


MEMORANDUM

April 22, 2019

TO: Public Safety Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: Resolution to indicate Council's intention regarding the actions necessary to implement the Collective Bargaining Agreement with the Montgomery County Volunteer Fire and Rescue Association (MCVFRA)

PURPOSE: Worksession – Committee should make recommendations

Expected Attendees:

Eric Bernard, Executive Director, MCVFRA
Scott Goldstein, Fire Chief

Council Review

The purpose of the worksession is for the Committee to review and make recommendations on each item of the agreement between the Executive and the MCVFRA that is subject to Council review for FY20. County Code §21-6(p) requires the Executive to submit to the Council any element of an agreement that requires an appropriation of funds, may have a future fiscal impact, is inconsistent with any County law or regulation, or requires the enactment or adoption of any County law or regulation. Section 21-6(q) directs the Council to notify the parties within 60 days if it disapproves an agreement in whole or in part. The Council may by resolution extend the time for action.¹

On April 1, 2019, the Executive submitted a negotiated agreement between the Executive and the MCVFRA, effective July 1, 2017 through June 30, 2020, for Council review and action. The Council must review and act on each provision that requires an appropriation of funds in FY20.

The attached draft resolution at ©2-3 is necessary for the Council to act on the economic provisions in the Agreement for FY20.

¹ #CollectiveBargaining2020

Other Search Terms: Volunteer Fire Rescue, contracts, collective bargaining, compensation and benefits

The following provisions are subject to Council review for FY20:

1. *Association Operating Funds.* The Agreement required the County to transfer \$255,037 to the MCVFRA to serve as the LFRD's authorized representative on July 1, 2018, representing an increase of 1.75% or \$4386 for FY20.
2. *Upgraded Uniforms and Equipment.* The Agreement requires the County to provide 50 gear sets for active volunteers at a cost of \$135,000 for FY20. This item in the Bargaining Agreement provides enhancements or additional items that are not standard issue under the MCFRS policy. This is the same as the FY19 cost.
3. *Nominal Fee.* Article 12 of the Agreement raises the nominal fee payable to each eligible volunteer in FY20 from \$445 to \$455 for tier 1 (2.2%) and from \$675 to \$700 (3.8%) for tier 2. OMB estimated the cost of the nominal fee in FY20 would be \$607,868, or an increase of \$20,923 over the FY19 amount.
4. *Volunteer Basic Orientation Course.* Article 22 of the Agreement requires the County to fund a volunteer basic orientation course in FY20 at a total cost of \$21,000. This is the same as the FY19 cost.
5. *Training.* Article 16 of the Agreement requires the County to provide \$15,000 for volunteer training in FY20. This is the same as the FY19 cost.

In total, the FY20 budget includes a total fiscal impact of \$178,309 in County funding under this Agreement.

Background

The current structure of the Montgomery County Fire and Rescue Association was established by Bill 36-03, which took effect on January 1, 2005. One of the most innovative changes in Bill 36-03 was the establishment of a process for Local Fire and Rescue Departments (LFRD's) to select an authorized representative to represent their interests, and a requirement for the Fire Chief to negotiate in good faith with the authorized representative on certain issues affecting LFRD's and their volunteers. The rules for the selection of the representative and the direct negotiation process are included in County Code Section 21-6. The process was intended to be like collective bargaining with career employees.

The LFRD's selected the Montgomery County Volunteer Fire and Rescue Association (MCVFRA) as their representative. On January 30, 2007, the Council approved the first agreement between the County Government and MCVFRA.

Discussion

What other County funding is available to the MCVFRA?

At this juncture, the LFRDs have two steady and significant sources of publicly funded revenue: the EMST funding and the State Senator Amoss Grant funds.² EMST funding dedicated to LFRDs and other volunteers is estimated at \$2,731,000. Between the two, the LFRDs as a group are expected to receive approximately \$4.6 million in FY20. The practice of MCFRS budgeting for these items predates the EMST Reimbursement Program law and the subsequent distribution to the LFRDs. It is important to note that in addition to these designated funds, County general funds support station operations, such as fuel, utilities, vehicle maintenance, and basic personal gear and equipment needs, regardless of personnel status.

