



**Committee:** E&C  
**Committee Review:** Completed  
**Staff:** Nicole Rodriguez-Hernandez, Legislative Analyst  
**Purpose:** preliminary decisions – straw vote expected  
**Keywords:** #FY21-26CIP #Libraries

AGENDA ITEM #16  
 April 30, 2020  
**Worksession**

**SUBJECT:** FY21-26 Capital Improvements Program & Amendments: Montgomery County Public Libraries

**EXPECTED ATTENDEES**

- Deborah Lambert, Fiscal and Policy Analyst, OMB
- Greg Ossont, Deputy Director, DGS
- Anita Vassallo, Director, MCPL

**FISCAL SUMMARY**

**FY21-26 versus Amended FY19-24 Expenditures (in 000's)**

	Six-Year Total	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	Beyond 6-Years
<b>FY19-24 Amended</b>	<b>28,635</b>	7,641	3,532	3,832	3,832	4,896	4,902			0
<b>FY21-26 CE Rec</b>	<b>48,320</b>			4,681	7,907	5,025	5,795	7,868	17,044	0
change from amended (\$,%)	19,685 -16.7%			849	4,075	129	893			-
<b>Committee Rec</b>	<b>44,778</b>			4,681	4,694	5,149	5,842	7,368	17,044	0
change from amended (\$,%)	16,143 56.4%			849	862	253	940			-
change from CE Rec (\$,%)	(3,542) -7.3%			-	(3,213)	124	47	(500)	-	-
<b>FY21-26 Amended CE Rec</b>	<b>47,786</b>			4,147	7,907	5,025	5,795	7,868	17,044	0
change from CE Rec (\$,%)	(534) -1.1%			(534)	-	-	-	-	-	-

**FY21-26 CIP PROJECTS & AMENDMENTS**

- On January 15, the Executive transmitted his recommended FY21-26 CIP which included five projects related to libraries: 1) 21<sup>st</sup> Century Library Enhancements Level of Effort (LOE); 2) Library Refurbishment LOE; 3) Clarksburg Library; 4) Noyes Library for Children, and; 5) Wheaton Library and Community Recreation Center.
- The E&C committee deferred action on the Noyes Library for Young Children to incorporate updated cost estimates from Executive staff in their recommendation.
- On March 16, the Executive transmitted an affordability adjustment amendment to the 21<sup>st</sup> Century Library Enhancements LOE project. The original recommended FY21 PDF was approved by the E&C committee. The amendment reduces FY21 expenditures from \$1.26 million to \$1 million. The Executive included the originally proposed shift to the operating budget for both FY20 and FY21 totaling \$274,000. The new FY21 expenditure level is \$726,000.

**COMMITTEE & COUNCIL STAFF RECOMMENDATIONS**

- The committee (3-0) voted to advance general obligation (G.O. bond) funding for the Clarksburg Library planning and design stage by shifting forward the FY24 expenditures to FY23 (\$453,000) and a portion of FY25 expenditures (\$500,000) to FY24.
- The committee (3-0) concurred with the Executive's recommendation for the following projects:
  - Library Refurbishment LOE
  - Wheaton Library and Community Recreation Center
- Council staff concurs with the Executive's recommendation for both the 21<sup>st</sup> Century Library Enhancements LOE project amendment and the Noyes Library for Children project.

**This report contains:**

Staff Report  
Project Update  
FY21-16 PDFs  
Foundation MOU

Pages 1-5  
© 1  
© 2-9  
©10-18

**Alternative format requests for people with disabilities.** If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at [adacompliance@montgomerycountymd.gov](mailto:adacompliance@montgomerycountymd.gov)

## MEMORANDUM

April 27, 2020

TO: County Council

FROM: Nicole Rodriguez-Hernandez, Legislative Analyst  
Gene Smith, Legislative Analyst

SUBJECT: **FY21-26 Recommended Capital Improvement Program, Department of Public Libraries- Library Projects**

PURPOSE: Review the Committee's recommendations & the Executive's amendments

**Expected Attendees:**

- Anita Vassallo, Director, Montgomery County Public Libraries (MCPL)
- Greg Ossont, Deputy Director, Department of General Services (DGS)
- Deborah Lambert, Fiscal and Policy Analyst, Office of Management and Budget (OMB)

**Summary**

On March 5, the Education & Culture (E&C) committee discussed the Executive's recommended FY21-26 CIP budget for the Department of Public Libraries. The five active projects total \$48.3 million which is an increase of \$19.7 million from the amended FY19-24 CIP. Most of the increase is due to the inclusion of construction costs for the Clarksburg Library.

On March 16, the Executive transmitted amendments to the recommended FY21-26 CIP, including an affordability adjustment to the 21<sup>st</sup> Century Library Enhancements project ©2. The amended total for the five active projects is \$47.8 million.

Below is a table summarizing the committee's March 5 actions.

Project	Committee's Action/Notes
21 <sup>st</sup> Century Library Enhancements LOE	3-0: concur with the Executive's recommendation
Noyes Library for Children	3-0: defer action until updated cost estimates information is provided by Executive staff
Clarksburg Library	3-0: advance planning & design by shifting the expenditure schedule forward (\$453,000 to FY23 & \$500,000 to FY24)
Library Refurbishment LOE	3-0: concur with the Executive's recommendation
Wheaton Library and Recreation Center	3-0: concur with the Executive's recommendation

## 1. 21<sup>st</sup> Century Library Enhancements--Level of Effort ©2

FY21-26 (\$000s)	6-YR	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26
<b>FY19-24 Approved</b>	\$7,410	\$1,000	\$882	\$1,382	\$1,382	\$1,382	\$1,382		
<b>FY21-26 CE Rec</b>	\$6,636			\$1,226	\$1,082	\$1,082	\$1,082	\$1,082	\$1,082
<b>FY21-26 Amended CE Rec</b>	\$6,136			\$726	\$1,082	\$1,082	\$1,082	\$1,082	\$1,082
<b>Difference</b> (E&C Rec vs. amended CE Rec)	(\$500)			(\$500)					

Source of Funds: \$6.136 million in Current Revenue: General

### Budget Highlights

- **The E&C Committee recommended approval of the reduction of \$774,000 from the approved FY19-24 expenditure schedule.** This reduction does not impact the project; rather, it transfers certain expenditures from the CIP to the operating budget to better reflect the ongoing nature of these expenditures. The Council has previously approved similar transfers in previous budgets. The recommended FY21-26 CIP shifts \$156,000 and \$300,000 to the operating budget in FY21 and FY22, respectively. A list of the current FY21 and FY22 transfers can be found on ©1.
- The Executive recommended an amendment to this project's FY21-26 expenditure schedule on March 16. **The amendment decreases FY21 expenditures by \$500,000 from the previously reviewed PDF.** The Executive recommends this amendment as an affordability adjustment to reduce the FY21 expenditure level to the approved FY19 and FY20 funding level of \$1 million.

