

AGENDA ITEM #10  
November 30, 2010  
**Action**

**MEMORANDUM**

November 23, 2010

TO: County Council

FROM: Essie McGuire, Legislative Analyst *EMC*  
Michael Faden, Senior Legislative Attorney *MF*

SUBJECT: **Action – Bill 21-10, Special Capital Improvement Project, Glenmont Fire Station 18 Replacement**

**PUBLIC SAFETY COMMITTEE RECOMMENDATION**

**The Public Safety Committee met on November 22 to review Bill 21-10, and unanimously recommended approval of the legislation with the following amendments:**

*Insert on line 6 of Bill 21-10*

The County Executive must select a name for new Fire Station 18 that reflects the history and legacy of the Kensington Volunteer Fire Department in the Glenmont community.

The Fire Chief, after consulting the Kensington Volunteer Fire Department, must develop a plan for the potential reintroduction of volunteer firefighters into new Fire Station 18.

**Bill 21-20 as amended by the Committee is attached on circles 1-2.**

Today the County Council is scheduled to take action on Bill 21-10, Special Capital Improvements Project – Glenmont Fire Station 18 Replacement. Bill 21-10 was introduced on April 20, 2010, by the Council President at the request of the County Executive. The Council held a public hearing on the bill on June 22. The Public Safety Committee met on July 12 and November 23 to review the legislation and the fiscal and policy issues related to the Station 18 replacement project.

The following are expected to attend:

- Richard Bowers, Fire Chief, Montgomery County Fire and Rescue Service
- David Dise, Director, Department of General Services
- John Fisher, Office of the County Attorney
- Blaise DeFazio, Office of Management and Budget

Steven Semler, President of the Kensington Volunteer Fire Department (KVFD), and Marcine Goodloe, President of the Montgomery County Volunteer Fire and Rescue Association (MCVFRA), will also attend the worksession and be available to participate in the discussion.

## **BACKGROUND**

Bill 21-10 would authorize the County to plan, design, and construct the Glenmont Fire Station 18 replacement. It is necessary to replace Fire Station 18 because the existing station must be demolished to accommodate a major intersection improvement at Georgia Avenue and Randolph Road. The bill, Legislative Request Report, Project Description Form (PDF), and the Executive's transmittal memorandum are attached on circles 1-6.

The current cost criterion for projects to require Special Projects Legislation under County Code Section 20-1 (circles 7-9) is \$12,863,000. The Glenmont Station 18 Replacement PDF currently shows a project total of \$13 million, and so must be authorized by Bill 21-10 to move forward past the planning stage. County Code Section 21-26 (circles 10-11) addresses the title to fire, rescue, and emergency medical service apparatus and facilities, specifically new apparatus and facilities purchased with tax funds after 1980. It also allows for joint ownership of newly constructed fire stations under certain conditions including a 50% cost contribution by the LFRD.

At its July worksession, the Public Safety Committee received information regarding the importance of the intersection improvement and the possible scenarios for reimbursement to KVFD for the current station. The Committee also reviewed concerns raised in public hearing testimony regarding costs associated with the new station, and reviewed the construction timetables for both the road and fire station projects.

The Committee did not make a recommendation on the bill at its July worksession, but asked the Executive to continue to try to reach agreement with KVFD on either a path to co-ownership under County Code §21-26 or another resolution to the reimbursement and operational issues.

## **STATUS UPDATES**

**Land acquisition:** On circle 12, Executive staff reports an anticipated closing for the land for the new fire station before the end of 2010, with an estimated cost between \$2.1-2.3 million.

**Greater Glenmont Civic Association:** On October 25, the Council received a letter from the Greater Glenmont Civic Association supporting the relocation plan for the fire station as a key component in moving the road improvement and other associated capital improvement projects forward (circle 52).

The Council received testimony in opposition to the project from the Glenmont Civic Association, Inc., at its June 22 public hearing. Council staff understands that this organization has filed an appeal on the Planning Board's decision regarding the forest conservation plan for the Glenmont Parking Garage project as a whole. The new Station 18 will be located on the same parcel, the "WMATA Triangle Property". The Council approved this site for the Station 18 Replacement by Resolution 15-1483 in May 2006.

**Meetings between the County and KVFD:** As the Committee directed, County staff and KVFD continued to meet through the summer and fall to negotiate possible solutions to the ownership issues. On circles 18-19, KVFD outlined several options offered that were not

acceptable to the County, some of which (such as building the new station on a different part of the current site and building a station at significantly lower cost) the Committee reviewed in July.

Council staff understands that, at this juncture, a variation of option #5 outlined on the top of circle 19 is under consideration. This option would seek to maximize KVFD's compensation for the current station. KVFD would then use this funding to augment its fire-rescue services as a whole and the County would construct the new station at its own expense and for its own ownership. This option is still in process, pending further discussions with the State Highway Administration regarding what reimbursement may be available to KVFD under State and Federal processes. Chief Bowers has indicated his intent to continue to support KVFD in its reimbursement negotiations with the State.

**Information on other stations:** In response to Council staff's question, both Executive staff (circle 12) and the MCVFRA (circles 17-18) provided information about other new fire stations constructed since §21-26 was amended in 1998 to allow the 50% funding/joint ownership option.

Five stations have been constructed in the County since 1998 (six if the Clarksburg interim station is included). Of those, three were replacements of existing LFRD stations: Silver Spring FS #1, Takoma Park FS #2, and Sandy Spring FS #4. Of these, only the Sandy Spring station was constructed with 50/50 funding, resulting in joint ownership. The remaining two (three including Clarksburg) were new stations under MCFRS, Kingsview #22 and Milestone #34.

MCVFRA and the County both note that the County is in the process of building a replacement for the Wheaton Volunteer Rescue Squad station, and that the new station would be constructed under the cost sharing arrangement in §21-26.

## ISSUES

### **1. Georgia Avenue and Randolph Road intersection improvement project**

As the Committee discussed in July, this road intersection improvement project is very important to the County. At that worksession, Executive branch staff reported that the project was in the County's top 10 priority projects list for 10 years and that the County has invested significant public dollars in the project to date.

Executive staff outlined the current timetables for the road and fire station construction on circle 12. This is clearly a very tight timeline for both projects to proceed without disrupting emergency service and appears to be feasible only if the Council approves Bill 21-10 on the current schedule, allowing the fire station project to move forward.

At the July Committee worksession, representatives from the State Highway Administration indicated that the State would not move forward on the intersection project until the fire station replacement was resolved. The intersection definitely could be delayed, possibly indefinitely, if the fire station project does not move forward on its current timetable.

## 2. Application of County Code §21-26 to Fire Station 18

County Code §21-26, regarding the ownership of any new fire station built in the County, provides that:

- (b) **All apparatus and facilities purchased with tax funds after July 30, 1980, must be titled to the County** and must be assigned in accordance with the adopted master fire, rescue, and emergency services plan. A newly constructed fire station, purchased with tax funds after July 1, 1999, may be held under a title reflecting concurrent ownership by the County and a local fire and rescue department if:
- (1) the station complies with the adopted master fire, rescue, and emergency medical services plan;
  - (2) the local fire and rescue department has contributed, or is legally committed to contribute, at least 50 percent of the on-site cost of the station, including any land cost, and of the station's proportionate share of off-site costs directly attributable to the project; and
  - (3) the Chief Administrative Officer has signed a contract with the local fire and rescue department that assures, to the fullest extent legally possible, that the station will be available for fire and rescue purposes until the station is disposed of under subsection (c), and that the station will be operated according to County law, regulations, and policies.

*(emphasis added)*

A recent email message from Marcine Goodloe, President of the County Volunteer Fire and Rescue Association, included several statements interpreting this subsection. Council staff does not agree with some of her interpretations. Specifically:

1) Ms. Goodloe said that:

Chapter 21-26(b), which is the sole source of the 50% LFRD buy-in requirement, does not apply to KVFD Station 18 at all because that subsection "b" deals only with stations built after 1980. Since Station 18 was built before 1980, it is covered by Section 21-26(a), which contains no 50% buy-in requirement thereby allowing ANY deal for the replacement of the station.... Let us assume solely for the sake of argument that section "b" did apply to Station 18, it is still not covered by "b" because the Station was not build by taxes funds and is 100% owned by KVFD.

This conclusion is incorrect because the only issue here is the replacement station, which §21-26(b) applies to. When the original station 18 was built, and by whom, is irrelevant. The intent of subsection (b) is to specify the ownership of *any station bought with tax funds after July 30, 1980*. The language in subsection (b) clearly provides that the County owns any "new" (post-1980) station, with the sole exception of a post-1999 station that is put under concurrent ownership if it meets the conditions in paragraphs (b)(1)-(3).

2) Ms. Goodloe also said that:

It is our firm belief that "b", which is the sole source of the "50%" buy-in requirement, does not apply to the Station 18 situation, thereby allowing any deal to be struck, such as allowing KVFD co-ownership on the basis of contributing to the County whatever it gets for the State in eminent domain proceeds...

Again, the question is what rules apply to any new station. While the Council can, of course, amend the law at any time, the current 50% contribution requirement is clear and is not subject to waiver by the County. It is also not clear to Council staff why this local fire and rescue department would be entitled to any more favorable treatment than the other local department which met the 50% requirement or the several local departments which occupy other new stations built since 1980.

### **3. Fiscal and operational implications of ownership**

Council staff asked both MCVFRA and Executive staff to discuss the fiscal and operational implications of which entity would own the new fire station.<sup>1</sup>

The Executive staff response on circle 13 noted that station operations are funded by County tax dollars regardless of who legally owns the station because either the County is responsible for daily station operations directly or the LFRD is reimbursed by the County for those expenditures. Ownership does not result in a significant cost difference to the County or to the LFRD in operating and maintaining the facility. As the current discussion illustrates, asset ownership can have significant consequences when the building is sold or replaced. Executive staff points out that the County may not be able to recover Federal funding for the replacement, in part because the County does not own the current station.

Operationally, the situation is more complicated. MCVFRA provided two examples of written agreements between the County and LFRDs, one for a County-owned facility, Fire Station #25 in Layhill (circles 21-27), and one for Sandy Spring Station #4 which is jointly owned (circles 28-50). On circles 19-20, MCVFRA outlined the differences it sees, primarily in volunteer presence, responsibility, and access to the facility and its operations.

Most operational requirements are the same. All operations and facility issues must be managed in both cases consistent with County laws, regulations, and policies. Since County law gives ultimate operational authority to the Fire Chief for all fire-rescue services, volunteers must work with the MCFRS structure under any ownership arrangement.

However, Council staff notes the differences cited in volunteer focus and responsibility between the two MOUs. Council staff also agrees with MCVFRA that the MOU for the jointly-owned station gives the volunteer corporation more direct responsibility to carry out maintenance, repair, and other daily operations (at County expense) for the station. Council staff concludes, however, that such an arrangement is more appropriate for a station with a volunteer presence on site sufficient to perform and sustain daily responsibilities. Glenmont Station 18 is fully staffed with career personnel, and the volunteer presence is occasional. This could complicate the corporation's efforts to manage the facility.

---

<sup>1</sup> There has been some discussion, at the July worksession and recently, of a possible leaseback scenario to KVFD if the County owned the building. The County Attorney's Office raised several legal concerns about this option on circle 13; Council staff disagrees with some of these conclusions. However, whether legally permissible or not, the leaseback scenario would raise the same operational consequences as ownership, which are discussed later in this section.