LFRD EMST funding

Bill 7-13, enacted by the Council on May 14, 2013, signed into law by the Executive on May 23, 2013, and effective on August 22, 2013, required that the LFRDs receive a portion of the net revenues received by the County from the Emergency Medical Services Transport Insurance Reimbursement Program (EMST). The law requires:

15% of the net Emergency Medical Services Transport Insurance Reimbursement Program revenue must be allocated under a procedure specified in the annual operating budget resolution for the benefit of local fire and rescue departments for:

- (i) replacement or augmentation of apparatus owned by a local fire and rescue department;
- (ii) facilities owned by a local fire and rescue department;
- (iii) training for volunteers;
- (iv) gear and equipment for volunteers;
- (v) administrative staff to support a local fire and rescue department;
- (vi) volunteer recruitment and retention; and
- (vii) volunteer stand-by support.

The Executive's FY20 Recommended Budget estimates EMST funding for LFRDs to be \$2.73 million in FY20. The law specifies that the LFRDs receive 15% of actual receipts, net, of program implementation costs, so this amount is a budget estimate only.

Should the Council approve full funding for the Agreement in addition to the EMST revenue earmarked for the LFRDs?

The Executive's transmission of the first year of this Agreement 2 years ago did not explain why he agreed to increase the MCVFRA funding in the Agreement for FY18 over FY17. As required by Code §21-6, the Executive's Recommended FY20 operating budget fully funds the third year of the Agreement for FY20. However, the Council has the authority to reject funding for any provision of the Agreement under Code §21-6(q).

² The projected Amoss Grant funding for FY20 is not known yet, but funding was \$1,963,432 in FY19.

This is the third year of a three-year Agreement with the MCVFRA and the fifth full year of earmarked EMST revenue for the LFRDs. **The Committee may want to discuss how the recurring EMST revenue earmarked for the LFRDs should affect the funding decisions under the Collective Bargaining Agreement.** The agreed-upon funding for uniforms, training, the nominal fee, and the Association operating funds would be useful public safety expenditures. The relevant question is the appropriate source for these funds – the EMST revenue, the County general fund, or a combination of the two.

Last year, the Committee approved each item in the second year of this Agreement for FY19. The third year of this Agreement would increase the County expenditures under the bargaining Agreement by \$25,309 over FY19 funding. Council staff offers the following options for steps to begin recognizing the addition of EMST funding:

Options:

- 1. Approve all recommended funding at this point.**
- 2. Retain the same County funding in FY20 that the Council approved for FY19. This would reduce \$25,309 from the Executive’s FY20 recommendation by eliminating the FY20 increase for the Nominal Fee and the Association operating funds. Under this option, funding for LOSAP would also remain unchanged from FY19.**

In light of the increasing distribution of funds to LFRDs from the EMST Program, Council staff recommends option 2. Council staff also recommends that the MCVFRA and the Executive work to resolve how to address the anticipated increases in the Nominal Fee and LOSAP through other available resources going forward in the next bargaining session.

<u>This packet contains:</u>	<u>Circle #</u>
MCVFRA Memo from County Executive	1
MCVFRA Proposed Resolution	2
MCVFRA Agreement	4
Summary of Economic Impact	9
Fiscal Impact Statement	10




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

MEMORANDUM

April 1, 2019

TO: Nancy Navarro, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Memorandum of Agreement between the County and MCVFRA

I have attached for the Council's review the agreement resulting from the recent collective bargaining negotiations between the Montgomery County Government and the Montgomery County Volunteer Fire Rescue Association. The agreement reflects the changes that were made to the existing Collective Bargaining Agreement to be effective July 1, 2019 through June 30, 2020.

I have also attached summaries of the agreed upon items, updated Salary Schedules, as well as a copy of the fiscal impact statement referenced in the Workforce/Compensation chapter of my budget to assist in Council's review of the document. The items will take effect for the first time in FY2020 and have a fiscal impact in FY2020.