### Overview & Updates

This level of effort project provides the funding to update and maintain new technology systems to meet library trends and customer demands. Some funding programmed in this project supports technology updates in the Library Refurbishment CIP project.

The FY19 Marilyn Praisner Refresh Project was deferred to FY20. No projects are anticipated to be delayed in FY20 or FY21.

**Council staff recommends approval of the Executive's amended recommendation.**

## 2. Noyes Library for Young Children--Rehabilitation and Renovation ©3-4

FY21-26 (\$000s)	6-YR	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26
<b>FY19-24 Approved</b>	\$2,750	\$2,750	--	--	--	--	--		
<b>FY21-26 CE Rec</b>	\$3,542			--	\$3,213	\$329	--	--	--
<b>Difference</b>	\$792				\$3,213	\$329			

Source of Funds: \$2.085 million in contributions, \$500,000 in Current Revenue: General, \$957,000 in G.O. Bonds

### Budget Highlights

- The Executive's recommended FY21-26 CIP **increases total expenditures by \$792,000** and delays the schedule for these costs to FY22 from the approved FY19-24 CIP. The increase is due to a revised construction estimate to renovate the building.
- The recommended FY21-26 CIP divides the increase in construction costs between the County and the foundation. The County's increase is funded by G.O. bonds.
- The E&C Committee deferred this item during its March 5 committee meeting to provide additional time for the Executive and the Noyes Foundation to negotiate new terms. Since the committee's review, Executive staff recalculated cost estimates for the project, which have increased from \$4.070 million to \$4.713 million. **Based on the updated cost estimates, Executive stakeholders and the Noyes Children's Library Foundation agreed to postpone making changes to the PDF until the Foundation could propose a reduced scope and cost.**

### Overview & Updates

This project provides partial funding for the rehabilitation of the historic Noyes Library for Young Children that delivers pre-kindergarten education and early childhood services. Improvements include ADA compliance remediation, a finished basement, and renovated first and second floors. In March 2016, the County completed an ADA project that provided wheelchair accessibility to the first floor.

The County is in partnership with the Noyes Children's Library Foundation—the foundation is responsible for fundraising a portion of the total cost, as agreed upon in the Memorandum of Understanding (MOU) (see ©10-18). The MOU stipulates how the parties should address an increase in costs. The Foundation stated during public testimony for the CIP that it has raised approximately \$835,000.

The Executive is still in the process of negotiating new terms with the foundation. Per the current agreement, the County was not obligated to continue this MOU if the foundation was not successful in raising its share by 2018.

**Council staff recommends approval of the Executive's recommendation and to wait for an amended PDF based on the renegotiated terms.**

### **3. Clarksburg Library ©5**

<b>FY21-26 (\$000s)</b>	<b>6-YR</b>	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>
<b>FY19-24 Approved</b>	\$2,134		--	--	--	\$1,064	\$1,070		
<b>FY21-26 CE Rec</b>	\$14,732			--	--	--	\$453	\$2,721	\$11,558
<b>E&amp;C Rec</b>	\$14,732			--	--	\$453	\$500	\$2,221	\$11,558
<b>Difference CE Rec vs. E&amp;C Rec</b>	\$0			--	--	\$453	\$47	(\$500)	\$11,558

*Source of Funds: \$14.732 million in G.O. Bonds*

### Budget Highlights

- The Executive's recommended FY21-26 CIP **increases total expenditures by \$12.598 million** and delays the expected timeline for design to begin in FY24 compared to the approved FY19-24 CIP.
- The E&C's March 5 committee recommendation advances the expenditure funding schedule to progress the planning and design of this project.

### Overview & Updates

This project provides the funds for the design and construction of a library in Clarksburg. Executive staff has noted that Clarksburg Library is currently a candidate project under the DGS Facility Planning PDF. A program of requirements (POR) is estimated to begin in FY22. PORs are typically the first phase for a capital project to accurately evaluate the community needs and space requirements for a better estimate of total costs for the project.

DGS does not have an estimate for total costs for this project, and it is likely that total expenditures will change following the conclusion of the POR for this project.

The corrected Executive's recommended FY21-26 CIP budget can be found on ©5. The original submission included incorrect text for this PDF.

**The committee recommends shifting \$453,000 to FY23 and \$500,000 to FY24 in G.O. bond expenditures. There is no increase in total cost compared to the Executive's recommendation.**

### **4. Library Refurbishment--Level of Effort ©6-7**

<b>FY21-26 (\$000s)</b>	<b>6-YR</b>	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>
<b>FY19-24 Approved</b>	\$14,469	\$2,019	\$2,650	\$2,450	\$2,450	\$2,450	\$2,450		
<b>FY21-26 CE Rec</b>	\$23,410			\$3,455	\$3,612	\$3,614	\$4,260	\$4,065	\$4,404
<b>Difference</b>	\$8,941			\$1,005	\$1,162	\$1,164	\$1,810		

*Source of Funds: \$23.410 million in G.O. (general obligation) Bonds*

### Budget Highlights

- The Executive's recommended FY21-26 CIP **increases total expenditures by \$8.941 million** from the approved FY19-24 CIP.
- The increase is not new funding. The recommendation reflects the true costs to refurbish the County's libraries. Previously, these expenditures were charged to the Department of General Services' (DGS) Level of Effort projects for building systems, roofs, and Americans with Disabilities (ADA) remediation efforts.



## Overview & Updates

This level of effort project provides funding for the structured re-modernization of all library branches by FY27. Improvements include, but are not limited to, renovated restrooms, collaboration spaces, water fountains, and technological upgrades<sup>1</sup>.

Starting in FY21, the refurbishment schedule per fiscal year will entail the facility assessment of one library, design of one library, and the construction of one library. In FY27, the refurbishment cycle will start again after the completion of the first round of refurbishment for all libraries. A status update of current/future projects is on ©1.

Public testimony commented on the need for refurbishment at Silver Spring Library—Executive staff notes it is in the queue for completion after Potomac, Damascus, and Rockville libraries are refurbished.

**Council staff recommends approval of the Executive’s recommendation.**

### **5. Wheaton Library and Community Recreation Center ©8-9**

This project was completed in late 2019. The Executive’s recommended FY21-26 CIP notes a cost savings of \$1 million from the previous estimate. DGS and related contractors are finalizing any remaining issues and pending close out could occur in FY21. This project is currently categorized as “Pending Closeout.”

#### This packet contains:

Facility Updates by PDF  
Project Description Forms  
Noyes Children’s Library Foundation MOU

#### Circle Page #

1  
2-9  
10-18

"F:\Rodriguez\FY21 Budget\Libraries\_MCPL\_CIP\_April 30\_Council.docx"

---

<sup>1</sup> The technological upgrades may be funded from the 21<sup>st</sup> Century Library PDF.

