUNT OF BONDS OF THE CITY OF TAKOMA PARK, TO BE KNOWN AS "THE CITY OF TAKOMA PARK ADJUSTABLE RATE GENERAL OBLIGATION BONDS (MARYLAND MUNICIPAL BOND FUND), 1996 SERIES", TO BE ISSUED AND SOLD PURSUANT TO THE AUTHORITY OF SECTIONS 501 AND 923 OF THE CHARTER OF CITY OF TAKOMA PARK, AS AMENDED, AND SECTIONS 31 THROUGH 37 OF ARTICLE 23A OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED, FOR THE PURPOSE OF PROVIDING FUNDS NECESSARY FOR STREET AND STORM DRAIN INFRASTRUCTURE IMPROVEMENTS, ACQUISITION OF EQUIPMENT AND RENOVATION OF VARIOUS CITY BUILDINGS, OTHER PUBLIC PURPOSES AND RELATED COSTS; PROVIDING THAT THE BONDS SHALL BE ISSUED UPON THE FULL FAITH AND CREDIT OF THE CITY OF TAKOMA PARK; PROVIDING FOR THE DISBURSEMENT OF THE PROCEEDS OF THE SALE OF THE BONDS AND FOR THE LEVY OF ANNUAL TAXES UPON ALL ASSESSABLE PROPERTY WITHIN THE CITY OF TAKOMA PARK FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST, AND PREMIUM, IF ANY, ON THE BONDS AS THEY SHALL RESPECTIVELY MATURE; PROVIDING FOR THE FORM, TENOR, DENOMINATION, MATURITY DATE AND OTHER PROVISIONS OF THE BONDS; PROVIDING FOR THE SALE OF THE BONDS; AND PROVIDING FOR RELATED PURPOSES, INCLUDING THE METHOD OF FIXING THE INTEREST RATE TO BE BORNE BY THE BONDS.

WHEREAS, The City of Takoma Park (the "Issuer") is a municipal corporation of the State of Maryland organized and operating under a charter (the "Charter") adopted in accordance with

Article XI-E of the Constitution of Maryland and Article 23A of the Annotated Code of Maryland, as amended ("Article 23A"); and

WHEREAS, under Sections 501 and 923 of the Charter, the Issuer is empowered to borrow money for any proper purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, Section 31 of Article 23A empowers every municipal corporation to borrow money for any proper public purpose and to evidence such borrowing by the issue and sale of its general obligation bonds in the manner therein prescribed; and

WHEREAS, pursuant to the authority of Sections 501 and 923 of the Charter and Sections 31 through 37 of Article 23A, the Issuer has determined to issue its general obligation bonds in the principal amount of One Million Three Hundred Ninety-four Thousand Four Hundred Dollars (\$1,394,400), to be known as "The City of Takoma Park Adjustable Rate General Obligation Bonds (Maryland Municipal Bond Fund), 1996 Series" for the purpose of providing funds necessary for street and storm drain infrastructure improvements, acquisition of equipment and renovation of various city buildings, other public purposes and related costs (the "Project"), and payment of costs of issuance and other related costs; and

WHEREAS, the Council held a public hearing with respect to the issuance of the Bonds on September 24, 1996, pursuant to Section 923(b) of the Charter, which requires that any proposed new indebtedness of the Issuer which exceeds five percent (5%) of the annual budgeted revenue shall be subject to a public hearing, and that the Council may not take final action with respect to such proposed indebtedness less than fourteen (14) days from the date of the public hearing; and

WHEREAS, it is the intention of the Issuer by this Ordinance to provide for the issuance and

sale of the aforementioned Bonds and the financing of the Project by applying to the Maryland Economic Development Corporation ("MEDCO") for a loan (the "Loan") from the Maryland Municipal Bond Fund (the "Program") and entering into a Loan Agreement with MEDCO (the "Loan Agreement").

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Authorization, Terms, Form of Bonds.