Attachments

cc: Karen Plucinski, Acting Director Office of Human Resources
Richard Madaleno, Director, Office of Management and Budget
Marc Hansen, County Attorney, Office of the County Attorney

Resolution No.: _____
Introduced: April 8, 2019
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Public Safety Committee

Subject: **Memorandum of Agreement with Montgomery County Volunteer Fire and Rescue Association (MCVFRA)**

Background

1. County Code Section 21-6 establishes a process for Local Fire and Rescue Departments (LFRD's) to select an authorized representative to represent their interests and requires the Fire Chief to negotiate in good faith with the authorized representative on certain issues affecting LFRD's and their volunteers.
2. The LFRD's selected the Montgomery County Volunteer Fire and Rescue Association (MCVFRA) to be their authorized representative.
3. On April 1, 2019, the Council received from the County Executive the attached Memorandum of Agreement between Montgomery County Government and Montgomery County Volunteer Fire and Rescue Association for the period from July 1, 2017, until June 30, 2020.
4. Code Section 21-6(p) requires the Executive to submit to the Council any element of an agreement that requires an appropriation of funds, may have a future fiscal impact, is inconsistent with any County law or regulation, or requires the enactment or adoption of any County law or regulation. Section 21-6(q) directs the Council to notify the parties within 60 days if it disapproves an agreement in whole or in part. The Council may by resolution extend the time for action.
5. The Public Safety Committee reviewed and recommended approval of each of the portions of the Memorandum of Agreement requiring an appropriation of funds for FY20 on April 24.

Action

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

The County Council approves/rejects the following provisions of the Agreement for FY2020:

1. 50 gear sets for active volunteers at a cost of \$135,000.
2. Article 12 – Option 1 nominal fee of \$455 and an Option 2 nominal fee of \$700 for active volunteers, effective July 1, 2019.
3. Funding for training up to \$15,000.
4. Volunteer Basic Orientation Course funding for a total of \$21,000.
5. Side letter/MOU – and increase of 1.75% for a total of \$255,037 for MCVFRA operating expenses.

This is a correct copy of Council action.

Megan Davey Limarzi, Esq., Clerk of the Council

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**MEMORANDUM OF AGREEMENT
BETWEEN
THE MONTGOMERY COUNTY GOVERNMENT AND THE MONTGOMERY COUNTY VOLUNTEER FIRE
RESCUE ASSOCIATION
JULY 1, 2017 THROUGH JUNE 30, 2020**

The Montgomery County Government (County) and the Montgomery County Volunteer Fire Rescue Association (MCFVRA) conducted negotiations for the term July 1, 2017 through June 30, 2020. As a result of those negotiations, the Employer and Union agree that the Collective Bargaining Agreement shall be amended according to the terms set forth below.

Please use the key below when reading this document:

<u>Underlining</u>	<i>Added to the existing collective bargaining agreement</i>
[Single boldface brackets]	<i>Deleted from the existing collective bargaining agreement</i>
* * *	<i>Existing language unchanged by the parties</i>

* * *

Article 7

Disciplinary Action Procedures for LFRD Volunteers

* * *

Section 6. Immediate Removal of LFRD Volunteer.

Per Section 21-3(g) of the Montgomery County Code, the Fire Chief may immediately relieve a volunteer from duty and prohibit their presence at any MCFRS premises or activity. The Chief must not take any action involving a volunteer of a local department, except when the Chief finds that immediate action is required to protect the safety of the public or any employee or volunteer, unless the Chief finds that the local department has not satisfactorily resolved the problem in a timely and effective manner. Where the Fire Chief exercises such authority, the Fire Chief or his/her designee shall notify the LFRD President or designee in writing within 24 hours of taking such action and include a reason for the Chief's action.

(a) Administrative Status: Administrative status is a non-punitive status to relieve a member from duty and participation in MCFRS activities, which Fire Chief or designee and/or an LFRD department head or designee may grant when there is an investigation of incidents or charge when immediate removal is necessary.

Section 9. Disciplinary Examinations.

(G). When a LFRD member is the subject of an Internal Affairs investigation, notification will be made to the LFRD highest ranking official.

* * *

Article 12

NOMINAL FEE

An active volunteer as defined in Section 21-21 (a) of the Montgomery County Code shall receive either:

- (1) a nominal fee of: [three hundred (\$300.00) dollars on July 1, 2014, three hundred fifty (\$350.00) dollars on July 1, 2015, and four hundred twenty-five (\$425.00) dollars on July 1, 2016.] four hundred thirty-five (\$435) dollars on July 1, 2017, four hundred forty-five (\$445) dollars on July 1, 2018, and four hundred fifty-five (\$455) dollars on July 1, 2019.