## 1. 21<sup>st</sup> Century Library Enhancements Level of Effort

### FY21 and FY22 CIP transfers to Operating Budget

FY21	
Item	Cost
Yearly maintenance cost for the Scheduling Software	\$25,000
Data plan for 65 T-Mobile hotspots	\$65,000
Yearly maintenance costs for Vocera	\$29,367
Yearly maintenance costs for the Bibliotheca self-checkouts	\$35,960
<b>Total</b>	<b>\$155,327</b>

FY22	
Item	Cost
Data plan for 144 T-Mobile hotspots	\$144,444
<b>Total</b>	<b>\$144,444</b>

## 2. Library Refurbishment Level of Effort

### Current Status Updates

Library	Status
<b>Marilyn Praisner</b>	Opened in Nov. 2019 on budget.
<b>Long Branch</b>	Estimated Construction Start - March 2020 Estimated Completion- October 2020
<b>Maggie Nightingale</b>	Undergoing planning and design. Estimated Construction Start: Summer 2021
<b>Germantown</b>	Estimated Construction Start - Summer 2020 Estimated Completion- Early 2021
<b>Chevy Chase</b>	DGS is currently exploring a P3 (public-private partnership) opportunity.
<b>Potomac</b>	Estimated Planning Start: 2020 Estimated Design Start: 2021 Estimated Construction Start: 2022
<b>Damascus</b>	Estimated Planning Start: 2020 Estimated Design Start: 2021 Estimated Construction Start: 2022





## 21st Century Library Enhancements Level Of Effort (P711503)

**Category**  
**SubCategory**  
**Planning Area**

Culture and Recreation  
Libraries  
Countywide

**Date Last Modified**  
**Administering Agency**  
**Status**

03/02/20  
General Services  
Ongoing

Total	Thru FY19	Est FY20	Total 6 Years	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	Beyond 6 Years
-------	-----------	----------	------------------	-------	-------	-------	-------	-------	-------	-------------------

### EXPENDITURE SCHEDULE (\$000s)

Planning, Design and Supervision	410	8	210	192	32	32	32	32	32	32	-
Construction	3,348	364	890	2,094	219	375	375	375	375	375	-
Other	6,913	2,923	140	3,850	475	675	675	675	675	675	-
<b>TOTAL EXPENDITURES</b>	<b>10,671</b>	<b>3,295</b>	<b>1,240</b>	<b>6,136</b>	<b>726</b>	<b>1,082</b>	<b>1,082</b>	<b>1,082</b>	<b>1,082</b>	<b>1,082</b>	<b>-</b>

### FUNDING SCHEDULE (\$000s)

Current Revenue: General	10,446	3,070	1,240	6,136	726	1,082	1,082	1,082	1,082	1,082	-
G.O. Bonds	225	225	-	-	-	-	-	-	-	-	-
<b>TOTAL FUNDING SOURCES</b>	<b>10,671</b>	<b>3,295</b>	<b>1,240</b>	<b>6,136</b>	<b>726</b>	<b>1,082</b>	<b>1,082</b>	<b>1,082</b>	<b>1,082</b>	<b>1,082</b>	<b>-</b>

### APPROPRIATION AND EXPENDITURE DATA (\$000s)

Appropriation FY 21 Request	726	Year First Appropriation	FY15
Appropriation FY 22 Request	1,082	Last FY's Cost Estimate	10,063
Cumulative Appropriation	4,535		
Expenditure / Encumbrances	3,615		
Unencumbered Balance	920		

### PROJECT DESCRIPTION

This level of effort project is intended to maintain and keep technology current in existing libraries by updating technology and technology support systems. When appropriate, upgrades will be coordinated with Library Refurbishment project work.

### ESTIMATED SCHEDULE

Project started in FY15 and work will progress on an as needed basis.

### COST CHANGE

Added FY25 and FY26 expenditures. Shifted Current Revenue for FY21 through FY26 to the Library operating budget to recognize ongoing operating budget impacts of this CIP project. Due to fiscal constraints, the FY21 Current Revenue funding was reduced to the level of \$1,000,000, the amount that was previously approved for FY19 and FY20, with \$726,000 continuing in the CIP and \$274,000 in the operating budget.

### PROJECT JUSTIFICATION

This funding will allow the Department of Public Libraries, Department of General Services, and Department of Technology Services to respond to customer demands and library trends that require changes in the equipment and related furnishings of library buildings. This includes the provision of new equipment such as loanable laptops, upgraded self-checkout machines, security cameras, badge access doors, and modifying service desks to provide single points of service. It will also provide funding for necessary upgrades of electrical and data connections as improvements are made to the services and programs. This project will improve the level of service to the community by keeping the library system more current and responsive to the needs of the community. Rather than the current 30+ year cycle of renovations, funds will be available to modify technology on a much shorter timeframe.

### FISCAL NOTE

Funds have occasionally been moved from this CIP budget to the Library operating budget to accommodate ongoing operating budget impacts from this project. Beginning in FY20, \$118,000 was shifted to the Library operating budget. By FY21 and FY22, another \$156,000 and \$300,000 respectively will be shifted to the Library operating budget.

### DISCLOSURES

Expenditures will continue indefinitely.

### COORDINATION

Department of General Services, Department of Public Libraries, and Department of Technology Services.



# Noyes Library for Young Children Rehabilitation and Renovation (P711704)

**Category**  
**SubCategory**  
**Planning Area**

Culture and Recreation  
Libraries  
Kensington-Wheaton

**Date Last Modified**  
**Administering Agency**  
**Status**

01/02/20  
Public Libraries  
Final Design Stage

Total	Thru FY19	Est FY20	Total 6 Years	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	Beyond 6 Years
-------	-----------	----------	------------------	-------	-------	-------	-------	-------	-------	-------------------

## EXPENDITURE SCHEDULE (\$000s)

Planning, Design and Supervision	708	338	190	180	-	110	70	-	-	-
Site Improvements and Utilities	801	-	-	801	-	739	62	-	-	-
Construction	2,475	-	-	2,475	-	2,285	190	-	-	-
Other	86	-	-	86	-	79	7	-	-	-
<b>TOTAL EXPENDITURES</b>	<b>4,070</b>	<b>338</b>	<b>190</b>	<b>3,542</b>	<b>-</b>	<b>3,213</b>	<b>329</b>	<b>-</b>	<b>-</b>	<b>-</b>

## FUNDING SCHEDULE (\$000s)

Contributions	2,085	-	-	2,085	-	2,085	-	-	-	-
Current Revenue: General	500	-	-	500	-	500	-	-	-	-
G.O. Bonds	1,485	338	190	957	-	628	329	-	-	-
<b>TOTAL FUNDING SOURCES</b>	<b>4,070</b>	<b>338</b>	<b>190</b>	<b>3,542</b>	<b>-</b>	<b>3,213</b>	<b>329</b>	<b>-</b>	<b>-</b>	<b>-</b>