**Council staff also suggests that the elements of volunteer presence and access are not solely contingent on ownership.** At the July worksession, Mr. Dise and Chief Bowers both noted that the new Station 18 will be planned to incorporate a potential future volunteer presence. Mr. Dise said that the Program of Requirements for the station includes space for volunteers. Chief Bowers has repeated his commitment to working with volunteers at this or any other fire station. Executive staff also indicated that in recent negotiations with KVFD the Executive has emphasized that he will consider how to include the KVFD name in the name of the new station to honor the legacy of the volunteers in that community.

#### **4. Cost sharing**

As already noted, under §21-26 the only option available for an LFRD to jointly own a new fire station is to contribute at least 50% of the total cost of the project. It is unclear at this point whether KVFD will pursue this option for Station 18 since the potential reimbursement from either State or Federal sources is not yet resolved. The Council's approval of Bill 21-10 at this time does not preclude joint ownership if KVFD secures sufficient funding in the near future.

MCVFRA raised additional issues about the cost of the station on circles 17-18, specifically in reference to the replacement of the Wheaton Volunteer Rescue Squad building (WVRS). MCVFRA's response stated that the per square foot construction cost for the Wheaton project is significantly lower than the budgeted square foot cost for the Station 18 replacement. The PDF for the Wheaton Rescue Squad Relocation is attached on circle 51 for reference.

There are differences in scope between the rescue squad station and a fire station; the PDF for Wheaton calls for a Class I station and the PDF for Glenmont calls for a Class II station. The PDF for Wheaton has a project total of \$9.8 million, which reflects only the County portion of the project. Thus, if this budgeted portion represents half of the total, the project cost for Wheaton would be even greater than for the Station 18 replacement. Even if the project is currently under budget, the total cost would have to fall dramatically to be much lower than the current estimate for the Station 18 replacement. **The Committee had extensive discussion of scope and cost issues related to these and other future fire station projects. The Committee expressed its intent to review possible options to contain fire station construction costs as well as practices in other jurisdictions.**

#### **PUBLIC SAFETY COMMITTEE RECOMMENDATION**

**The Public Safety Committee met on November 22 to review Bill 21-10, and unanimously recommended approval of the legislation with the following amendments:**

*Insert on line 6 of Bill 21-10*

The County Executive must select a name for new Fire Station 18 that reflects the history and legacy of the Kensington Volunteer Fire Department in the Glenmont community.

The Fire Chief, after consulting the Kensington Volunteer Fire Department, must develop a plan for the potential reintroduction of volunteer firefighters into new Fire Station 18.

**Bill 21-20 as amended by the Committee is attached on circles 1-2.**

The Committee discussed that given the urgency of both the intersection and fire station projects, both should be able to proceed in a timely manner.

The Committee also discussed that significant outstanding issues remain regarding the relationship of KVFD to the future station and how KVFD will be compensated for the current station. However, these important issues are not likely to be resolved quickly and negotiations on both can continue while the construction projects move forward.

The Committee recommended that the legislation require the Executive to work with the volunteers on two key issues: 1) naming the station; and 2) reintroducing potential volunteers into the new station in the future. The Committee expressed its intent to send the Executive a letter detailing Council requests for cooperation between KVFD and the County.

The Committee will also request regular updates on how these partnership issues are resolved before the opening of the new station, as well as how the financial compensation is resolved between KVFD and the State Highway Administration.

Bill No. 21 -10  
Concerning: Special Capital  
Improvements Project – Glenmont  
Fire Station 18 Replacement  
Revised: 11-23-10 Draft No. 2  
Introduced: April 20, 2010  
Expires: October 20, 2011  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

---

By: Council President at the Request of the County Executive

---

**AN ACT** to authorize the planning, design and construction of the Glenmont [[FS]] Fire Station 18 Replacement[[, Project No. 450900,]] in the Kensington-Wheaton planning area.

By adding to the Laws of Montgomery County 2010

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



## LEGISLATIVE REQUEST REPORT

Bill 21-10

*Glenmont FS 18 Replacement*

**DESCRIPTION:** The County Executive requests that capital project No. 450900, Glenmont FS 18 Replacement, be authorized as a "Special Capital Improvements Project" pursuant to Section §302 of the County Charter and Section §20-1 of the Montgomery County Code.

**PROBLEM:** Section §302 of the County Charter and Section §20-1 of the County Code require certain capital improvement projects to be individually authorized by law if the locally-funded cost is projected to exceed \$12,863,000 in FY11 dollars. The estimated locally-funded cost of this project in the County Executive's FY11 Recommended Capital Budget and FY11-16 Capital Improvements Program (CIP) is \$13,032,000 for planning, design, and supervision; site improvements and utilities; construction and other costs.

**GOALS AND OBJECTIVES:** This project provides for the construction of an approximately 19,900 gross square foot fire station to replace the current fire station located at the intersection of Georgia Avenue and Randolph Road.

**COORDINATION:** This project has been coordinated with the Department of General Services, Department Technology Services, Department of Permitting Services, Montgomery County Fire and Rescue Service, Mid-County Regional Services Center, the Maryland State Highway Administration, and local utility companies.

**FISCAL IMPACT:** The total estimated cost for this project is \$13,032,000. Of this, \$1,747,000 is for planning, design, and supervision; \$1,046,000 is for site improvements and utilities; \$9,254,000 is for construction; and \$985,000 is for other. The estimated locally-funded cost is \$13,032,000. The funding source for this project is General Obligation Bonds.

**ECONOMIC IMPACT:** The new facility will accommodate the needs of the present and projected user departments noted above under Goals and Objectives.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** Not Applicable.

**SOURCE OF INFORMATION:** Blaise DeFazio, Office of Management and Budget; and Jeffrey Knutsen, Project Manager, Department of General Services – Division of Building Design and Construction.

**APPLICATION WITHIN MUNICIPALITIES:** Not Applicable.

**PENALTIES:** None Required.

# Glenmont FS 18 Replacement -- No. 450900

Category  
Subcategory  
Administering Agency  
Planning Area

Public Safety  
Fire/Rescue Service  
General Services  
Kensington-Wheaton

Date Last Modified  
Required Adequate Public Facility  
Relocation Impact  
Status

March 31, 2010  
No  
None.  
Preliminary Design Stage

## EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY09	Est. FY10	Total 6 Years	FY11	FY12	FY13	FY14	FY15	FY16	Beyond 6 Years
Planning, Design, and Supervision	1,747	0	99	1,648	459	192	212	493	292	0	0
Land	0	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	1,046	0	0	1,046	0	152	224	521	149	0	0
Construction	9,254	0	0	9,254	0	525	2,354	5,487	888	0	0
Other	985	0	0	985	0	143	183	427	232	0	0
<b>Total</b>	<b>13,032</b>	<b>0</b>	<b>99</b>	<b>12,933</b>	<b>459</b>	<b>1,012</b>	<b>2,973</b>	<b>6,928</b>	<b>1,561</b>	<b>0</b>	<b>0</b>

## FUNDING SCHEDULE (\$000)

G.O. Bonds	13,032	0	99	12,933	459	1,012	2,973	6,928	1,561	0	0
<b>Total</b>	<b>13,032</b>	<b>0</b>	<b>99</b>	<b>12,933</b>	<b>459</b>	<b>1,012</b>	<b>2,973</b>	<b>6,928</b>	<b>1,561</b>	<b>0</b>	<b>0</b>

## OPERATING BUDGET IMPACT (\$000)

Maintenance				290	0	0	0	0	132	158
Energy				337	0	0	0	0	153	184
<b>Net Impact</b>				<b>627</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>285</b>	<b>342</b>

### DESCRIPTION

This project provides for an approximately 19,900 gross square foot fire station to replace the current fire station located at the intersection of Georgia Avenue and Randolph Road. The recommended replacement fire-rescue station is a modified Class II station designed to meet current operational requirements and accommodate modern fire fighting apparatus. The project includes gear storage, decontamination, information technology rooms, and four apparatus bays.

### ESTIMATED SCHEDULE

The design phase will commence upon land acquisition and it is estimated to last twenty months, followed by approximately six months for bidding, and a construction period of approximately eighteen months.

### COST CHANGE

The cost increase is due to the addition of construction expenditures.

### JUSTIFICATION

The Maryland State Highway Administration (SHA) plans to build a new intersection at Georgia Avenue and Randolph Road. The current station is located on the planned intersection site. The replacement fire station will be located on a different site but in proximity to the service area of the current station.

### OTHER

Special Capital Projects Legislation will be proposed by the County Executive.

### LOCAL NOTE

The project provides for the design and construction phase costs. Debt service for this project will be financed with Consolidated Fire Tax District Funds. There are no funds for fire apparatus included in project budget.

### OTHER DISCLOSURES

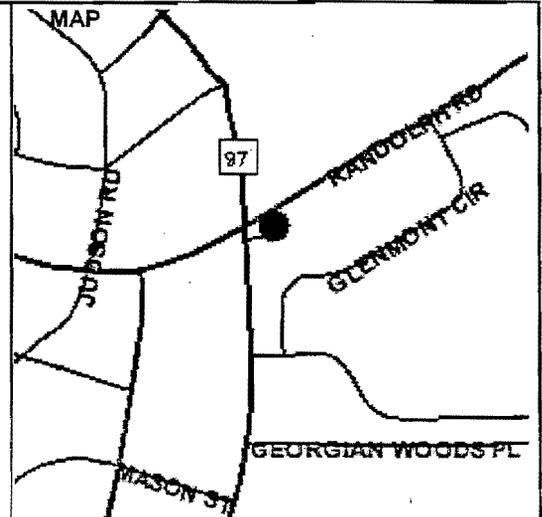
- A pedestrian impact analysis will be performed during design or is in progress.
- Land acquisition will be funded initially through ALARF, and then reimbursed by a future appropriation from this project. The total cost of this project will increase when land expenditures are programmed.

### APPROPRIATION AND EXPENDITURE DATA

Date First Appropriation	FY10	(\$000)
First Cost Estimate	FY11	13,032
Current Scope		
Last FY's Cost Estimate		1,644
Appropriation Request	FY11	330
Appropriation Request Est.	FY12	9,406
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		1,331
Expenditures / Encumbrances		25
Unencumbered Balance		1,306
Partial Closeout Thru	FY08	0
New Partial Closeout	FY09	0
Total Partial Closeout		0

### COORDINATION

Department of General Services  
Department Technology Services  
Montgomery County Fire and Rescue Service  
Department of Permitting Services  
Maryland State Highway Administration  
WSSC  
PEPCO  
WMATA  
Mid-County Regional Services Center



BILL  
BILL  
BILL  
BILL  
BILL  
BILL  
BILL



GO  
CC  
SEF  
LL  
ACK AG 4/20/10

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

055744

Isiah Leggett  
County Executive

MEMORANDUM

April 7, 2010

TO: Nancy Floreen, President, County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Special Capital Improvements Project Legislation:  
MCPS Food Distribution Facility Relocation  
Glenmont FS 18 Replacement  
Travilah Fire Station  
3<sup>rd</sup> District Police Station  
Equipment Maintenance and Operations Center (EMOC)  
Olney Library Renovation and Addition

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL  
2010 APR -8 PM 1:16

In accordance with Section 302 of the County Charter and Section 20-1 of the Montgomery County Code, I am forwarding the attached Special Capital Improvements Project Legislation Authorization and Legislative Request Report for the following projects:

- Montgomery County Public Schools (MCPS) Food Distribution Facility Relocation (No. 361111)
- Glenmont FS #18 Replacement (No. 450900)
- Travilah Fire Station (No. 450504)
- 3<sup>rd</sup> District Police Station (No. 470302)
- Equipment Maintenance and Operations Center (EMOC) (No. 500933)
- Olney Library Renovation and Addition (No. 710301)

This request is necessary because the local cost of these projects exceed the FY11 Special Capital Improvements Project Legislation cost threshold of \$12,863,000 as set by Executive Order 236-09. The purpose of these projects is set forth below.