(a) The Issuer shall borrow upon its full faith and credit and shall issue and sell upon its full faith and credit One Million Three Hundred Ninety-Four Thousand Four Hundred Dollars (\$1,394,400) principal amount of its bonds, to be issued pursuant to the authority of Sections 501 and 923 of the Charter and Sections 31 through 37 of Article 23A, to be known as "The City of Takoma Park Adjustable Rate General Obligation Bonds (Maryland Municipal Bond Fund), 1996 Series" (the "Bonds"). The proceeds from the sale of the Bonds shall be used for the purpose of providing funds necessary for the Project and payment of costs of issuance and other related costs.

(b) The Bonds shall be issued as a single fully registered bond in the principal amount of One Million Three Hundred Ninety-Four Thousand Four Hundred Dollars (\$1,394,400), payable to MEDCO, as the initial the registered owner thereof.

(c) The Bonds shall be dated as of the date of issuance and delivery thereof or such other date as shall be approved by the Mayor; shall be numbered R-1; shall be registered in the name of MEDCO or its designee; and shall be payable in principal installments as set forth in and bear interest at such rates as determined from time to time in accordance with the final executed Loan Agreement. The interest rate to be borne by the Bonds from time to time shall be determined by the remarketing agent as provided in the Loan Agreement and the Indenture of Trust, dated as of June 1, 1995,

between MEDCO, First Trust National Association, as trustee, and The Bank of New York, as successor fiscal agent.

(d) The Bond shall be in substantially the form set forth in EXHIBIT A attached hereto and made a part hereof by this reference. Because this Ordinance is being adopted before the details of the Loan to be made by MEDCO to the Issuer have been finalized, the Mayor is hereby authorized to make such changes to the amount and form of the Bonds, including insertions therein or additions or deletions thereto, as may be necessary to conform the terms of the Bonds to the terms of the Loan. Without limiting the foregoing, it is presently contemplated that the Loan will be in an amount not to exceed the principal amount of the Bonds hereby authorized, subject to final approval by MEDCO; accordingly, the Mayor is specifically authorized: (i) to make changes to the principal amount of the Bonds in order to reflect the final principal of the Loan as approved by MEDCO and accepted by the Issuer, (ii) to authorize and approve an interest rate or rates and payment schedule reflecting the principal and interest payments with respect to the Bonds, and (iii) to attach such payment schedule, as approved, to the form of the Bonds.

(e) The Bonds are to be issued in connection with the Program to finance the Project and payment of costs of issuance and other related costs. Under the Program, the Issuer will enter into the Loan Agreement with MEDCO, a draft of which is attached hereto as Exhibit B. The Issuer will also execute and deliver in connection with the issuance of the Bonds and the Program additional documents, agreements, instruments and certificates (which, together with the Loan Agreement are herein referred to as the "Program Documents"). The form of the Loan Agreement is approved, subject to such further modifications or changes as herein authorized.

Section 2. Execution; Form of Program Documents.

The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the Mayor of the Issuer, and the seal of the Issuer shall be affixed thereto and attested by the manual signature of the City Clerk of the Issuer. The Program Documents shall be executed on behalf of the Issuer by the manual signature of the Mayor or the City Administrator of the Issuer or any other officer of the Issuer designated by the Mayor, and the seal of the Issuer shall be affixed thereto and attested by the manual signature of the City Clerk of the Issuer. If any officer whose signature shall appear on the Bonds or the Program Documents shall cease to be such officer before the delivery of the Bonds or the Program Documents, such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Because this Ordinance is being adopted before the details of the Loan to be made by MEDCO to the Issuer have been finalized, the Mayor of the Issuer is hereby authorized, empowered and directed to complete the applicable form of the Bonds and the Program Documents and to make such modifications, corrections or changes thereto in any manner which the Mayor, in his or her discretion, shall deem necessary to complete the issuance and sale of the Bonds and the execution and delivery of the Program Documents, all as may be in the best interest of the Issuer. The execution of the Bonds by the Mayor shall be conclusive evidence of his or her approval of the form and substance thereof.

Section 3. Prepayment. The Issuer may prepay the Bonds in accordance with the provisions of the Loan Agreement.