## OPERATING BUDGET IMPACT (\$000s)

Maintenance	28	-	-	7	7	7	7
Energy	16	-	-	4	4	4	4
Program-Staff	956	-	-	239	239	239	239
Program-Other	-	-	-	-	-	-	-
<b>NET IMPACT</b>	<b>1,000</b>	<b>-</b>	<b>-</b>	<b>250</b>	<b>250</b>	<b>250</b>	<b>250</b>
<b>FULL TIME EQUIVALENT (FTE)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>2.5</b>	<b>2.5</b>	<b>2.5</b>	<b>2.5</b>

## APPROPRIATION AND EXPENDITURE DATA (\$000s)

Appropriation FY 21 Request	-	Year First Appropriation	FY17
Appropriation FY 22 Request	900	Last FY's Cost Estimate	3,100
Cumulative Appropriation	3,100		
Expenditure / Encumbrances	596		
Unencumbered Balance	2,504		

## PROJECT DESCRIPTION

This project will provide for a comprehensive rehabilitation of this historic library to include conversion of the attic into a finished second floor, renovation of the first floor, and the addition of a finished basement, an elevator, Americans with Disabilities Act (ADA) compliant restrooms, and egress stairs. The rehabilitated facility will be able to accommodate more attendees and more types of programming and services than are possible in the current facility.

## LOCATION

10237 Carroll Place, Kensington, Maryland 20895.

## ESTIMATED SCHEDULE

A draft Concept Plan was reviewed by the County and the Noyes Children's Library Foundation in the Summer of 2013 and agreed upon as the basis for the project design. Initial soil bore testing was completed in late Fall 2013, indicating there were no major problems anticipated. Design began in FY17, and construction will commence when the necessary funds for the complete project are successfully raised by the Noyes Children's Library Foundation. The project has been submitted to the Maryland Historic Trust (MHT) for the review and creation of a Memorandum Of Agreement (MOA) between the MHT, the County, and the Foundation. The MOA is expected to be helpful for private fundraising.

## COST CHANGE

The total estimated amount increased due to delay and resulting escalation as well as updated site improvement costs.

## PROJECT JUSTIFICATION

The Noyes Library is a small, historically-designated library with services specifically focused on pre-kindergarten education and early childhood (infants through approximately age 8). The small scale and intimate setting of the library are unique and provide a signature experience for children, but the building is not ADA compliant. In 2010, the County proposed a modest effort that would have addressed the ADA issues in the most basic manner possible, as well as made small changes to the library layout that would have positively impacted programming and service offerings. Since that time, the County and the Foundation discussed a

---

more comprehensive rehabilitation of the Noyes Library for Young Children that preserved the library's unique, small-scale, intimate experience, while making substantial improvements to the building that supported use by persons with disabilities, new space for program preparatory and collection work by staff, and additional space for programs. Via this project, the County Executive is proposing a partnership to support this enhanced vision of the Noyes Library for Young Children.

### **FISCAL NOTE**

The project is to be funded by County General Obligation (GO) Bonds and private funds that will be raised by the Noyes Children's Library Foundation according to the requirements of the Memorandum of Understanding (MOU) between the County and the Noyes Children's Library Foundation which codifies the fundraising and project plan. In addition, Current Revenue funding of \$300,000 in FY17 and \$200,000 in FY18 has been moved from Capital Improvement Grants for the Arts and Humanities from Cost Sharing project P720601. The construction phase will not begin until the Noyes Children's Library Foundation completes its fund raising and provides the construction funding in full to the County. An increased cost share related to the project's cost increase must be negotiated per the terms of the Memorandum of Understanding between the County and the Noyes Children's Library Foundation.

### **DISCLOSURES**

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

### **COORDINATION**

Department of Public Libraries, Department of General Services, Noyes Children's Library Foundation, Maryland-National Capital Park and Planning Commission, Montgomery County Parks, Mid-County Regional Services Center, Washington Suburban Sanitary Commission, Pepco, Town of Kensington Park, and Maryland Historic Trust.



## Clarksburg Library (P710500)

<b>Category</b>	Culture and Recreation	<b>Date Last Modified</b>	01/02/20
<b>SubCategory</b>	Libraries	<b>Administering Agency</b>	General Services
<b>Planning Area</b>	Clarksburg and Vicinity	<b>Status</b>	Planning Stage

	Total	Thru FY19	Est FY20	Total 6 Years	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	Beyond 6 Years
<b>EXPENDITURE SCHEDULE (\$000s)</b>											
Planning, Design and Supervision	2,484	-	-	1,853	-	-	453	453	200	700	631
Site Improvements and Utilities	235	-	-	235	-	-	-	-	35	200	-
Construction	11,444	-	-	11,444	-	-	-	-	1,786	9,658	-
Other	1,200	-	-	1,200	-	-	-	-	200	1,000	-
<b>TOTAL EXPENDITURES</b>	<b>15,363</b>	-	-	<b>14,732</b>	-	-	-	<b>453</b>	<b>2,721</b>	<b>11,558</b>	<b>631</b>
<b>FUNDING SCHEDULE (\$000s)</b>											
G.O. Bonds	15,363	-	-	14,732	-	-	-	453	2,721	11,558	631
<b>TOTAL FUNDING SOURCES</b>	<b>15,363</b>	-	-	<b>14,732</b>	-	-	-	<b>453</b>	<b>2,721</b>	<b>11,558</b>	<b>631</b>

<b>APPROPRIATION AND EXPENDITURE DATA (\$000s)</b>											
Appropriation FY 21 Request	- Year First Appropriation										
Appropriation FY 22 Request	- Last FY's Cost Estimate										
Cumulative Appropriation	-										
Expenditure / Encumbrances	-										
Unencumbered Balance	-										

### PROJECT DESCRIPTION

This project provides for the design and construction of a library located in Clarksburg, as outlined in the Clarksburg Master Plan, and appropriate to the needs of the community.

### LOCATION

Clarksburg, Maryland.

### ESTIMATED SCHEDULE

Design development will begin in FY24, and construction will start in FY25.

### COST CHANGE

Placeholder construction costs have been added to the project.

### PROJECT JUSTIFICATION

The Department's Strategic Facilities Plan (1998 - 2003) recognized the need for library services in the Clarksburg area, including a needs assessment completed in 2001. The Department confirms that the Clarksburg area continues to meet the criteria for a new facility, as outlined in The Department's Facilities Plan 2013-2016. The Clarksburg population is expected to increase from 13,766 in 2010 to almost 40,000 by 2025. The closest library is the Germantown branch, which opened in 2007. The library will serve as the community connection hub to ideas, learning, and the exchange of information. It will improve the community through facilitating knowledge creation, informing the community, and inspiring lifelong learning and collaboration.

### FISCAL NOTE

Dedication of a 1.1 acre site was approved by the Montgomery County Planning Board on July 23, 2015 as part of the developer Third Try LLC's design for the site plan for the unbuilt portions of the Town Center on the east and west sides of the development. Pending evaluation of a Program of Requirements, a more refined cost estimate will be provided. Associated parking will be provided by the developer.