The MCPS Food Distribution Facility Relocation project is part of the Smart Growth Initiative and provides for design and construction of a new facility on the Webb Tract site on Snouffer School Road.

Nancy Floreen, President, County Council  
April 7, 2010  
Page 2

The Glenmont FS 18 Replacement project provides for an approximately 19,900 gross square foot fire station to replace the current fire station located at the intersection of Georgia Avenue and Randolph Road.

The Travilah Fire Station project, located at the northwest intersection of Darnestown and Shady Grove Road, provides for the design and construction of a new fire-rescue station at the county-owned site.

The 3<sup>rd</sup> District Police Station project, located at the northeast intersection quadrant of New Hampshire Avenue and U.S. Route 29, provides for the site selection, planning, and design, and construction of a new 32,844-gross square foot (including auxiliary buildings) 3<sup>rd</sup> District Police Station to serve Silver Spring and vicinity.

The EMOC project is part of the Smart Growth Initiative and provides for land, planning, design, and construction of a new EMOC to support a doubling of transit ridership by 2020; as well as current transit, highway maintenance and fleet operations.

The Olney Library Renovation and Addition project provides for a 5,000 square foot addition and full interior renovation of the existing interior space to the Olney Library.

I recommend prompt passage of this legislation so as to advance these projects.

IL:bh

Attachments

**Sec. 302. Six-Year Programs for Public Services, Capital Improvements, and Fiscal Policy.**

The County Executive shall submit to the Council, not later than January 15 of each even-numbered year, a comprehensive six-year program for capital improvements. The County Executive shall submit to the Council, not later than March 15 of each year, comprehensive six-year programs for public services and fiscal policy. The six-year programs shall require a vote of at least five Councilmembers for approval or modification. Final Council approval of the six-year programs shall occur at or about the date of budget approval.

The public services program shall include a statement of program objectives and recommend levels of public service by the County government, and shall provide an estimate of costs, a statement of revenue sources, and an estimate of the impact of the program on County revenues and the capital budget.

The capital improvements program shall include a statement of the objectives of capital programs and the relationship of capital programs to the County's long-range development plans; shall recommend capital projects and a construction schedule; and shall provide an estimate of costs, a statement of anticipated revenue sources, and an estimate of the impact of the program on County revenues and the operating budget. The capital improvements program shall, to the extent authorized by law, include all capital projects and programs of all agencies for which the County sets tax rates or approves budgets or programs. The Council may amend an approved capital improvements program at any time by an affirmative vote of six Councilmembers.

The fiscal program shall show projections of revenues and expenditures for all functions, recommend revenue and expenditure policies for the program period and analyze the impact of tax and expenditure patterns on public programs and the economy of the County.

The County Executive shall provide such other information relating to these programs as may be prescribed by law.

★ All capital improvement projects which are estimated to cost in excess of an amount to be established by law or which the County Council determines to possess unusual characteristics or to be of sufficient public importance shall be individually authorized by law; provided however, that any project declared by the County Council to be of an emergency nature necessary for the protection of the public health or safety shall not be subject to this requirement if the project is approved by the affirmative vote of six Councilmembers. Any project mandated by law, statutory or otherwise, interstate compact, or any project required by law to serve two or more jurisdictions shall, likewise, not be subject to this requirement. The County Council shall prescribe by law the methods and procedures for implementation of this provision. (Election of 11-7-78; election of 11-4-86; election of 11-3-92; election of 11-5-96.)

**Editor's note**—See County Attorney Opinion dated 4/7/99 clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations. See County Attorney Opinion dated 2/5/96 explaining that the budget must include recommended expenditures and revenue services for the Board of Education and including the legislative history of the section. See County Attorney Opinion No. 90.008 dated 11/20/90 discussing the use of consent calendars to consolidate capital improvement bills and proposed amendments to the County Code to permit more than one item on the consent calendar at a time. [attachment]

**Sec. 20-1. Authorization of special capital improvement projects by law.**

(a) *Purpose.* The purpose of charter section 302 is to afford citizens an easier opportunity than previously existed to petition especially important capital improvement projects to referendum while assuring that public consideration may be fully informed, and also without unnecessarily disrupting the orderly planning, design and construction which is the objective of capital improvements programming.

(b) *Definition.*

1. A "special capital improvement project" as used in this section shall include the costs relating to the detailed architectural and engineering design, construction, reconstruction or equipment of the following types of capital projects:

a. Major facilities estimated to cost at least four million dollars (\$4,000,000.00) in county funds, exclusive of interest on county bonds; provided, however, that the county executive shall, by annual executive order, adopted no later than October 15, revise the four-million-dollar cost criterion to reflect the annual change in the latest published composite construction cost index established by the United States department of commerce or its successor as publisher. County funds for the purpose of this section include the proceeds of county bonds or notes and unappropriated surplus and current county revenues, exclusive of contributions, gifts or grants from federal or state governments or any other sources.

b. Facilities, other than major facilities described above, which the council determines to possess unusual characteristics or to be of sufficient public importance to warrant designation as special capital improvements projects.

2. All buildings, roads, utilities, parks and related improvements which are proposed for development on a single, unified site and which are identifiable as separate facilities shall be considered for designation as special capital improvement projects. Site acquisition costs shall be included as a part of the total cost of a special capital improvement project; however, the cost of site acquisition itself shall not be subject to the requirements of this section. Preliminary planning costs relating to capital projects shall not be included in determining the total cost of a special capital improvement project. Unless explicitly required by law, special capital improvement projects do not include the capital projects of the Revenue Authority or any agency created by state law or authorized by interstate compact, including, Montgomery College, Board of Education for Montgomery County, Maryland-National Capital Park and Planning Commission, Washington Suburban Sanitary Commission, the housing opportunities commission of Montgomery County, Washington Suburban Transit Commission, and the Washington Metropolitan Area Transit Authority.

(c) *Procedure.*

1. The county executive shall be responsible for submitting to the county council, at the time the capital improvement program or amendments thereto are submitted, proposed legislation for each project which falls within the category of a special capital improvement as defined in this section and for which it is proposed to appropriate funds for purposes other than preliminary planning or site acquisition costs, unless the project has been previously authorized as a special capital improvement project.

2. Until such time as an appropriation is made for the detailed architectural and engineering design of a capital improvement project, other than a major facility as described in subsection 20-1(b) 1.a., any council member may introduce legislation to authorize such capital improvement project as a

special capital improvement project.

3. Any authorization enacted under this section is valid for 5 years after the authorization becomes law, except that an authorization for a project funded substantially by revenue bonds is valid until modified or revoked by law. The Council may reauthorize a project before or after an existing authorization expires. An authorized project need not be reauthorized if a contract for construction of the project is executed before the authorization expires.

4. If a project is approved by the affirmative vote of 6 Councilmembers, and the Council declares that the project is of an emergency nature and its immediate approval is necessary to protect the public health or safety, the project is not subject to the authorization requirement in this section.

5. No special capital improvement project shall receive an appropriation unless a law authorizing the project has been enacted by the county council. The resolution adopting any such appropriation shall contain an explicit requirement that no funds shall be expended under the appropriation until the authorization law has become effective.

6. Any project not previously considered a special capital improvement project and which has received an appropriation must be authorized pursuant to this section before any construction contract is executed if the estimated cost of the total project is revised to exceed the four million dollars (\$4,000,000.00) cost criterion or any subsequent revision thereto exclusive of preliminary planning costs, after completion of either the design or architectural and engineering stages of the project. Unless a project is previously authorized pursuant to this section, the county executive or the county council may not transfer funds to or authorize a supplemental appropriation for such a project prior to the award of a construction contract if the cost of the total project exceeds the four million dollars (\$4,000,000.00) cost criterion or any subsequent revision thereto exclusive of preliminary planning costs when the cost reflected by such transfer or appropriation is included in the total estimated cost.

(d) *Application.* The provisions of this section 20-1 shall not apply to a capital project which has met the cost criterion requirements of subsection 20-1(b)1.a. and has received an initial appropriation prior to the effective date of this section, provided that any change in the scope of such a project, the cost of which change exceeds the cost criterion requirement set forth in subsection 20-1(b)1.a., shall be subject to the provisions of this section. (1977 L.M.C., ch. 37, §2; 1979 L.M.C., ch. 51, § 1; FY 1991 L.M.C., ch. 11, § 1; 1992 L.M.C., ch. 35, §3; 1994 L.M.C., ch. 23, § 1.)

**Editor's note**--See County Attorney Opinion No. 90.008 dated 11/20/90 discussing the use of consent calendars to consolidate capital improvement bills and proposed amendments to the County Code to permit more than one item on the consent calendar at a time. [attachment]

For the effective date of 1992 L.M.C., ch. 35, § 3, which amended subsection (b)2. of this section, see the editor's note to ch. 42 of this Code.

**Sec. 21-26. Title to assets; sale or disposition.**

(a) Title to fire, rescue, and emergency medical service apparatus and facilities, purchased in whole or in part with any tax funds before July 30, 1980, may be retained by the local fire and rescue department unless the appropriation resolution that funded the purchase specified otherwise.

(b) All apparatus and facilities purchased with tax funds after July 30, 1980, must be titled to the County and must be assigned in accordance with the adopted master fire, rescue, and emergency services plan. A newly constructed fire station, purchased with tax funds after July 1, 1999, may be held under a title reflecting concurrent ownership by the County and a local fire and rescue department if:

- (1) the station complies with the adopted master fire, rescue, and emergency medical services plan;
- (2) the local fire and rescue department has contributed, or is legally committed to contribute, at least 50 percent of the on-site cost of the station, including any land cost, and of the station's proportionate share of off-site costs directly attributable to the project; and
- (3) the Chief Administrative Officer has signed a contract with the local fire and rescue department that assures, to the fullest extent legally possible, that the station will be available for fire and rescue purposes until the station is disposed of under subsection (c), and that the station will be operated according to County law, regulations, and policies.

(c) The Chief Administrative Officer must approve each sale or other disposition of any apparatus or facilities to ensure that the sale or other disposition does not adversely affect the public interest. If the Chief Administrative Officer does not approve a sale or other disposition, the County Council may by resolution approve the proposed sale or disposition. The proportionate share of the proceeds of any such disposition attributable to fire tax funds must be used by the local fire and rescue department for fire, rescue or emergency medical services, or be returned to the fire tax district. In a dispute over the source and amount of original financing, or over the value of the apparatus or facilities, the County agrees to binding arbitration under the Maryland Uniform Arbitration Act to resolve the dispute.

(d) The County acknowledges that it has no ownership claim to any equipment, apparatus, facilities, or property acquired without any use of tax funds. This Chapter does not authorize the County to require the transfer of ownership of any such equipment, apparatus, facilities, or property to the County.