Section 4. Replacement of Mutilated, Lost, Stolen, or Destroyed Bonds. In case any Bond (a "Bond" being, for purposes of this section, any one of the Bonds) shall become mutilated or be destroyed, lost or stolen, the Issuer may cause to be executed and delivered a new Bond of like date and tenor and bearing the same or a different number, in exchange and substitution for each Bond

mutilated, destroyed, lost or stolen, upon the registered owner paying the reasonable expenses and charges of the Issuer in connection therewith and, in the case of any Bond being destroyed, lost or stolen upon the registered owner filing with the Issuer evidence satisfactory to it that such Bond was destroyed, lost or stolen, and the ownership thereof, and furnishing the Issuer with indemnity satisfactory to it. Any Bond so issued in substitution for a Bond so mutilated, destroyed, lost or stolen shall constitute an original contractual obligation on the part of the Issuer under this Ordinance whether or not the Bond in exchange for which said new Bond is issued shall at any later date be presented for payment and such payment shall be enforceable by anyone, and any such new Bond shall be equally and proportionately entitled to the benefits of this Ordinance with all other like Bonds, in the manner and to the extent provided herein.

Section 5. Use of Proceeds. The proceeds of the Bonds shall be held, invested and administered pursuant to the Loan Agreement and shall be used, when and as required, to pay costs of the Project in compliance with the provisions of the Loan Agreement and this Ordinance. Any balance of the proceeds of the Loan remaining after payment in full of all costs of the Project and any other cost authorized to be paid under this Ordinance may be applied to reduce the principal of the Loan in accordance with the terms of the Loan Agreement.

Section 6. Covenants. The Issuer covenants with and for the benefit of the registered owners from time to time of the Bonds, that so long as the Bonds or installments of principal thereunder shall remain outstanding and unpaid:

(a) The Issuer will duly and punctually pay, or cause to be paid, to the registered owner of the Bonds the principal of the Bonds and interest, and premium, if any, accruing thereon, at the dates and places and in the manner mentioned in the Bonds, according to the

true intent and meaning thereof.

(b) The Issuer covenants that so long as any of the Bonds are outstanding and not paid, it will levy annually, in the manner prescribed by law, a tax on all real and tangible personal property within its corporate limits subject to assessment for unlimited taxation, *ad valorem* taxes in rate and amount and sufficient, to provide for the payment of the principal of and interest on the Bonds as the same become due and payable; and in the event that the taxes so levied in any fiscal year shall prove inadequate for the above purposes, the Issuer shall levy additional taxes in the succeeding fiscal year to make up such deficiency; and the full faith and credit and the unlimited taxing power of the Issuer are hereby irrevocably pledged to the punctual payment of the principal of and interest on the Bonds as the same become due.

Section 7. Ordinance a Contract. The provisions of this Ordinance shall constitute a contract with the purchaser and registered owner from time to time of the Bonds, and this Ordinance shall not be repealed, materially modified or altered while the Bonds or any portion thereof remain outstanding and unpaid without the consent of the registered owners of the Bonds.

Section 8. Special Tax Covenants.

(a) The Issuer covenants that it will not make any use of the proceeds of the Bonds or any moneys, securities or other obligations on deposit to the credit of the Issuer or otherwise which may be deemed by the Internal Revenue Service to be proceeds of the Bonds pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and the Income Tax Regulations thereunder (collectively, the "Code"), which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(b) The Issuer further covenants that it will not (i) take any action, (ii) fail to take any

action, or (iii) make any use of the proceeds of the Bonds, which would cause the interest on the Bonds to be or become includible in gross income for federal income tax purposes in the hands of the registered owners thereof.

Section 9. Sale of the Bonds. Notwithstanding Sections 32(3) and 34(4) of Article 23A, the Bonds shall be sold to MEDCO under the Program at private sale, as authorized by Section 923(a) of the Charter of the Issuer. The Council hereby determines that the sale of the Bonds by private negotiated sale to MEDCO is in the best interests of the Issuer.

Section 10. Further Actions.

(a) The officers and employees of the Issuer are hereby authorized -and directed to do all acts and things required of them by the provisions of this Ordinance, for the full, punctual and complete performance of all the terms, covenants and provisions of the Bonds, the Program Documents and this Ordinance, and to do and perform all acts, to make elections, and to execute, seal and deliver all documents or instruments of writing which may be necessary or desirable to carry out the full intent and purposes of this Ordinance and the Program Documents.