### COORDINATION

Maryland-National Capital Park and Planning Commission, Department of General Services, Department of Technology Services, Department of Permitting Services, Washington Suburban Sanitary Commission, Clarksburg Town Center Development District, Department of Public Libraries, and Upcounty Regional Service Center.



## Library Refurbishment Level of Effort (P711502)

<b>Category</b>	Culture and Recreation	<b>Date Last Modified</b>	01/02/20
<b>SubCategory</b>	Libraries	<b>Administering Agency</b>	General Services
<b>Planning Area</b>	Countywide	<b>Status</b>	Ongoing

Total	Thru FY19	Est FY20	Total 6 Years	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	Beyond 6 Years
-------	-----------	----------	------------------	-------	-------	-------	-------	-------	-------	-------------------

### EXPENDITURE SCHEDULE (\$000s)

Planning, Design and Supervision	8,564	2,850	258	5,456	732	812	850	969	1,134	959	-
Construction	21,357	5,740	1,324	14,293	1,856	2,377	2,434	2,649	2,267	2,710	-
Other	4,873	850	362	3,661	867	423	330	642	664	735	-
<b>TOTAL EXPENDITURES</b>	<b>34,794</b>	<b>9,440</b>	<b>1,944</b>	<b>23,410</b>	<b>3,455</b>	<b>3,612</b>	<b>3,614</b>	<b>4,260</b>	<b>4,065</b>	<b>4,404</b>	-

### FUNDING SCHEDULE (\$000s)

G.O. Bonds	31,907	6,553	1,944	23,410	3,455	3,612	3,614	4,260	4,065	4,404	-
State Aid	2,887	2,887	-	-	-	-	-	-	-	-	-
<b>TOTAL FUNDING SOURCES</b>	<b>34,794</b>	<b>9,440</b>	<b>1,944</b>	<b>23,410</b>	<b>3,455</b>	<b>3,612</b>	<b>3,614</b>	<b>4,260</b>	<b>4,065</b>	<b>4,404</b>	-

### APPROPRIATION AND EXPENDITURE DATA (\$000s)

Appropriation FY 21 Request	3,322	Year First Appropriation	FY15
Appropriation FY 22 Request	3,304	Last FY's Cost Estimate	23,082
Cumulative Appropriation	13,630		
Expenditure / Encumbrances	10,417		
Unencumbered Balance	3,213		

### PROJECT DESCRIPTION

The Library Refurbishment level of effort (LOE) project provides a structured process to modernize all 21 library branches over 20 years with new technologies and service delivery improvements which reflect the latest in 21st century library trends at much less costs than renovations. The improvements include renovated restrooms, creating group collaborations rooms, providing new sit / stand ergonomic service desks, prekindergarten early literacy display elements, new water fountains with bottle filling features, and a general refurbishment of new paint, carpet, and other flooring. With the addition of funding from the 21st Century Library Level of Effort project, electric connectivity at many tables and seating groups and loanable laptops are provided. Often other Level of Effort projects provide funding to address roof, mechanical / HVAC, window, and lighting repairs or replacements.

### ESTIMATED SCHEDULE

The Library Refurbishment LOE started in FY15 with two refurbishments. In FY16, FY17, and FY18, a total of six libraries were refurbished. In FY19 and FY20, two libraries will be refurbished along with the facility assessment of a third and the design of a fourth. The schedule of refurbishments per fiscal year will then transition to completing the facility assessment of one library, design of one library, and the construction of one library per fiscal year. This will enable all 21 libraries to be refurbished by FY27 where the cycle would start over again. The Library Department identifies the libraries to be refurbished 18 month in advance before the planning and design begins, so that applications for state grant funding can be submitted. Notice identifying the specific library projects for the given fiscal year must be provided to Council at least 60 days before any funding is obligated or spent. The notice to Council includes the scope of work, cost estimate, and expenditure schedule for planning design and supervision, construction, and other costs by fiscal year.

### COST CHANGE

The scope of the project was increased to include work previously charged to Department of General Services' Level of Effort projects for building systems, roof, and Americans with Disabilities Act (ADA) improvements. This change provides a clearer understanding of the true costs to refurbish the County's libraries. The County will also be pursuing a Public Private Partnership to redevelop the Chevy Chase Library. This strategy is likely to yield a better, more cost effective library facility given the location of the library.

### PROJECT JUSTIFICATION

Until the implementation of these projects, many of the County Libraries have not been updated in 20 years. The Library Refurbishment LOE will ensure that all libraries are refurbished and updated on a scheduled basis. This will ensure that the libraries continue to meet the community's needs for programs, services, and facilities. The Library Refurbishment projects enable the County to update more libraries over a shorter period of time with less money than under the old approach of renovating only 1 or 2 libraries.

### FISCAL NOTE

FY15 Supplemental in State Aid for \$387,000 was approved for this project for the refurbishment of Twinbrook (\$128,000) and Kensington Park (\$259,000) branches. FY16 Supplemental in State Aid for \$800,000 was approved for this project for the refurbishment of Davis (\$400,000) and Little Falls (\$400,000) branches. FY17 Supplemental in State Aid for \$1,500,000 was approved for this project for the refurbishment of Bethesda (\$500,000), Quince Orchard (\$500,000) and White Oak (\$500,000) branches. Amended FY18 for State Aid of \$200,000 for the refurbishment of Long Branch (\$100,000) and Marilyn Praisner (\$100,000)



---

branches. Cost estimates will be refined after facility assessments are completed.

## **DISCLOSURES**

Expenditures will continue indefinitely. The County Executive asserts that this project conforms to the requirement of relevant local plans, as required by the Maryland Economic Growth, Resource Protection and Planning Act.

## **COORDINATION**

Department of General Services, Department of Public Libraries, Maryland State Department of Education, and Department of Technology Services.