(e) The County may accept title and all encumbrances to any fire, rescue, or emergency medical service apparatus, equipment, facility or property from any local fire and rescue department that requests the transfer of title, even if the item is subject to an existing debt. The Chief Administrative Officer must approve or reject the transfer after considering any recommendations by the Commission. The Chief Administrative Officer, after considering the Commission's advice and recommendations, must develop procedures for the orderly disposition of assets of any local fire and rescue department that is unable to provide fire, rescue, or emergency medical services so that the assets continue to be used to provide fire, rescue, and emergency medical services in that community.

(f) Any funds accruing to the County from the sale or other disposition of any apparatus, equipment, facility or property must be applied to the funding of fire and rescue appropriations approved by the County Council.

(g) For purposes of operation, the Chief Administrative Officer, after considering the Commission's advice and recommendations, must assign fire stations when built or acquired to a local fire and rescue department or, with the concurrence of the County Executive and County Council, to the Fire and Rescue Service. This Section does not preclude the Fire and Rescue Service from operating a fire station as otherwise provided by law. (1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, §1; 1999 L.M.C., ch. 12, § 1; 2004 L.M.C., ch. 5, § 1; 2009 L.M.C., ch. 5, § 1.)

**Editor's note**—See County Attorney Opinion dated 3/4/04 explaining that County-owned fire stations may be assigned through the master plan process. See County Attorney Opinion dated 6/19/03 discussing the approvals needed to assign operational control of a new fire station to a local fire and rescue department.

Section 21-26, formerly §21-4U, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, §1.

Statement:

The Georgia Avenue and Randolph Road interchange project remains a high priority transportation road project for the county. The interchange project will improve pedestrian and vehicular safety in this densely populated area of the county. The interchange improvement project and the Glenmont Fire Station 18 relocation project must move forward.

1. Please clarify the status or anticipated timeline for the land acquisition for the new station and the cost or current cost estimate.

*A meeting conducted via conference call on October 7, 2010 between WMATA, Office of the County Attorney, DOT, and DGS resulted with a targeted closing date prior to December 31, 2010. The cost of the land acquisition will be between \$2.1 and \$2.3 million.*

2. The approved PDF for the new station shows construction in FY12-14. Please confirm whether this approved construction schedule is consistent with the State's construction schedule which calls for demolition of the current station in FY13.

*The SHA current schedule on their web-page indicates construction to start in 2014. During the July 2010 Council meeting the SHA representatives clarified that 2014 is FY14 and construction is anticipated to start in the late spring or early summer of 2013. The current schedule for design and construction of the Fire Station has continued to slip due to delays with property acquisition. The most recent schedule indicates completion of the Fire Station in December 2013. DGS will make every effort to accelerate the Fire station schedule.*

3. Since 21-26 was amended in 1998 to include the 50% funding/joint ownership option, how many new stations have been constructed? Have any of these new stations been funded to allow joint ownership, or are they all County owned?

*Five new Fire Stations were constructed since 1998: Sandy Spring FS 4 Replacement, Silver Spring FS 1 Replacement, West Germantown FS 22, East Germantown FS 34, and Takoma Park FS 2 Replacement.*

*Of the five stations three were replacement of LFRD stations. Only the Sandy Spring FS 4 was constructed using the shared cost/ownership provision of Code 21-26.*

*Currently, the Wheaton Volunteer Rescue Squad and the County are finalizing design documents and cost sharing agreements in compliance with Code 21-26 for the relocation of the Wheaton Volunteer Rescue Squad Facility.*

4. At the July worksession on this issue, an option was raised of County ownership with a lease arrangement to the KVFD. Has there been any further discussion of this option as a possible solution to the ownership issues? Are there potential drawbacks to this approach?

*There has been discussion regarding County ownership with a lease arrangement with KVFD. However, if the proposed lease were be for a term of five (5) years or more, such a lease would be inconsistent with a number of applicable laws and regulations. First, if the lease were for more than five (5) years, it would be subject to the real property disposition regulation (Executive Regulation No. 31-97) since this regulation provides no exception for dispositions (which include leases of five (5) years or more) related to fire stations. More importantly, it is inconsistent with the intent of the regulation which presumes that a lease of County owned property to a non-County entity will occur only if there are no other governmental uses for the property, which is not the case here. Second, Maryland Annotated Code article 25A, § 5(B), requires that prior to the lease of county owned property that there must first be a finding that the property "is no longer needed for public use," which, again, is not the case here.*

5. We understand that LFRDs have agreements with MCFRS that address station operating and facility management issues under more than one ownership arrangement. What specific fiscal or operational consequences would result from ownership of the new fire station by either KVFD or MCFRS?

*Station operations are either funded entirely by County tax funds or the LFRD is reimbursed with tax funds for those expenditures for operating the stations. In either case the County funds the station operations.*

*The fiscal impacts associated with ownership by the LFRD may potentially result in the county not being afforded the Federal Functional Replacement Rule funding.*



**MONTGOMERY CO  
VOLUNTEER  
FIRE RESCUE  
ASSOCIATION**

230 N. Washington St. Rockville, MD 20850  
301-424-1297  
www.mcvfra.org



**MARCINE D. GOODLOE, PRESIDENT  
ERIC N. BERNARD, EXECUTIVE DIRECTOR**

---

Good morning Ms. McGuire,

Thank you for the opportunity to provide the Councilmembers with detailed information and our opinion on this issue. This issue has far-reaching ramifications for the future of not only our combined public/private service but also to insuring adherence to the mandates of Chapter 21 that is the law for the fire and rescue service of Montgomery County.

In order to provide you factual and detailed information we contacted President Steven Semler of the Kensington Volunteer Fire Department who has all of the documented facts and who has been directly involved in the meetings with the County. In response to our request, he has prepared the attached responses to your questions. Please be advised that we concur with those responses.

The Montgomery County Volunteer Fire and Rescue Association would also like to point out the following requirements of Montgomery County Code Chapter 21, Article 1. Comprehensive Fire and Rescue Services.

Sec.21-1. Statement of policy:

Legislative intent –

- (a) This section clearly points out that it is the intent of the government to have the fire, rescue, and emergency medical program operated by the County government and the local fire and rescue departments. It also points out that the program must provide maximum cost-effective performance, emergency service. As well as that an "Integrated Emergency Command System which allows the integration of County and local fire and rescue department personnel and apparatus County-wide, regional, State and national emergency managements plans. It speaks to fair treatment and the requirement for delivery of the service through the partnership of our combined service. The Council vigorously supports the continuation and expansion of volunteer participation to provide fire, rescue, and emergency services in the most cost-effective way ....

It is our concern that as the County looks to the building of new county stations that the legislative intent needs to be applied and followed. That any action taken for new stations would not in any way block the intent of this legislative statement of policy of insuring inclusion of our combined service. We believe that the Kensington Volunteer Fire Department has presented many reasonable cost savings alternatives to the County. That possibly further investigation of those cost-saving alternatives needs to be considered by the Council before having them denied. Along with the Council's insuring Chapter 21's requirements for volunteer inclusion in all stations, we also believe that there is a need for the Council to look at the cost of the building of appropriate and safe fire stations in Montgomery County. Other jurisdiction's stations and even some Montgomery County stations are being built at a greater cost savings for the same size or even larger stations than have been stated for the proposed Kensington station.

Thank you again for the opportunity to respond.

Marcine D. Goodloe, President  
Montgomery County Volunteer Fire Rescue Association



**MONTGOMERY CO  
VOLUNTEER  
FIRE RESCUE  
ASSOCIATION**

230 N. Washington St. Rockville, MD 20850  
301-424-1297  
www.mcvfra.org



MARCINE D. GOODLOE, PRESIDENT  
ERIC N. BERNARD, EXECUTIVE DIRECTOR

---

**RESPONSES OF THE MCVFRA & KENSINGTON VOLUNTEER FIRE  
DEPARTMENT TO COUNCIL'S QUESTIONS FOR COUNCIL  
NOVEMBER 22, 2010 HEARING**

***Council Question no. 1:***

Please clarify the status or anticipated timeline for the land acquisition for the new station and the cost or current cost estimate.

**MCVFRA Response to Question No. 1:**

MCFRS has told KVFD that it has agreed to buy a tract of land on Glennallan Avenue off Georgia Avenue from WMATA for the proposed new Station 18, for \$2,100,000. (It is not believed that closing on such sale has yet occurred.) In addition, MCFRS has told us that it will have to buy or rent additional parking spaces in an adjacent parking garage, indefinitely, and that this parking space cost is considered by MCFRS as an additional capital cost of this project not included in the cost of the land acquisition or construction.

Since proposed Bill 21-10 sought an appropriation from the Council for \$13,032,000 for construction of proposed new station 18 (not supported by any proposed construction or design plans but apparently based its projections of cost per square foot of its previous firehouse construction costs), and did not include any cost of land, it appears that the appropriation sought by the County for firehouse and land is \$15,132,000 plus the capital cost of the additional parking spaces.

***Council Question no. 2:***

The approved PDF for the new station shows construction in FY12-14. Please confirm whether this approved construction schedule is consistent with the State's construction schedule which calls for demolition of the current station in FY13.

**MCVFRA Response to Question No. 2:**

MCVFRA is not in a position to address these timing issues. However, at the last hearing of this Council's Public Safety Committee, the State Highway Administration official present testified, in essence, that the SHA would not unilaterally proceed with the subject condemnation of KVFD Sta. 18 – and hence would not proceed with the subject construction -- until KVFD and the County consensually accommodated their differences as to disposition of current KVFD-owned Station 18.

**Council Question no. 3:**

Since 21-26 was amended in 1998 to include the 50% funding/joint ownership option, how many new stations have been constructed? Have any of these new stations been funded to allow joint ownership, or are they all County owned?

**MCVFRA Response to Question No. 3:**

With only one single exception, of all firehouses in the County built since 1998 enactment of the 50/50 provision of Ch. 21-26, each has been built as 100% County owned with no utilization of the co-ownership provisions of Ch. 21-26. Clarksburg #35, Kingsview #22, and Milestone #34 have all been built as 100% County owned stations. Similarly, Silver Spring Volunteer Fire Department did not participate in co-ownership or construction of new Station 1 on Georgia Avenue and sold its old station. Only one new station was built after enactment of and pursuant to the Ch. 21-26 "50/50" legislative enactment: Sandy Spring Volunteer Fire Department Station #4, which was able to do so because it got credit for the land it supplied and would up with a shared-cost \$3 million facility.

What is even more remarkable is that *Wheaton Volunteer Rescue Squad is NOW in the process of building a new Station on a 50/50 basis with the County, but with WVRS controlling the County-acceptable construction at \$303 per s/f versus County-proposed construction of new Station 18 (extracting cost of land from each), at \$655 per s/f for WVRS 50/50 owned/County acceptable construction – effectively costing 46% cost of construction for WVRS managed County-approved firehouse construction in the County versus the cost of County proposed construction of new Station 18 (excluding land costs in both cases).*

Of course, the WVRS comparison to County proposed construction of Station 18 pales in comparison to the Ocean City Maryland ongoing construction of new OCVFD 10--bay Station 5 at \$155 per foot - being built to FEMA specs and pricing excluding land.

We respectfully suggest that the reason that the Council's Ch. 21-26 "50-50" co-ownership provision – which was enacted to promote the volunteer / career "partnership" contemplated by Ch. 21 – has not gained traction is that it effectively has been eviscerated by the combination of the County pricing LFRD's out of the ability to afford co-ownership (seeking to put a \$15 million price tag on a firehouse when comparable firehouses cost \$2.8 (Ocean City) to \$6 million (Wheaton VRS) – then sticking the LFRD with a 20 year amortization which skyrockets LFRD cost per month when there is no such requirement in the statute, and them jacking up the price even more by adding a five percent fee on top of this high price, half of which is required to be paid back over a short time on expensive land and with interest.