(b) Pursuant to the requirements of Sections 308(f) and 310 of the Charter, the City Clerk shall promptly cause this Ordinance to be posted on the City Hall Bulletin Board for one week after its introduction and for at least three weeks after its adoption and shall promptly cause this Ordinance to be permanently filed among the records of the Council of Takoma Park.

(c) The Council of the City of Takoma Park may, by a resolution supplemental to this Ordinance, provide for such additional matters in connection with the issuance, delivery

and sale of the Bonds and the execution and delivery of the Program Documents, including, without limitation, changes in the Project, changes concerning the sale of the Bonds, the maturity thereof, details of payment or interest payable thereon.

(d) The City Clerk or any Deputy City Clerk shall act as Registrar for the Bonds.

No bond shall be required of the City Clerk or any Deputy City Clerk in acting as registrar for the Bonds.

Section 11. Effective Date; Governing Law; Severability; Miscellaneous. This Ordinance shall take effect immediately upon its approval by the Council of the City of Takoma Park. The laws of the State of Maryland shall govern the construction of this Ordinance and the Bonds. The provisions of this Ordinance are severable, and if any provision, sentence, clause, section or part hereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provision, sentence, clause, section or part hereof to other persons or circumstances. It is hereby declared to be the legislative intent that this Ordinance would have been passed if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included herein, or if the person or circumstance to which this Ordinance or any part hereof is inapplicable had been specifically exempted herefrom. Any copy of this Ordinance duly certified by the City Clerk or any successor in office shall constitute evidence of the contents and provisions hereof.

Section 12. Bank Qualification of Bonds. The Bonds are hereby authorized to be designated "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

ADOPTED by The Council of Takoma Park of The City of Takoma Park and attested to by
the City Clerk on December 9, 1996.

Attest:

City Clerk

[SEAL]

Adopted by the Council of Takoma Park this 9th day of December, 1996 by Roll Call Vote,
as follows:

Aye: Davenport, Williams, Elrich, Rubin

Nay: Porter

Abstain: None

Absent: Sharp and Chavez

Exhibits

A - Form of Bonds

B - Form of Loan Agreement

C:\DOC51\GENTAK00402.ORD (December 10, 1996)

FORM OF BONDS

**United States of America
State of Maryland
The City of Takoma Park
Adjustable Rate General Obligation Bond
(Maryland Municipal Bond Fund), 1996 Series**

No. R-1

\$1,394,000

THE CITY OF TAKOMA PARK, a municipal corporation duly organized and existing under the Constitution and laws of the State of Maryland (the "Issuer"), hereby promises to pay to:

or its registered assigns, the principal amount of One Million Three Hundred Ninety-Four Thousand Dollars (\$1,394,000), plus interest on each unpaid principal installment at the rates determined from time to time in accordance with the terms of the Loan Agreement, dated as of December 1, 1996 (the "Loan Agreement"), between the Issuer and the Maryland Economic Development Corporation ("MEDCO"). The Bonds are issued in connection with the Maryland Municipal Bond Fund of MEDCO and are subject to the terms and conditions of the Loan Agreement. Principal of this Bond shall be paid to the registered owner hereof in accordance with the payment schedule set forth in the Loan Agreement. Principal of this Bond is subject to prepayment in accordance with the terms of the Loan Agreement.

In the event any payment hereon (whether principal, interest or both) is not paid when due and payable, such payment shall continue as an obligation of the Issuer and shall bear interest until paid at the rates of interest borne by this bond. Principal hereof and interest due hereon shall be paid in accordance with the terms of the Loan Agreement.

This bond, designated as "The City of Takoma Park Adjustable Rate General Obligation Bond (Maryland Municipal Bond Fund), 1996 Series" (the "Bond"), is a general obligation of the Issuer, limited to an aggregate principal amount of One Million Three Hundred Ninety-Four Thousand Dollars (\$1,394,000 Dollars), and has been duly issued by the Issuer for the purpose of providing funds necessary for street and storm drain infrastructure improvements, acquisition of equipment and renovation of various city buildings, other public purposes and related costs, and payment of costs of issuance and other related costs.