# Wheaton Library and Community Recreation Center (P361202)

<b>Category</b>	Culture and Recreation	<b>Date Last Modified</b>	01/03/20
<b>SubCategory</b>	Libraries	<b>Administering Agency</b>	General Services
<b>Planning Area</b>	Kensington-Wheaton	<b>Status</b>	Under Construction
<b>Required Adequate Public Facility</b>	Yes		

Total	Thru FY19	Est FY20	Total 6 Years	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	Beyond 6 Years
-------	-----------	----------	------------------	-------	-------	-------	-------	-------	-------	-------------------

## EXPENDITURE SCHEDULE (\$000s)

Planning, Design and Supervision	11,662	10,263	1,399	-	-	-	-	-	-	-
Site Improvements and Utilities	738	124	614	-	-	-	-	-	-	-
Construction	54,181	46,670	7,511	-	-	-	-	-	-	-
Other	3,278	1,219	2,059	-	-	-	-	-	-	-
<b>TOTAL EXPENDITURES</b>	<b>69,859</b>	<b>58,276</b>	<b>11,583</b>	-	-	-	-	-	-	-

## FUNDING SCHEDULE (\$000s)

Current Revenue: General	677	-	677	-	-	-	-	-	-	-
G.O. Bonds	26,875	16,169	10,706	-	-	-	-	-	-	-
PAYGO	42,107	42,107	-	-	-	-	-	-	-	-
State Aid	200	-	200	-	-	-	-	-	-	-
<b>TOTAL FUNDING SOURCES</b>	<b>69,859</b>	<b>58,276</b>	<b>11,583</b>	-	-	-	-	-	-	-

## OPERATING BUDGET IMPACT (\$000s)

Maintenance	3,150	525	525	525	525	525	525
Energy	2,274	379	379	379	379	379	379
Program-Staff	186	31	31	31	31	31	31
Program-Other	414	69	69	69	69	69	69
Offset Revenue	(300)	(50)	(50)	(50)	(50)	(50)	(50)
<b>NET IMPACT</b>	<b>5,724</b>	<b>954</b>	<b>954</b>	<b>954</b>	<b>954</b>	<b>954</b>	<b>954</b>
<b>FULL TIME EQUIVALENT (FTE)</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>

## APPROPRIATION AND EXPENDITURE DATA (\$000s)

Appropriation FY 21 Request	(1,000)	Year First Appropriation	FY12
Appropriation FY 22 Request	-	Last FY's Cost Estimate	70,859
Cumulative Appropriation	70,859		
Expenditure / Encumbrances	65,227		
Unencumbered Balance	5,632		

## PROJECT DESCRIPTION

This project provides for a combined facility to include the new Wheaton Library, a used book store run by a non-profit, with proceeds benefiting Montgomery County Public Libraries, and the Wheaton Community Recreation Center. Included in the scope is the development of the Program of Requirements (POR) and conceptual design followed by full design services and construction of the facility. The Library and the Recreation Center are comparable to libraries and recreation centers of similar service needs with efficiencies of area and program made possible due to the shared use of spaces such as lobbies, meeting rooms, restrooms, and parking which reduces the overall space requirements and provides for greater efficiencies and reduced operational costs. The Department of General Services (DGS) and Maryland-National Capital Park and Planning Commission (M-NCPPC) have developed a Memorandum of Understanding (MOU) for the combined use of the Library/Recreation Center building, and the Park. The services formally provided at the existing Wheaton Neighborhood Recreation Youth Center, will be replaced by the new Community Recreation Center. The demolition of the structure allows full use of the Park green space to support the community programs to be offered by the M-NCPPC and the Department of Recreation. The project provides for a new road access from the relocated Hermitage Avenue.

## LOCATION

Located at the corner of Georgia and Arcola Avenues, Wheaton, Maryland.

## ESTIMATED SCHEDULE

The facility concept study was completed in 2013. Design started in 2013 and completed in Spring of 2016. Construction started in Fall of 2016 and the facility opened to the public in September 2019.

## COST CHANGE

The project has realized \$1,000,000 in FY20 savings.



---

## PROJECT JUSTIFICATION

The Wheaton Library is one of the busiest libraries in Montgomery County, with over 490,000 items circulated and more than 381,000 visits by the public in FY13. The used book store, operated by the Friends of the Library, and a satellite office of the Gilchrist Center are located on the lower level. There are serious moisture problems and the building does not meet current mechanical, safety, and building codes. The mechanical, elevator, and HVAC systems are outdated and worn, and they are not energy efficient. The facility was opened in 1960 and was renovated in 1985. It is in need of space reconfiguration to meet current library information needs. The Department of Recreation has operated the existing Wheaton Recreation Center, owned by the M-NCPPC, for many years. As early as 1997, this facility was designated for replacement with a larger full-service facility, originally included in Facility Planning and Site Evaluation projects as the Kemp Mill (later Wheaton/Kemp Mill) Community Recreation Center. In the 2005 update to the Recreation Department's facility plan and in the FY07-12 CIP, a "Wheaton Area Recreation Facilities" study was included in the MCG Facility Planning Project #508768 for this purpose. That study included site and structure, stabilization and design development for future renovation, remodeling, and expansion of the Wheaton Neighborhood Recreation Center - Rafferty to provide an additional recreation facility to complement the existing facility. After review of the Rafferty component, space limitations, utility and plumbing challenges did not make it feasible to complete the project on its current site. A decision was made to pursue an alternative combined facility.

## FISCAL NOTE

Other cost includes \$300,000 for the library collection.

## DISCLOSURES

A pedestrian impact analysis has been completed for this project. The County Executive asserts that this project conforms to the requirement of relevant local plans, as required by the Maryland Economic Growth, Resource Protection and Planning Act.

## COORDINATION

Department of General Services, Department of Libraries, Department of Recreation, Department of Transportation, Maryland-National Capital Park and Planning Commission, State Highways, Mid-County Regional Services Center, Washington Suburban Sanitary Commission, and Pepco. Special Projects Legislation [Bill No. 34-14] was adopted by Council June 17, 2014.

**Memorandum of Understanding  
Regarding Noyes Library for Young Children  
Capital Improvement Project  
Between  
Montgomery County, Maryland  
And  
Noyes Children's Library Foundation, Inc.**

**Section I – Background**

- A. Montgomery County, Maryland (the "County"), through its Department of Public Libraries ("MCPL"), and Noyes Children's Library Foundation, Inc. (the "Foundation,"/NCLF and together with the County, the "Parties") have a mutual interest in the development, funding, and implementation of a Capital Improvement Project (the "Project") to improve and rehabilitate the Noyes Library for Young Children, (Noyes) a branch of MCPL, located at 10237 Carroll Place, Kensington, Maryland 20895.
- B. On March 15, 2010, the County Executive recommended a two year closure of Noyes for the purpose of reducing MCPL costs, while the County planned changes for Noyes, including (i) a repurposing of Noyes and (ii) making the building wheelchair accessible in keeping with the County's Project Civic Access Settlement Agreement with the U.S. Department of Justice.
- C. In response to the County Executive's recommendation, the Foundation sent a letter on April 12, 2010 to the County Executive proposing that the Foundation conduct a fundraising campaign to keep Noyes operating during the planning process.
- D. The County Executive endorsed that proposal which the County Council approved in the FY11 Operating Budget (Resolution 16-1373, May 27, 2010). The resulting Memorandum of Agreement was approved by Resolution 16-1373 and was successfully concluded on August 31, 2012.
- E. During the period of that former agreement, Fiscal Years 2011 and 2012, a workgroup composed of representatives from the County and the Foundation collaborated to develop a draft design concept for Noyes to meet Americans with Disabilities Act (ADA) regulations. The workgroup found that the ADA regulations could not be met if the existing Noyes library space were to be maintained. The Foundation proposed a substantially modified and expanded Noyes and funded a feasibility study to develop a concept design. This draft design concept had a larger scope of work than the County originally anticipated in 2010.
- F. Despite a recession induced 24% reduction in MCPL's FY11 budget, Noyes remained open continuously, but with a substantially reduced staff. Subsequently, the County Executive recommended, and the County Council approved, a County appropriation to resume full County funding of Noyes operations in Fiscal Year 13, at the reduced staffing levels

established in Fiscal Year 11. Throughout this process, collaboration continued on the design concept for substantial modification and expansion of Noyes.