No LFRD can pay half of this inflated institutionalized cost structure Yet, ironically, even if KVFD was allowed to build a new station at the cost per square foot that the County has apparently approved WVRS to do on a 50/50 basis, then KVFD should be able to do the same on leased County land (or possibly on KVFD purchased land) using eminent domain proceeds to do so at **no cost to the County**.

**Council Question no. 4:**

At the July work session on this issue, an option was raised of County ownership with a lease arrangement to the KVFD. Has there been any further discussion of this option as a possible solution to the ownership issues? Are there potential drawbacks to this approach?

**MCVFRA Response to Question No. 4:**

Following the Committee's Workshop hearing direction for dialogue for constructive dialogue of options between KVFD and MCFRS, the parties met on August 30, September 18, and October 18, 2010 with the County Fire Chief Richie Bowers, Deputy County Attorney John Fisher, and County Budget Official David Dise (joined once by Ms. Mandell-Trupp of Council staff), to dialogue constructive options. Other than the County agreeing in principle that the new station would be called Kensington Volunteer Fire Department Montgomery County Station 18, and that KVFD volunteers would be allowed to be introduced back into the Station in the future when its volunteer growth permitted, every option proposed by KVFD as to ownership or co-ownership of the proposed new Station, was flatly rejected by the County as completely unacceptable to it. Specifically in response to the subject question no. 4, KVFD specifically offered to build a new Station 18 solely at KVFD expense (using its State-supplied eminent domain proceeds for construction) if the County would supply the land by lease to VFD at a nominal sum. This was flatly dismissed by the County as unacceptable to it.

As a variant on that proposal, KVFD also proposed to the County that SHA reconfigure its project to allow KVFD to build a new Station on *another part* of KVFD's currently-owned Station 18 land consistent with the SHA building its project. This option, too, was flatly rejected by MCFRS.

For the record, KVFD offered each of the following five options, in writing, to the County, each of which was rejected by the DFRS except the fifth one ("buy-out") which was left open:

1. *KVFD builds new station on different part of existing Station 18 KVFD-owned land, using eminent domain money, and State redesigns road accordingly to accommodate same: net result, zero cost to county for new firehouse built by KVFD on KVFD land – rejected by DFRS;*
2. *Redesign downward cost of new Station 18 to \$8mil so that KVFD could donate half through its eminent domain proceeds, so as to qualify KVFD for ½ ownership of new firehouse under MCC 21-26 – rejected by MCFRS because it will not redesign down the cost of its new firehouse.*
3. *Amend MCC 21-26 so as to deem KVFD contribution of eminent domain money to County as fulfilling the 50% contribution requirement for co-ownership*

under MCC 21-26 – rejected by MCFRS because they assert the County Executive refuses to reopen Ch. 21 MCC.

4. KVFD builds new station at its cost using eminent domain proceeds on land leased to KVFD by County – refused by DFRS—it does not want KVFD to build firehouse and does not want to lease land that it is contracting now to buy from WMATA for \$2.1 million.

5. As a last resort, KVFD would take an enriched “buyout” as the price of walking away quietly and seamlessly to the County – that we would sign title immediately at a closing at which we asked for at least \$7 million, thereby allowing the County to collect \$4 million FFRP money and enable KVFD to invest the proceeds in an endowment to provide a constant stream of new ambulances and fire engines owned by KVFD to service the community better from an enhanced KVFD Station 5 in Kensington.

#### **Council Question no. 5:**

We understand that LFRDs have agreements with MCFRS that address station operating and facility management issues under more than one ownership arrangement. What specific fiscal or operational consequences would result from ownership of the new fire station by either KVFD or MCFRS?

#### **MCVFRA Response to Question No. 5:**

The fundamental difference is that when an LFRD owns or co owns a firehouse, the LFRD, it can control the right of reintroduction and supervision of volunteer firefighters, EMS/medic personnel, at no cost to the County, and introduction of volunteer officers, volunteer owned apparatus, volunteer administration and shared control of the administration of the shared firehouse, as compared to LFRDs having no rights other than might be negotiated with the County DFRS. In short, it is all about promoting volunteerism by having at least a voice in volunteer control vs. denigration of a volunteer voice which, in turn, denigrates volunteer participation which, in turn, dramatically escalates County costs of maintaining service exclusively through paid personnel versus through the partnership of volunteers and paid personnel as contemplated by the Council in enactment of Ch. 21.

The difference between LFRD co-ownership and 100% County ownership is apparent by comparison of the attached MOUs between the County and Station 25/KVFD (100% County owned) and the County/ Sandy Springs VFD (50/50 co-ownership between the County and Sandy Spring VFD pursuant to the "50/50" co-ownership provisions of Ch. 21, Sec 21-26(b)), highlighting the essence of the differences as to impact on volunteers. The 100% County-owned Fire Station 25 in the Layhill community (building labeled by negotiation as "Kensington Volunteer Fire Department, Montgomery County Fire Station 25); and, for contrast, the MOU for Sandy Spring Volunteer Fire Department which is 50/50 owned by the County and Sandy Spring VFD under Ch. 21's co-ownership provisions. The difference between the two agreements is stark: The County owned Station 25 reserves to the County all control of use of the facility (save minor non-operational administrative input and repair authority), with no right of volunteer operations at the Station. In contrast, Section 10 of the Sandy Spring MOU provides in relevant part that: "...SSVFD will be responsible for the management and

control of the station. SSVFD must manage and control the Station ... and must generally comply with the laws and regulations applicable to the management and the operation of the station." Thus, the co-owned station is volunteer operated and controlled by volunteer officers present to County standards in accordance with SSVFD's legacy, as compared to Station 25 which essentially has KVFD's name stuck on the building through negotiation and some minor administrative input, but no volunteer presence or control. (See, for instance, under Sta. 25's MOU Sec.1(F) that KVFD may have the right to use an office at Sta. 25 only upon 14 days' notice.)

Thank you for the opportunity to assist answering these questions.

RECEIVED

JUL - 3 1997

KVFD  
ADMINISTRATIVE OFC.

*Final*

MEMORANDUM OF UNDERSTANDING

Agreement Between the  
Montgomery County Government and the Kensington Volunteer Fire  
Department, Inc.

This Memorandum of Understanding ("Agreement") is made this 15<sup>TH</sup> day of March, 1997, by and between MONTGOMERY COUNTY, MARYLAND (the "County") and the KENSINGTON VOLUNTEER FIRE DEPARTMENT, INC. (the "Corporation").

The County is the owner of the land and improvements located at 14401 Connecticut Avenue, Layhill, Maryland ("Station No. 25" or the "Premises"), which is offered for use to the Corporation under the following terms and conditions. In order to promote a clear understanding as to the use, maintenance, and repair of the areas and components of Station No. 25, it is the desire and intent of the County and the Corporation that Station No. 25 be operated in accordance with and subject to the terms and conditions as set forth in this Agreement.

Now, therefore, IN CONSIDERATION OF THE SUM OF ONE and 00/100 (\$1.00) DOLLAR and for other good and valuable consideration as hereinafter provided, and the respective promises herein contained, the parties mutually agree as follows:

1. USE OF THE PREMISES:

- A. Station No. 25 shall be used solely for the provision of fire, rescue, emergency medical and other associated community oriented activities and services. Notwithstanding the foregoing, the Director of the Department of Fire and Rescue Services and/or the Corporation President may prohibit activities for purposes of adherence to law or community concern.

- B. The County reserves the right to use the schedulers Office at Station 25 at any time for the purposes of performing Department of Fire and Rescue Services (DFRS) scheduling activities, for as long as, or if, scheduling activities are assigned to the station.
- C. The County reserves the right to use the District Captains office at Station No. 25 for the purposes associated with the management of the Department of Fire and Rescue Services as necessary to support the administrative tasks of the three DFRS District Captains housed at Station 25, for as long as, or if, Station No. 25 is designated as a District station.
- D. The County and the Corporation agree to share the use of the station library, currently in use station office at Station No. 25, for the purposes of conducting personnel and administrative tasks associated with the management of the Corporation and the Department of Fire and Rescue Services personnel, respectively. Use shall include reasonable space for the storage of station officer files and other administrative office supplies and equipment.
- E. The County and the Corporation agree to share the use of the station officer's office at Station No. 25 for the purposes of conducting personnel and administrative tasks associated with the management of the Corporation and the Department of Fire and Rescue Services personnel, respectively. Use shall include reasonable space for the storage of station commander officer files and other administrative office supplies and equipment.
- F. The Corporation reserves the right to have exclusive use of one of the previously noted offices at Station No. 25, upon 14 day advance notification. This right is subject to reasonable availability of specific office space to be mutually agreed upon, using only the three largest offices for consideration.

2. IMPROVEMENTS TO THE PREMISES: The County has the right at any time to make alterations, changes, and improvements to Station No. 25 on reasonable notice to the Corporation. Such actions shall not unreasonably preclude, limit, or prevent the continued use of the premises by the Corporation.
  
3. MAINTENANCE OF PREMISES:
  - A. Grounds: The County is responsible, through the Department of Public Works, Division of Facilities and Services, for grounds maintenance, including landscaping and cutting of grass. Such grounds maintenance shall be consistent with the amount and quality of grounds maintenance provided by the Department of Facilities and Services at other County owned facilities.
  
  - B. Sidewalks, driveways, and aprons: The County is responsible for the repair and the replacement of all sidewalks, driveways, aprons, and parking areas within the premises. The Corporation shall be responsible for snow and ice removal with assistance from the County when necessary.
  
  - C. Structure: The County is responsible for the maintenance and repair of all roofs, gutters, downspouts, windows, doors (including bay doors), doorways, walls, ceilings, fixed cabinets, and floors throughout the facility. The Corporation is responsible for the maintenance repair and replacement of carpets and rugs, movable furnishings, i.e., kitchen appliances, washers, dryers, televisions, etc. and other fixtures.
  
  - D. MECHANICAL: The County is responsible for the maintenance and repair of all heating, ventilating and air conditioning equipment, hot water heaters, sewers, drains, and plumbing fixtures, including fuel dispensing equipment as provided.

- E. ELECTRICAL: The County is responsible for the maintenance and repair of all electrical wiring, permanently mounted electrical fixtures and electrical motors and controls for fixed systems. The Corporation is responsible for standard bulb replacements and electrical equipment not associated with the delivery of services.
  
- F. COMMUNICATIONS: The County is responsible for the maintenance and repair of all radio and intercom systems permanently affixed for the receipt of calls and dispatch of apparatus and personnel, or for the training of personnel. The Corporation is responsible for personal and entertainment equipment and devices. The Corporation shall be responsible for the maintenance, repair and replacement of all telephone equipment and instruments except those installed by the County for exclusive use by scheduling or District offices.
  
- G. Painting: Periodic total repainting of the interior and exterior surfaces of the structure is the responsibility of the County. However, incidental spot painting in order to maintain cleanliness is the responsibility of the Corporation. The County must provide paint as needed. Any change to existing paint color scheme must be approved in writing by the Director of Public Works and Transportation or designee.
  