The Bonds are issued pursuant to the authority of Sections 501 and 923 of the Charter of the Issuer, as amended, and Sections 31 through 37 of Article 23A of the Annotated Code of Maryland,

as amended, and an Ordinance of the Issuer adopted on December 9, 1996 (the "Ordinance"). The full faith and credit of the Issuer are hereby irrevocably pledged to the payment of the principal of this Bond and the interest to accrue thereon.

This Bond is subject to prepayment in accordance with the provision of the Loan Agreement.

The Issuer may treat the person in whose name the Bond is registered as the absolute owner hereof, whether or not the Bond shall be overdue, for the purpose of receiving payment thereof and for all other purposes whatsoever, and shall not be affected by any notice to the contrary, except as provided below.

The Bond is assignable and upon such assignment the assignor shall promptly notify the Issuer by certified mail, and the assignee shall surrender the Bond to the Issuer for transfer on the registration records and verification of the portion of the principal amount hereof and interest hereon paid or unpaid, and every such assignee shall take the Bond subject to such condition.

As declared by Section 35 of Article 23A of the Annotated Code of Maryland, as amended, the Bond shall be fully negotiable under the laws of the State of Maryland and nothing contained in the Bond shall affect or impair the negotiability of the Bond. The Bond is issued with the intent that the laws of the State of Maryland shall govern its construction.

No recourse shall be had for the payment of the principal of, the interest on, and premium, if any, or for any claim based hereon or on the Ordinance against any elected or appointed official or employee, past, present or future of the Issuer or any agency thereof; and any such recourse, claim or liability is expressly waived by acceptance by the registered owner of the delivery of the Bond.

It is hereby certified and recited that each and every act, condition and thing required to exist, to be done, to have happened and to be performed precedent to and in the issuance of the Bond does exist, has been done, has happened and has been performed in full and strict compliance with the Constitution and laws of the State of Maryland, the Charter of the Issuer and the proceedings of the Issuer.

IN WITNESS WHEREOF, The City of Takoma Park has caused this Bond to be signed in its name by the manual or facsimile signature of its Mayor, its corporate seal to be affixed hereto and attested by the manual signature of the Acting City Clerk and this Bond to be dated _____, 1996.

ATTEST:

CITY OF TAKOMA PARK

City Clerk

By: _____
Mayor

[SEAL]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto:

PLEASE INSERT SOCIAL SECURITY OR TAXPAYER
IDENTIFICATION NUMBER OF ASSIGNEE: _____

(Please Print or Type in the space provided above the Name and Address Including Postal Zip Code of Assignee)
the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints:

Administration maintained by the Trustee for the registration thereof, with full power of substitution in the
premises.

Dated:

Signature of Registered Owner

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular without alteration or enlargement or any change whatever. The signature must be guaranteed.

Signature guaranteed by:

(Bank, Trust Company or Firm)

(Authorized Signature)

Exhibit B

FORM OF LOAN AGREEMENT

[Loan Agreement, draft dated December 5, 1996, to be attached hereto.]

Introduced by Councilmember Rubin

Single Reading: 12/9/96

Ordinance No. 1996-41

ROOF REPLACEMENT IN THE EQUIPMENT MAINTENANCE
BUILDING MAINTENANCE AND STREET DIVISION

WHEREAS, the FY97 Capital Budget identified \$10,000 for Roof Replacement in the Public Works Department; AND

WHEREAS, the City Council authorized issuance of a Request For Proposals to solicit bids for Roof Replacement; AND

WHEREAS, in accordance with City procurement procedures an RFP was advertized in the Washington Post on Sunday, November 3, 1996 and mailed to four (4) interested vendors; AND

WHEREAS, bids were received and publicly opened on Friday, November 22, 1996 at 2:00 with three (3) proposals being received, as follows:

	<u>Eq. Maint</u>	<u>Bldg/Street</u>	<u>Total</u>	<u>Labor/Material</u>
Denchfield Roofing Corp.	\$15,490	\$8,900	\$24,390	\$2.30/sq.ft
Atlas Contractors, Inc.	\$16,446	\$9,415	\$25,861	\$4.73/sq.ft
J.E. Wood & Sons	\$18,643	\$7,743	\$26,386	\$3.31/sq.ft

WHEREAS, Denchfield Roofing Corporation has submitted the lowest bid and is considered to be both responsive and responsible; AND

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT the low bid received from Denchfield Roofing Corporation in the amount of TWENTY FOUR THOUSAND THREE HUNDRED NINETY DOLLARS (\$24,390) plus labor and material charges @ \$2.30/sq.ft. be accepted; AND

SECTION 2. THAT this purchase in the amount of TWENTY FOUR THOUSAND THREE HUNDRED NINETY DOLLARS (\$24,390) plus \$2.30/sq.ft labor and material fees be charged to Capital Expenditures Account# 9100-8000.

AYE: Davenport, Elrich, Porter, Rubin, Williams
NAY: None
ABSTAIN: None
ABSENT: Sharp, Chavez

Introduced By: Councilmember Davenport

First Reading: 12/9/96
Second Reading:

**ORDINANCE NO. 1996-42
FY97 BUDGET AMENDMENT NO. 1**

BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF TAKOMA PARK,
MARYLAND THAT

SECTION 1. The Fiscal Year 1997 Budget be amended as follows:

General Fund - Revenues

1. Appropriate \$1,394,400 to account 0001.3605 for proceeds of bond issuance.
2. Transfer \$932,400 from account 0001.3011, to undesignated fund balance.
3. Appropriate \$1,150 to account 0001.3684 for the sale of surplus cable equipment.
4. Appropriate [\$9,757] \$7,700 to account 0001.3314 for receipt of a Private Industry Council (PIC), grant for summer youth employment.

General Fund - Expenditures

1. Appropriate \$18,000 to account 8000.7254 for debt service payments.
2. Appropriate an additional \$1,150 to account 6000.8002 for the purchase of cable television equipment.
3. Appropriate [\$4,476] \$4,370 to account 4000.4010 for salary expenditures for the PIC summer youth career development grant.
4. Appropriate [\$850] \$560 to account 4000.4020 for fringe benefit expenditures for the PIC summer youth career development grant.
5. Appropriate [\$4,431] \$2,770 to account 4000.6151 for operating expenditures for the PIC summer youth career development grant.
6. Transfer \$28,350 from account 1130.4010 to account 1120.4010, salary accounts, for the transfer of one position from Accounting to General Management.
7. Transfer \$7,517 from account 1130.4020 to account 1120.4020, fringe benefits, for the transfer of one position from Accounting to General Management.
8. Appropriate \$300,000 to account 9100.8000 for street rehabilitation.
9. Appropriate \$200,000 to account 9100.8003 for replacement of 2 trash trucks.

10. Appropriate \$14,000 to account 9100.8000 for HVAC controls/energy reduction in various buildings.

11. Appropriate \$30,000 to account 9100.8000 for interior energy reduction/lights in various buildings.

General Fund - Transfers to Expenditure Accounts

Transfer \$49,000 from Unappropriated Reserves into account 9100.8000 for the purchase of 2 police replacement vehicles.

Special Revenue Fund - Revenues

1. Appropriate \$500,000 to account 0010.3905 from a State grant for Takoma Junction site development.

2. Appropriate \$7,500[0] in Program Open Space funds to account 0010.3831 for Colby Park improvements.

3. Transfer \$2,500[0] from Unappropriated Reserves to account 0010.3385 for Colby Park improvements.

Special Revenue Fund - Expenditures

1. Appropriate \$500,000 to account 0010.6854 for Takoma Junction site development.

2. Appropriate \$10,000 to account 0010.7192 for Colby Park Improvements.

SECTION 2. THAT this Ordinance shall become effective upon adoption.

Adopted this th day of January 1997, by Roll Call vote as follows:

AYE:

NAY:

ABSTAIN:

ABSENT:

deletions are [bracketed]; additions are underlined