## **Section II – Purpose of Agreement**

- A. **Purpose of MOU.** The purpose of this Memorandum of Understanding (the “MOU”) is to establish a framework for the County and the Foundation to partner with respect to the Project and to facilitate, through the County Department of General Services (“DGS”), the completion of the Project.
- B. **Mission of Noyes.** The parties acknowledge and agree that Noyes is and shall remain a free public library specifically focused on young children and staffed by professional librarians knowledgeable in children’s literature and early literacy.

## **Section III – Summary of Progress**

- A. Subject to the conditions below, the County shall secure the necessary approvals to implement the Project.
- B. The County Executive has requested that the County Council appropriate funds to support his commitment of \$1,000,000 to the Project. The County Council Health and Human Services Committee has committed to seek full Council appropriation of \$500,000 as the Council commitment to the Project.
- C. The Foundation has agreed to conduct a fundraising campaign to raise additional funds for the completion of the Project.
- D. Both parties acknowledge that there is a risk that a design will not be funded or that it will not be approved by the State or the County or that significant modifications to a design concept will be required, as there are legal and policy restrictions and requirements related to modifying Noyes. These restrictions and requirements potentially include: approval by Maryland and County historical commissions, approval of a variance, and conformance with the ADA regulations.

## **Section IV –Funding and Project Plan**

- A. **Funding Commitments.** Funds have been or shall be committed for the Project as follows:
  - (1) The Foundation shall use its reasonable best efforts to raise \$1,525,000 of the funding for the completion of the Project (the “Foundation Contribution”). The following contributions shall count towards the Foundation Contribution: (i) funding contributions, if any, provided to the Foundation or for the Project by the Town of Kensington; (ii) funding

contributions, if any, provided to the Foundation or for the Project by the State of Maryland through bond bills, or other State of Maryland sources; and (iii) any in-kind contributions of services or materials used in the design and construction of the project that are provided to the Foundation for the Project.

- (2) The County shall commit \$1,000,000 for the completion of the Project (the "County Executive's Commitment").
- (3) The County Council shall provide \$500,000 for the completion of the Project. Those funds may be appropriated from funds set aside for capital grants for arts and humanities organizations (the "Arts and Humanities Grant") or other appropriate funding sources.
- (4) Montgomery County Public Libraries shall release \$75,000 from the Shizu-Coles Bequest to the Project immediately upon execution of this agreement for the design work required at the beginning of the Project.

B. **Estimated Cost; Funding Schedule.** The County estimates that the cost of the Project will be approximately \$3,100,000. The Parties shall cooperate to develop a funding schedule for the Project based on the following schedule, and shall provide funds in accordance with such schedule:

July 1, 2016 (FY17)	\$275,000 from Foundation Contribution for design
	\$100,000 from Arts and Humanities Grant for design
	\$200,000 from Arts and Humanities Grant for construction including supervision
	\$75,000 from the Shizu-Coles Bequest for design
July 1, 2017 (FY18)	\$1,000,000 from County Contribution for construction including supervision
	\$200,000 from Arts and Humanities Grant for construction including supervision
	\$1,250,000 from Foundation Contribution for construction including supervision*

\* Any funding contribution provided by the Town of Kensington will count toward the Foundation fundraising obligation required under this Agreement.

- C. The County shall create a Project Description Form (PDF) based on the development and funding plan described above. In the event that the actual cost of the design phase or the construction phase is less than the estimates above, such savings shall revert half to the Foundation and half to the County.
- D. Project Schedule. Design will begin July 1, 2016 and will take about 12 months including bidding. Construction is expected to begin summer 2017 and take 12-18 months.
- E. Funding Gap; Cost Increase. (1) In the event the cost of the Project exceeds the sum of the Foundation Contribution, the County Contribution, and the Private Bequest, the Parties shall negotiate in good faith how to fund such excess cost. (2) If during the design or construction phase of the Project, the total cost estimate for the Project increases, the County shall inform the Foundation of the increase in the cost estimate and the Parties shall negotiate in good faith how to fund such increased cost.
- F. Foundation Strategic Funding Plan. Within 20 business days of the date of the last signature to this Agreement, the Foundation shall submit to the County a detailed strategic fundraising plan.
- G. Design Development Process. Subject to the requirements contained below in Clause H of Section IV, the County shall (a) develop and finalize a design concept for the Project, (b) keep the Foundation well-informed throughout the design process, and (c) before finalization of the design concept, submit such design to the Foundation for review and comment. The County has final approval of the Project design.
- H. Design Requirements. The Project design shall:
- (1) maintain the essential character of Noyes as a children's library which character is defined as a combination of unique historical and aesthetic qualities that create a non-institutional, welcoming space for children and families;
  - (2) be a model of universal access as a priority but with attention paid to the approved and allocated budget established for the Project, and
  - (3) facilitate the expansion of Noyes' early literacy programming and outreach.
  - (4) The design shall be approved by MCPL, DGS, and NCLF. The County through DGS has final approval over the Project design and in situations of dispute or conflict the County makes the final determination about how to proceed.
- (i) Additionally, the Project design may include an expansion of the current 975 square feet of floor space that comprises Noyes, and/or

(ii) May include the construction of an elevator tower which will provide access to all floors of the building. The final design shall meet the approval of the Maryland Historical Trust and Historic Preservation Commission;

(iii) May be based on the design concept developed by Widemann Architects, LLC ("Widemann") during the feasibility study.

- I. **Final Design Approval.** The County shall make final determinations on the nature of the Project and its design, taking into account the comments of the Foundation, MCPL's professional judgments, the advice of other County departments and agencies, and community feedback. The County and the Foundation shall cooperate to complete the design and meet associated construction cost estimates during FY17. The Parties acknowledge that the improvements are subject to certain approvals required by the County's budget process and that final design and implementation decisions for any approved and funded Project shall be made and managed by DGS.
- J. **Outside Vendors.** The County shall explore the use of vendors or service providers that may be available outside of the full procurement process with the Office of Procurement in an effort to lower costs for the Project. County expenditures and contracts will be subject to approval of the County Executive and the County Council pursuant to County law. The County will issue a task order to its competitively selected library architect, Grimm and Parker. Grimm and Parker will sub-contract with Widemann to provide specific design services for the Project.
- K. **Additional Opportunities.** The County agrees to Partner with the Foundation to explore additional opportunities, such as through the County Grant program, for the Foundation to use in raising funds for the Project.