- H. Repairs: The Corporation may make minor repairs as a deterrent to more extensive damage in the event that a delay by the County in making the repairs is necessary. The Corporation must provide prompt notice to the County when such repairs are required and must stop work on such repairs if requested in writing by the Director of the Department of Public Works and Transportation. Materials will be provided to accomplish minor repairs as deemed appropriate by the Division of Facilities and Services.

- I. Notice of Defects: The Corporation must promptly notify the County of any defects in, damage to or accidents in the premises, including where County action is necessary as directed under the terms of this agreement via written notice to the Director of the Department of Public Works and Transportation or designee. For routine facility maintenance by the County, the Corporation will comply with Administrative Procedure 5-18, Facility Maintenance, a copy of which is attached as an appendix to this Agreement.
  
4. NOTICE: Whenever the Corporation is required to provide notice to the County under the terms of this Agreement, the manner of such notice shall be in writing to the Director of Public Works and Transportation or designee. Whenever the County is required to provide notice to the Corporation under the terms of this Agreement, the manner of such notice shall be to the president of the Corporation.
  
5. CONDUCT AND SAFETY OF PREMISES: The Corporation must conduct all of its operations hereunder in a workmanlike, efficient, safe and careful manner; observe such safety precautions and rules in its operations as the County from time to time may reasonably require; and maintain Station No. 25 at all times in safe and good operating condition and repair in accordance with the terms of this Agreement. If costly or repeated repairs are needed due to negligence of Corporation personnel, the Corporation shall pay for the repairs.
  
6. COUNTY'S RIGHT OF INSPECTION: Upon reasonable notice, the County is entitled to visit and inspect Station No. 25.
  
7. SIGNS: The Corporation must not place upon or remove from Station No. 25 any exterior placard, sign, lettering or awning unless such item is related to recruiting or community safety, without receiving written permission

from the Director of the Department of Fire and Rescue Services or designee. The Corporation may use the permanently placed sign board on the grounds of Station No. 25 for public education, prevention and community and/or membership notices. Notices of a political nature by either party are specifically prohibited.

8. RESOLUTION OF DISPUTES: If any dispute arises regarding any provision of this agreement, or the use, maintenance and repair of Station No. 25 in general, the Director of the Department of Public Works and Transportation or designee, along with the Director of the Department of Fire and Rescue Services or designee, shall meet with the President of the Corporation or designee in an attempt to resolve the dispute. If after such meeting, the dispute is not resolved, either party may refer the dispute to the County's Chief Administrative Officer in writing. The Chief Administrative Officer shall, after consultation with the Department of Public Works and Transportation, the Department of Fire and Rescue Services, the Fire and Rescue Commission and the Corporation, as appropriate, resolve such disputes. The Decision of the Chief Administrative Officer shall be final.
9. MODIFICATION/CANCELLATION OF AGREEMENT: This Agreement may not be modified except by mutual written consent of the County and the Corporation. The Agreement may be canceled by either party with ninety (90) days written notice which shall include the reasons for such cancellation.
10. CONSTRUCTION: This agreement is to be construed as a license for the Corporation to use the premises, and creates no possessory interest in the Corporation.

11. This agreement shall remain in effect for Twenty (20) years from the date hereof:

MONTGOMERY COUNTY, MARYLAND

Feb. 26, 1997  
Date

Jon C. Grover  
Jon C. Grover, Director  
Department of Fire and Rescue Services

June 30, 1997  
Date

Graham Norton  
for Graham Norton, Director  
Department of Public Works and Transportation

June 6, 1997  
Date

George Giebel  
George Giebel, Chairman  
Fire and Rescue Commission

KENSINGTON VOLUNTEER FIRE DEPARTMENT, INC.

Mar. 28, 1997  
Date

A + B White  
Andrew B. White, President  
Kensington Volunteer Fire Department, Inc.

Approved as to form and legality

June 2, 1997  
Date

James J. Puzon, Jr.  
Office of The County Attorney  
Montgomery County, Maryland



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Douglas M. Duncan  
County Executive

August 10, 1999

Mr. Thomas Rhodes, President  
Sandy Spring Volunteer Fire Department  
Sandy Spring, Maryland

Dear Mr. Rhodes,

I am very pleased to transmit to you the attached Memorandum of Understanding (MOU) covering the terms of our agreement for the construction, financing, ownership, and operation of a new Sandy Spring Fire Station 4. This agreement is unique: we are entering together into a partnership unlike any other in the history of our fire service. The resources of the County taxpayers are being combined with the funds, workhours, and imagination of the Sandy Spring community -- through the fire department -- to provide a first-class fire protection and community meeting facility jointly owned and paid for by both parties. Families and businesses will continue to enjoy outstanding fire and rescue protection, effectively delivered from a modern station, and Sandy Spring residents, as well as the Volunteer Fire Department, can point with pride to a substantial new community asset and focal point.

This MOU complements actions taken by the County Council to amend the fire/rescue law of the County and the Capital Improvements Program. These steps were taken earlier this spring to provide the legal and budgetary framework for this special partnership.

With your acceptance of this Memorandum of Understanding below, we can proceed to the completion of design and construction.

Thank you very, very much for the contribution your department has made to our success to date. We look forward to the ground breaking in the fall.

Sincerely,

Douglas M. Duncan  
County Executive

DMD:rpe

Memorandum Accepted:

Thomas Rhodes, President  
Sandy Spring Volunteer Fire Department

Attachment

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
SANDY SPRING VOLUNTEER FIRE DEPARTMENT  
AND  
MONTGOMERY COUNTY, MARYLAND

## TABLE OF CONTENTS

Introduction .....	page 3
1. Title to Property .....	page 3
2. Station Use .....	page 3
3. County's Purchase Right .....	page 4
4. County's Purchase Price .....	page 6
5. Sale of Property to a Third Party .....	page 6
6. Proceeds of Sale .....	page 7
7. Adverse Possession .....	page 7
8. Insurance .....	page 7
9. Responsibility to Maintain .....	page 7
10. Station Management .....	page 8
11. Construction Management .....	page 8
12. Right to Mortgage .....	page 12
13. Depository of "As Built" Drawings .....	page 13
14. Contribution to Cost .....	page 13
15. Escrow of Funds .....	page 16
16. Post Construction Alterations .....	page 17

## INTRODUCTION

This Memorandum of Understanding (MOU) sets forth the agreement between Sandy Spring Volunteer Fire Department, Inc. (SSVFD) and Montgomery County, Maryland (County), concerning the construction, financing, ownership, and operation of a new fire station to be constructed on property located at the intersection of Route 108 and Brooke Road and acquired for that purpose by SSVFD (station or property). The County and SSVFD will jointly fund the construction of the station under arrangements set forth in this MOU. This MOU controls the actions and dealings of the parties until amended. This MOU must not merge into any deed or deeds executed by the parties to implement this MOU.

### Sec. 1. TITLE TO PROPERTY.

The parties agree to hold the property as tenants in common under a deed that must provide for the right of the County to acquire full title under the conditions set forth in Section 5 of this MOU. SSVFD must prepare the deed, and both parties must approve the deed. The deed must restrict transfer of the parties' interests in the property, except as permitted for financing under Section 12, and must reflect the other rights and obligations incident to title as provided for in this MOU. SSVFD must record the deed in the Land Records for Montgomery County before construction of the station begins.

### Sec. 2. STATION USE.

The parties must use the station for the primary purpose of providing fire and rescue services consistent with the policies of the Montgomery County Fire and Rescue Commission; SSVFD may use the station for other ancillary activities customarily associated with a volunteer

fire department. SSVFD must ensure that all of its uses of the station are lawful, consistent with County policies, and conducted in a manner that does not create unreasonable risk of loss or liability for the County.

Neither the County nor SSVFD may erect or permit the display on the property of any sign or display except signs and displays that concern:

- (a) fire and rescue services;
- (b) a permitted function on the property;
- (c) contractors associated with the construction of the station during construction of the station; and
- (d) secular holiday or seasonal displays normally erected by a volunteer fire corporation in Montgomery County.

SSVFD may lease the community room to a caterer or other contractor to hold lawful activities, including wedding receptions, bar mitzvahs, civic club meetings, and other community activities. SSVFD may permit at these activities the service of food, drink (including alcoholic beverages), the performance of music, dancing, and religious services. These activities may be conducted by SSVFD, Community Support of SSVFD, Inc., or their auxiliaries.

Unless the Fire and Rescue Commission and the Chief Administrative Officer determine that the public interest no longer requires that the station be used for fire and rescue services neither party may change the use of the station.

**Sec. 3. COUNTY'S PURCHASE RIGHT.**

The County has the right—but not the obligation—to purchase, and SSVFD has the

obligation to sell to the County, SSVFD's interest in the property if:

- (a) SSVFD voluntarily dissolves its corporate status. An involuntary dissolution—other than as a result of an insolvency proceeding—that is not remedied within two years is considered a voluntary dissolution for purposes of this subsection (a).
- (b) SSVFD fails to provide as its primary activity fire and rescue services at the station.
- (c) SSVFD becomes insolvent. For purposes of this MOU, SSVFD is insolvent if its debts exceed its assets.
- (d) A creditor of SSVFD obtains a judgment lien against the property, and SSVFD fails to obtain a release of the lien within 30 days. For purposes of this MOU, a judgment lien includes a mechanic's lien when the lien becomes a judgment.
- (e) SSVFD defaults on a debt to a creditor that holds a deed of trust or mortgage permitted under Section 12.

If the County exercises its right to purchase SSVFD's interest in the property under this section, the day-to-day relations between the parties must continue to be determined under Fire and Rescue Commission policies as applicable to any other County-owned fire station. The County's right to purchase the property under subsections (c), (d), or (e) of this Section may be exercised only after all applicable insurance coverages have been exhausted.

SSVFD agrees to execute whatever documents may be necessary to transfer to the County its interest in the property free of any liens or other claims against the property. In the

event the County purchases SSVFD's interest in the property under this Section, SSVFD must be considered to have no financial investment in the property for purposes of Section 21-26 of the Montgomery County Code (1994).

**Sec. 4. COUNTY'S PURCHASE PRICE.**

- (a) The purchase price for the property to be paid by the County to SSVFD is \$1.00 if the County elects to acquire the property under Section 3(a) or (b).
- (b) If the County elects to acquire the property from SSVFD under Section 3(c), the purchase price to be paid by the County is the lesser of the full-market value of SSVFD's interest in the property or SSVFD's debts.
- (c) If the County elects to acquire the property under Section 3(d), the purchase price to be paid by the County will be the lesser of the fair market value of SSVFD's interest in the property or the amount of the liens against SSVFD's interest in the property.
- (d) If the County elects to acquire the property under Section 3(e), the purchase price to be paid by the County will be the lesser of the fair-market value of SSVFD's interest in the property or the outstanding balance owed to the creditor that holds the security interest in the property.

**Sec. 5. SALE OF PROPERTY TO A THIRD PARTY.**

SSVFD may not transfer its interest in the property to a third party without the consent of the County.

If the Fire and Rescue Commission and the Chief Administrative Officer determine that

the station is no longer needed for providing fire and rescue services, SSVFD must at its option:

- (a) Agree to sell the property to a third party; or
- (b) Purchase the County's interest in the property for its fair market value.

**Sec. 6. PROCEEDS OF SALE.**

If the parties jointly agree to sell the property to a third party while they are tenants in common, the parties must divide the proceeds of sale in accordance with Section 21-26 of the Montgomery County Code (1994).

**Sec. 7. ADVERSE POSSESSION.**

Neither party may acquire any rights in the property against the other by adverse possession.

**Sec. 8. INSURANCE AND INDEMNIFICATION.**

SSVFD must obtain and maintain insurance of the type and amount required by the County of other volunteer fire departments.

SSVFD agrees to indemnify and hold harmless the County from any damage caused by SSVFD, its invitees, and its agents, including any contractor or guest using the community room, from claims for personal injury or property damage arising out of the negligence, errors, acts, or omissions of these entities.

**Sec. 9. RESPONSIBILITY TO MAINTAIN.**

SSVFD is responsible for the ongoing maintenance and operation of the station, including payment of utilities and maintenance of the grounds. SSVFD must maintain the station in a manner consistent with maintaining the functionality of the program of requirements set out in

the FY 99 Capital Budget Agreement dated July 20, 1998, including the energy program of requirements for new fire stations.

SSVFD may perform routine maintenance of the station without County approval.

Structural modifications and alterations of the property are covered under Section 16 of this MOU.

SSVFD may pay for the maintenance of the property out of tax funds, except for the interior of the community room and the adjoining kitchen. The maintenance of these areas must be paid for out of SSVFD's non-tax funds.

**Sec. 10. STATION MANAGEMENT.**

After construction of the station, SSVFD will be responsible for the management and control of the station. SSVFD must manage and control the station in a manner consistent with this MOU and must generally comply with the laws and regulations applicable to the operation and management of the station.

**Sec. 11. CONSTRUCTION MANAGEMENT.**

The station must be built, subject to final approval by the County, according to the plans and specifications that have been prepared by David Almy, AIA, in conformity with the program of requirements attached to the FY 99 Capital Budget Agreement under Project No. 459901. No other specifications, plans, or requirements may be used.

- (a) **Preparation of Invitation for Bids.** SSVFD must prepare the invitation for bids (IFB) for construction of the station. The IFB must reflect the approved plans and off site improvements agreed to by the parties; the IFB must be consistent with

Fire and Rescue Commission policies. The IFB must contain a provision that a goal of 15% minority-female-disabled owned business participation will be sought in the construction of the station. SSVFD must obtain the approval of the County before releasing the IFB. The IFB must provide that the construction contract includes provisions for contractor quality control and a warranty of work and materials for one year from the date of substantial completion.

- (b) **Bids Above Expected Level.** If the bids for construction of the station exceed the budget of either party, the parties will consult and endeavor to solve the problem by redesign, cost-cutting or value engineering. If those efforts are unsuccessful, either party may elect to withdraw from its obligations under this MOU without further obligation or cost to the withdrawing party. SSVFD agrees that the County's obligation to contribute funds to this project, including off-site construction, must not exceed the County's appropriation authority. The County agrees that SSVFD may withdraw from this MOU, if in SSVFD's judgment the bids indicate that SSVFD could not meet its obligation to contribute at least 50% of the cost of the station.
- (c) **Selection of Contractor.** SSVFD must permit the County to participate in the bid opening. SSVFD must follow Fire and Rescue Commission procedures in the selection and approval of construction contractors. SSVFD must obtain the County's approval before it approves the contract scope, contract cost, and construction schedule.

(d) **Construction Management.**

1. The County designates SSVFD as its agent to manage the construction of the station. SSVFD guarantees the completion of the project and may not defer completion of any portion of the project.
2. SSVFD must obtain all building permits and land use approvals. Permit fees, inspection fees, and other review and inspection costs must be included in the project budget.
3. Before SSVFD issues a notice to proceed (NTP), SSVFD must furnish the County with copies of all permits and approvals that are pre-requisites for the commencement of construction.
4. SSVFD must obtain from the contractor a performance and labor and material payment bond in an amount at least equal to the full contract price. SSVFD must require the contractor to meet the mandatory insurance requirements attached to this MOU.
5. SSVFD must cause the County to be listed as a co-obligee on all bonds and must furnish to the County copies of the bonds before issuance of the NTP.
6. Before issuance of the NTP, SSVFD must furnish to the County a copy of the contractor's insurance meeting the requirements of the attachment to this MOU.
7. SSVFD must not approve any changes to the construction documents

without first obtaining the approval of the County. The County agrees that it will not delay or unreasonably withhold approval of a proposed change to the construction documents.

8. SSVFD must not approve a change order to the construction contract without first obtaining the approval of the County.
9. All invoices must be approved by both parties before payment. Both parties agree to approve or reject an invoice within 30 days. Reasons for rejection of any invoice must be stated in writing and the reasons must be complete and specific.
10. Before construction begins, the County must appoint a liaison representative (LR). The LR will regularly monitor construction progress and attend all construction meetings. SSVFD must provide the LR with copies of all minutes of progress meetings and schedule updates. The LR must have unrestricted access to the construction site and must be included in all on-site inspections. SSVFD's obligations under this paragraph are satisfied when timely notice is given to the LR that a particular meeting or event is to occur. It is the responsibility of the County to have available and in attendance at progress meetings the LR or the LR's designee.
11. All liquidated damages must be shared proportionately by the parties.
12. The certificate of substantial completion must be approved by the County before it becomes effective.

13. SSVFD must notify the County of any claims filed by the contractor and must provide the County the right to approve any claim settlement.
14. The LR has the authority, on behalf of the County, to: i) approve final design documents; ii) approve the IFB; iii) approve the contract scope, contract cost, and construction schedule; iv) determine that the pre-requisites for issuance of the NTP have been met; v) approve for payment all invoices; vi) approve change orders; vii) approve changes in the construction documents; and viii) approve the certificate of substantial completion. The LR does not have authority to make regulatory decisions on behalf of the County. Although SSVFD is responsible for communicating with all regulatory agencies, the LR will assist SSVFD in communicating with these regulatory agencies.
15. SSVFD must carry out commissioning and mechanical plan review by way of Complete Building Services (CBS) as set forth in the attached letter from CBS dated October 8, 1997, to ensure that the mechanical systems are designed and installed in accordance with the construction documents and in a quality, maintainable manner.

**Sec. 12. RIGHT TO MORTGAGE.**

In securing financing for its share of the construction costs, as well as the cost of any future permitted alterations, SSVFD may pledge its interest in the property as security for a construction loan. SSVFD must require that any secured lender: (a) give notice of any default in

the loan to the County; and (b) in the event of SSVFD's failure to cure a default, give the County the right to purchase SSVFD's interest in the property under Sections 3 and 4 of this MOU. The County must execute such documents as may be necessary to permit SSVFD to mortgage SSVFD's interest in the property. But SSVFD acknowledges that the County does not agree to and cannot execute a document that obligates the County to pay SSVFD's obligation or pledge the County's interest in the property as security for SSVFD's loan.

**Sec. 13. DEPOSITORY OF "AS BUILT" DRAWINGS.**

A copy of the final drawings of the station as actually built must be kept in the station for the use of both parties and must remain there permanently. This copy of the drawings must not be removed either temporarily or permanently. But SSVFD must require the contractor to provide the County with a separate copy of the "as built" drawings in CAD format.

**Sec. 14. CONTRIBUTIONS TO COST.**

- (a) Consistent with Section 21-26 of the Montgomery County Code (1994), SSVFD agrees that it must contribute at least 50% of the cost of the station, including any land costs and off-site costs directly attributable to the station.
- (b) For purposes of this MOU, contribution to cost means cash payment except where expressly noted below. SSVFD may—in lieu of cash payments—get credit for any donations, if the parties agree on the appropriateness of the donation. This agreement for a credit must include consideration of how the value of the donation will be determined and how both parties can be assured of the quality of the donated item, including adequate warranty protection. The cost of the station

includes the cost of acquiring:

1. Planning, design, and construction supervision. For construction supervision, each party may charge up to a maximum of 4% of the final cost of the station. SSVFD will get credit in the calculation of its share of the final cost of the station for up to 100% of any supervision costs that it donates in kind up to the lesser of the amount charged by the County or the 4% maximum.
2. Land. SSVFD will get credit in the calculation of its share of the final cost of the station for the market value of the land donated to the station by SSVFD. The market value of the land will be determined by completion of a minimum of one independent appraisal by a firm to be agreed to by both parties. The costs of the appraisal will be included in the cost of the station.
3. Site improvements and utilities, including all permits.
4. Construction of the station, including all permits.
5. Furnishings and equipment, excluding the value of any currently owned furnishings and equipment supplied by SSVFD.
6. Off-site costs directly attributable to the station. Off-site costs mean items of expenditure for improvements that are: i) for use of the station; ii) required because of the building and operation of the station; and iii) provide no more than incidental benefit to other properties or the public

generally.

(c) 1. The County will contribute the lesser of 50% of the cost of the station that the County would build at the intended location if the County were fully funding a County-owned station, or 50% of the final cost of the station.

2. The station the County "would build" means a class I prototype station with gross square footage as shown on the attached table. (prototype station).

3. Because no bids will be solicited for the prototype station, calculating 50% of the cost of the prototype station will be based on a cost estimate prepared by the Montgomery County Department of Public Works and Transportation, Division of Facilities and Services. The Division of Facilities and Services will use the following general procedure to establish the cost of the prototype station:

i) To determine the cost of constructing the prototype station, including the cost for planning, design, project supervision, construction, site improvements, construction permits, furniture, and equipment, DFS will multiply the gross square footage of the prototype station times the final per square foot cost for Station 15 (the most recently constructed County fire station) updated for: a) the addition of a vehicle exhaust system required for stations

constructed after Station 15; and b) inflation through September 1999 by the Department of Finance, using the consumer price index for the Washington-Baltimore region.

ii) To estimate the cost of land, the Division of Facilities and Services will use 100% of the market value of the land being donated by SSVFD.

iii) For off-site costs, the Division of Facilities and Services will use 100% of the cost of those off-site improvements for the station as determined under paragraph (b)(6).

4. The final amount the County is obligated to contribute to the station—subject to the availability of appropriated funds—will be determined after completion of all accounting for the station.

**Sec. 15. ESCROW OF FUNDS.**

At the time SSVFD enters into an agreement with the construction contractor, the parties must place in escrow, with a financial institution or other entity selected by mutual agreement, their respective portion of the construction cost. The escrow agent must not be a government entity, nor an individual. After approval of an invoice, the escrow agent must pay the invoice. Since part of SSVFD's contribution to the project is non-monetary, it is understood that SSVFD's funds could be exhausted before all construction costs are paid; in that event payments will be made entirely from County funds. The escrow agent must place the funds held in an interest-bearing account, and earned interest must first be applied to the fees of the escrow agent

and then credited to the separate accounts of the parties in proportion to their interests as they may appear from time to time. If funds remain in the escrow account after payment of all construction costs, the escrow agent must return the remaining funds to the parties in proportion to their respective interests in the remaining funds.

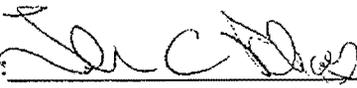
**Sec. 16. POST- CONSTRUCTION ALTERATIONS.**

This Section applies after the certificate of substantial completion has been approved.

Either party may propose to alter the station. Both parties must consent to any alteration. Consent to a proposed alteration must not be withheld by either party without valid and compelling reasons. An alteration must be consistent with: (a) Fire and Rescue Commission policies; (b) the County's energy conservation program of requirements for new stations; (c) any collective bargaining agreement, or (d) rendering effective and efficient fire and rescue services at the station.