#### **Section V - Communications**

- A. **Quarterly Meetings.** The Foundation and the County shall meet on a quarterly basis, at the invitation of the MCPL Director/Project Manager or the DGS Director or Project Manager, to review the status of fundraising and the status of project-related activities such as budget and expenditures. These quarterly meetings shall be staffed by MCPL and DGS for the County. The first such quarterly meeting shall be scheduled within 30 days of the execution of this MOU. The County shall provide the Foundation at least 30 days' advance written notice before any meeting, which notice shall include a meeting agenda.
- B. **Fundraising Events at Noyes.** MCPL and the Foundation shall coordinate any uses of Noyes for fundraising events. The Foundation shall obtain MCPL and, if necessary, Community Use of Public Facilities (CUPF) approval in a timely fashion before scheduling any events at Noyes. Coordination shall ensure that expected attendance by



the public and attendant use of library facilities are consistent with applicable MCPL and County policies, procedures, regulations and laws.

- C. **Party Contacts.** Specific points of contact for MCPL, DGS, and for the Foundation will be identified by each party to coordinate communication, fundraising and any other routine issues that may arise between these quarterly meetings. Those individuals are listed in Section VII below.
- D. **Additional Foundation Obligations.** Prior to the first day of each fiscal year, the Foundation shall provide a certification, signed by its chief executive officer, that it is incorporated in good standing, has a valid charter, and has a legally constituted board of directors. The Foundation shall provide MCPL with an annual report, due three months after the close of the County's fiscal year, on the Foundation's financial status, fundraising plans, and other matters of importance to its support of Noyes.
- E. **Fundraising Status Reports.** Upon acceptance of the final design by the County and the Foundation, the Foundation shall commence providing quarterly status reports to the County regarding the progress of its fundraising campaign for the Project. Such status reports shall include the amount of funds raised, cash on hand, pledges, and the projected amount available to fund the Project.
- F. **Donor Visits.** MCPL and the County acknowledge that success of the fundraising campaign may depend in large part on the experiences of potential donors who visit Noyes. MCPL shall cooperate with the Foundation to refer patrons to a staff member or a member of the Foundation who can answer any questions presented.
- G. **Use of the Library.** The Foundation may post notices at Noyes regarding its organization and activities, and may meet at Noyes or other libraries within the County, from time to time. All such activities, notices and access will be coordinated with MCPL and, if necessary, CUPF.

#### **Section VI –Dispute Resolution and Termination of MOU**

- A. This MOU shall become effective upon the signature of all Parties.
- B. The County may terminate this MOU if the Foundation does not raise the Foundation Contribution by December 31, 2018.
- C. Subject to the below provisions, this MOU shall automatically terminate on the 120th day following the completion of the Project. The Project shall be deemed complete when construction work is completed, the building is re-occupied by staff and re-opened to the public for any library services, and the County considers the Project to be completed.



- D. This MOU may be terminated unilaterally by either party upon 90 days' written notice. The terminating party shall state its reasons for terminating the MOU in the written notice.
- E. If the County terminates this MOU, it shall return to the Foundation, within 120 days of the termination date, any monies received from the Foundation that were not used for the Project, less any monies that have been encumbered. The mechanism under which the County returns the funds must be approved by the County Office of Management and Budget and Department of Finance.
- F. Notwithstanding anything contained in this MOU, the County's obligation to provide funds pursuant to this MOU shall terminate automatically on July 1st of any year for which the County Council fails to appropriate funds to pay the County's remaining obligations hereunder. Nothing in this MOU should be construed to limit the Council's discretion.
- H. Any dispute arising under the terms of this MOU shall be decided by the Chief Administrative Officer of the County, or designee, who shall notify each party in writing of the determination. Each party shall be afforded an opportunity to be heard and offer evidence in support of any dispute. Pending final decision of a dispute hereunder, the parties hereto shall continue to comply with all provisions of this MOU. The decision of the Chief Administrative Officer, or designee, shall be final and conclusive and may be enforced in a court of law. Nothing hereunder shall preclude the parties from seeking any remedies otherwise provided by law.

#### **Section VII – Miscellaneous**

- A. This MOU shall be the sole agreement between the Parties concerning the Project, and shall supercede any oral agreements. All modifications to this MOU shall be in writing and shall be executed by the Parties. Each of the Parties affirms that it has authority to execute this MOU and to implement its provisions and that the individuals executing the MOU are authorized to do so, and that each of the Parties shall negotiate and deal in good faith in all the matters regarding performance of this MOU. This MOU may be executed in any number of counterparts and each such counterpart shall be deemed an original but all of which shall constitute one in the same instrument.
- B. All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail and shall be deemed to be effective when received or refused by the addressee. Notices to the respective parties shall be addressed as follows:

#### **COUNTY:**

Montgomery County, Maryland  
Department of General Services  
Office of Real Estate  
101 Monroe Street, 9<sup>th</sup> Floor

Rockville, Maryland 20850  
Attn: Director of Real Estate and DGS Noyes Library Project Manager

With a copy, that does not constitute Notice to:

Montgomery County, Maryland  
Office of the County Attorney  
101 Monroe Street, 3<sup>rd</sup> Floor  
Rockville, Maryland 20850  
Attn: County Attorney

And

Montgomery County Public Libraries  
Office of the Director Attention: Public Services Administrator for Facilities and Strategic Planning  
21 Maryland Avenue, Suite 310  
Rockville, Maryland 20850  
Attn: Director and Public Services Administrator for Facilities and Strategic Planning

NOYES CHILDREN'S LIBRARY FOUNDATION:

Post Office Box 31  
Kensington, Maryland 20895  
Attn: President

#### **Section VIII – Limitation on Liability**

Any obligation or liability of the County arising in any way from this MOU is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements contained in state law, including the Local Government Tort Claims Act. This Agreement is not intended to create any rights or causes of action in any third parties or to increase the County's liability above the caps established by law.

[SIGNATURE PAGE FOLLOWS]

**Memorandum of Understanding Between  
Montgomery County, Maryland  
And  
The Noyes Children's Library Foundation**

By: Ramona Bell-Pearson Date: 5/4/16  
Ramona Bell-Pearson,  
Assistant Chief Administrative Officer

Recommended  
By: David E. Disc Date: 6/29/2016  
David E. Disc, Director  
Department of General Services

By: B. Parker Hamilton Date: 7-8-16  
B. Parker Hamilton, Director  
Montgomery County Public Libraries

Noyes Children's Library Foundation, Inc.:

By: Jan Jablonski Date: 5/4/16  
Jan Jablonski, Co-President

By: Diana Ditto Date: 5/4/16  
Sheila Dinn, Co-President/  
Diana Ditto, VP for Administration

Approved as to form and legality:  
Office of the County Attorney

N/A Date: \_\_\_\_\_