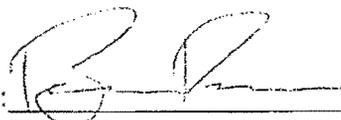
The parties, by their authorized representatives, sign this MOU in multiple original copies as a record of their understanding.

SANDY SPRING VOLUNTEER FIRE  
DEPARTMENT, INC.

By:   
Thomas Rhodes, President

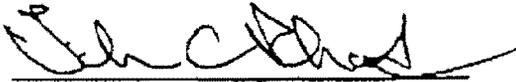
Date: 8-10-99

MONTGOMERY COUNTY, MARYLAND

By:   
Bruce Romer, Chief Administrative  
Officer

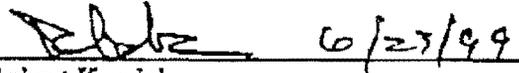
Date: 8-10-99

Recommended to Exec. Board By:



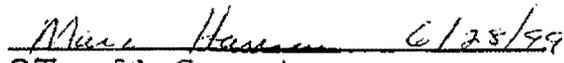
Thomas C. Rhodes 6-23-99  
President

Recommended by:



Robert Kendal  
Office of Management and Budget

Approved as to form and legality:

  
Office of the County Attorney

MPH:lys  
I:\GAHANSEM\ssvfd-a-mou.wpd

## MANDATORY INSURANCE REQUIREMENTS

### *Construction Phase of New Fire Station 4 - OMB*

Prior to the execution of the contract for construction of the station, the proposed awardee must obtain at its own cost and expense and keep in force and effect until termination of the contractual relationship with SSVFD the following insurance with an insurance company/companies licensed to do business in the State of Maryland evidenced by a certificate of insurance and/or copies of the insurance policies. Contractor's insurance must be primary.

#### Commercial General Liability

A minimum limit of liability of *two million dollars (\$2,000,000)*, combined single limit, for bodily injury and property damage coverage per occurrence including the following coverages:

- contractual liability
- premises and operations
- independent contractors
- products and completed operations

#### Automobile Liability Coverage

A minimum limit of liability of *two million dollars (\$2,000,000)*, combined single limit, for bodily injury and property damage coverage per occurrence including the following:

- owned automobiles
- hired automobiles
- non-owned automobiles

#### Builder's All Risk Property Insurance

The contractor must provide a Builder's All Risk Policy including fire and extended coverage to protect the interest of SSVFD, the County, contractor and sub-contractors against loss caused by the perils insured in the amount of 100% of the insurable values of the project. The coverage must be written on a completed value form. The policy must also endorse a demolition and clearing clause, extra expense and loss of use coverages with a sub-limit of \$500,000 per occurrence.

#### Worker's Compensation/Employer's Liability

Meeting all requirements of Maryland law and with the following minimum limits:

- bodily injury by accident - \$100,000 each accident
- bodily injury by disease - \$500,000 policy limits
- bodily injury by disease - \$100,000 each employee

#### Additional Insured

Montgomery County Government and SSVFD must be named as an additional insured on general liability policies.

Loss Payee

Montgomery County Government and SSVFD must be named as Loss Payee's on all liability policies.

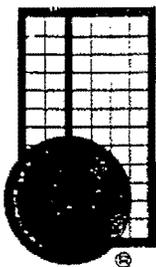
Policy Cancellation

Forty-five (45) days' written notice of cancellation or material change of any of the policies is required.

Certificate Holder

Montgomery County Government  
Office of Management and Budget  
Attn: Robert K. Kendal, Director  
101 Monroe Street  
14<sup>th</sup> Floor  
Rockville, Maryland 20850

MPH:tjs:tm  
I:\GJ\HANSEM\ssvf\d=o=mou requirements attachment.wpd



# Complete Building Services

Heating ◊ Cooling ◊ Energy Management ◊ Building Operation ◊ Plumbing

October 8, 1997

Sandy Spring Volunteer Fire Department  
816 Olney Sandy Spring Road  
Sandy Spring, Maryland 20860

Attn: Tom Rhodes  
President

Subject: Construction Document Review/On Site Inspection Services  
New Fire Station 4

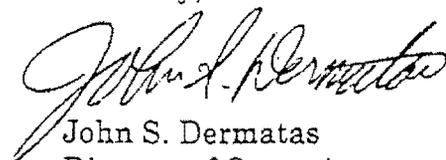
Dear Mr. Rhodes:

Complete Building Services will provide Plan and Project Documentation Review to ensure that the design follows the Energy Program of Requirements according to Executive Regulation 68-91 AM.

We will also provide design review and on site inspection services to ensure that mechanical systems are being designed and installed per the construction documents and in a quality, maintainable manner.

Since we will be assisting in the operation and maintenance of this facility's infrastructure, our goals will include a well designed HVAC system that is energy efficient and maintainable. Thank you for the opportunity to serve you.

Sincerely,

  
John S. Dermatas  
Director of Operations

2101 Wisconsin Avenue, N.W. • Washington, DC 20007

A Division of the Donnoe Companies, Inc.

(202) 333-4977 • (703) 848-1838 • FAX (202) 342-5199

49

TABLE ONE  
 SANDY SPRING FIRE STATION FOUR  
 ESTIMATE OF GROSS SQUARE FOOTAGE OF  
 WHAT THE COUNTY WOULD BUILD

Station Element:	Gross Sq. Footage
Apparatus/Bay area:	5,480
Dorm and support space:	2,750
Living area:	1,800
Administrative area:	1,270
Public areas:	350
General:	700
Maintenance:	1,000
Community Room:	2,000
Subtotal	15,350
Circulation @ 25%	3,838
<b>Total</b>	<b>19,188</b>

# Wheaton Rescue Squad Relocation -- No. 450505

Category  
Subcategory  
Administering Agency  
Planning Area

Public Safety  
Fire/Rescue Service  
Fire/Rescue Service  
Kensington-Wheaton

Date Last Modified  
Required Adequate Public Facility  
Relocation Impact  
Status

January 09, 2010  
No  
None.  
Final Design Stage

### EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY09	Est. FY10	Total 6 Years	FY11	FY12	FY13	FY14	FY15	FY16	Beyond 6 Years
Planning, Design, and Supervision	1,035	175	621	239	139	100	0	0	0	0	0
Land	1,000	0	1,000	0	0	0	0	0	0	0	0
Site Improvements and Utilities	1,349	0	899	450	450	0	0	0	0	0	0
Construction	5,933	0	3,955	1,978	1,678	300	0	0	0	0	0
Other	525	0	150	375	375	0	0	0	0	0	0
<b>Total</b>	<b>9,842</b>	<b>175</b>	<b>6,625</b>	<b>3,042</b>	<b>2,642</b>	<b>400</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

### FUNDING SCHEDULE (\$000)

G.O. Bonds	9,667	0	6,625	3,042	2,642	400	0	0	0	0	0
PAYGO	175	175	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>9,842</b>	<b>175</b>	<b>6,625</b>	<b>3,042</b>	<b>2,642</b>	<b>400</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

### OPERATING BUDGET IMPACT (\$000)

Maintenance				275	0	39	59	59	59	59
Energy				205	0	25	45	45	45	45
<b>Net Impact</b>				<b>480</b>	<b>0</b>	<b>64</b>	<b>104</b>	<b>104</b>	<b>104</b>	<b>104</b>

#### DESCRIPTION

The Wheaton Volunteer Rescue Squad (WVRS) is planning to relocate from its existing facility, located at 11435 Grandview Avenue, to a new site at the corner of Georgia Avenue and Arcola Avenue. The WVRS has been at the Grandview Avenue location for approximately 35 years. The facility, a Class 1 Fire/Rescue Station, will be located on property owned by the WVRS.

#### ESTIMATED SCHEDULE

The design is 90% complete. The construction schedule is dependent on the Wheaton Volunteer Rescue Squad securing a loan for its share of project cost.

#### JUSTIFICATION

The Grandview Avenue facility is in poor overall condition and is significantly undersized to meet the needs of the WVRS. This project is recommended in the Fire, Rescue, Emergency Medical Services, and Community Risk Reduction Master Plan approved by the County Council in October 2005.

#### OTHER

Preliminary cost estimates have been provided by the WVRS. The expenditures reflect about one-half of the total cost of the project as WVRS is contributing the remaining one-half using non-County funds. MCFRS and the WVRS have developed a Memorandum of Understanding to address terms for construction, financing, ownership, and operation of the new station. Upon completion of the project, the County and the WVRS will share ownership of the station and land.

#### FISCAL NOTE

Debt service for this project will be financed with Consolidated Fire Tax District Funds. Project schedule amended to reflect current implementation plan.

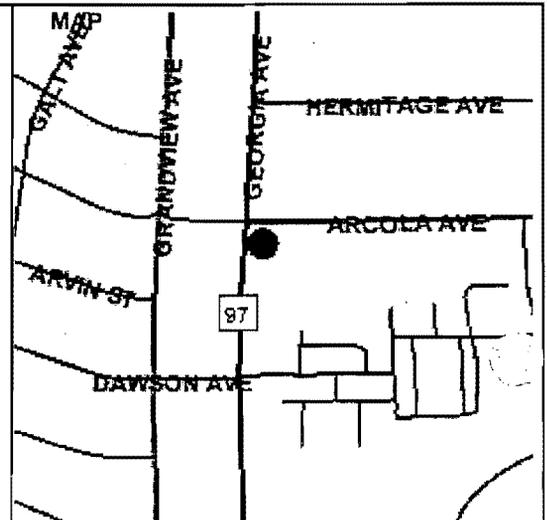
#### OTHER DISCLOSURES

- A pedestrian impact analysis will be performed during design or is in progress.

APPROPRIATION AND EXPENDITURE DATA		
Date First Appropriation	FY05	(\$000)
First Cost Estimate	FY05	4,239
Current Scope		
Last FY's Cost Estimate		9,842
Appropriation Request	FY11	0
Appropriation Request Est.	FY12	0
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		9,842
Expenditures / Encumbrances		188
Unencumbered Balance		9,654
Partial Closeout Thru	FY08	0
New Partial Closeout	FY09	0
Total Partial Closeout		0

#### COORDINATION

Montgomery County Fire and Rescue Service  
Wheaton Volunteer Rescue Squad  
Department of General Services  
Department of Permitting Services  
Department of Technology Services  
Office of the County Attorney  
Mid-County Regional Services Center  
Wheaton Redevelopment Office  
M-NCPPC



October 25, 2010

Nancy Floreen, Chairperson  
Montgomery County Council  
100 Maryland Avenue  
Rockville, MD 20850

Chairperson Floreen:

As the County Council weighs the relocation of Fire Station 18 at Randolph Road and Georgia Avenue, balancing the history of the dedicated service of the Kensington Volunteer Fire Department and the prospects of building a new and modernized facility, the Glenmont community also eagerly awaits the future development in the area.

Therefore, the Greater Glenmont Civic Association (GGCA) backs the relocation plan for the fire station as the lynch pin to a host of capital improvement projects planned over the next 3 to 7 years, starting with the grade interchange project putting Randolph Road under Georgia Avenue.

We view this as the start of a new chapter in the Glenmont area and beyond, so while the GGCA recognizes that change can be challenging we also feel optimistic that we can build upon this transition and grow together with local fire fighters, Montgomery County, area businesses and other local civic associations and non-profits to move our community forward.

Sincerely,

Steve Hanmer  
GGCA Vice President