OR

- (2) a nominal fee of: [five hundred (\$500.00) dollars July 1, 2014, six hundred (\$600.00) dollars on July 1, 2015, and six hundred twenty five (\$625.00) dollars on July 1, 2016;] six hundred fifty (\$650) dollars on July 1, 2017, six hundred seventy-five (\$675) dollars on July 1, 2018, and seven hundred (\$700) dollars on July 1, 2019; if the active volunteer:

* * *

Article 14

Duration of Agreement

The term of the agreement will be three (3) years from July 1, [2014] 2017 through June 30, [2017] 2020.

* * *

Article 20

NOTICE AND OPPORTUNITY

* * *

Section Two. Notice and Opportunity to Submit Comments

- C. The MCVFRA shall have thirty (30) calendar days from the date upon which the President and Executive Director of Association is sent written electronic notice to submit written comments or, if appropriate, proposals regarding the new or revised Directive, Safety Bulletin, Policy, Procedure or Instruction. During the thirty (30)-day period, the MCVFRA may request to meet and confer with the Fire Chief or other officials regarding the new or revised Directive, Safety Bulletin, Policy, Procedure or Instruction. The County will make all reasonable efforts to accommodate the MCVFRA's request to meet and confer. If the MCVFRA submits proposals on negotiable matters, the parties shall meet to discuss such proposals during and, if necessary, after the expiration of the thirty (30)-day period. The Fire Chief, at his discretion, may accept the recommendations and revise the new or revised Directive, Safety Bulletin, Policy, Procedure or Instruction, continue to meet, extend the timeframe for review and comment beyond the 30 days, develop other means to come to

an agreement or proceed with his draft of the new or revised Directive, Safety Bulletin, Policy, Procedure or Instruction.

- (a) The Fire Chief may establish a committee when a policy, procedure, fire chief's general order, or executive regulation requires updating, revision, modification or promulgation.
- (b) If such committee is established, the Fire Chief may invite MCVFRA to appoint a representative(s) to participate on the committee.
- (c) If a representative(s) of the MCVFRA was invited to participate on the committee, the MCVFRA waives the 45-day advanced notice required prior to notice and opportunity, as stated in the Amended Memorandum of Understanding (MOU) Section IV(B), signed by the parties Isiah Leggett, County Executive and Marcine Goodloe, President, on 2/25/13.

* * *

Article 22

VOLUNTEER BASIC ORIENTATION COURSE

Section One. The County agrees to fund the Volunteer Basic Orientation Course \$9,000 on July 1 each year of the agreement. Additional funding not to exceed [~~\$9,000~~] \$12,000 would be available for reimbursement, for a total available funding of [~~\$18,000~~] \$21,000 each year. The funding requests will be submitted to the fire chief and/or designee for reimbursement each quarter with appropriate cost documentation.

* * *

Article 25

LOSAP

* * *

[Section One. The parties agree to begin bargaining on or before June 1, 2015 on length of service modifications. If no agreement is reached by July 31, 2015, the parties shall utilize the impasse procedure as per the Montgomery County Code Section 21-6.]

The parties have agreed during this term of direct bargaining to amend Montgomery County Code 21-21 to provide adjustments to the LOSAP Benefits and the Stand-by Point System associated therewith. See Montgomery County Code 21-21 for the complete revisions.

* * *

Side Letter

ASSOCIATION FUNDING AND VEHICLE

Marcine Goodloe
President
MCVFRA

Dear President Goodloe:

The County agrees to transfer [~~\$235,000~~] \$246,340 to the MCVFRA on July 1, [2014] 2017. On July 1, [2015] 2018 and July 1, [2016] 2019, the County agrees to increase the funding to the MCVFRA by [1.5%] 1.75% each year. The MCVFRA agrees to utilize the funds in the payment of expenses related to the Association's fulfillment of its functions as the LFRD authorized representative. The Association agrees to continue to provide the Fire Chief or his designee with a quarterly accounting detailing the expenditure of said funds.

Additionally, funding for a new Association vehicle will not be paid during the length of this contract.

Sincerely,

[Steve Lohr] Scott Goldstein
Fire Chief
MCFRS

* * *

Side Letter

Gear Sets

The County agrees to provide 50 gear sets annually, to be distributed by mutual agreement between the parties.

* * * * *

IN WITNESS WHEREOF, the parties hereto have caused their names to be subscribed hereto by their duly authorized officers and representatives this ___ day of March 2017.

**MONTGOMERY COUNTY VOLUNTEER
FIRE RESCUE ASSOCIATION**

**MONTGOMERY COUNTY,
MARYLAND**

By: _____
**Marcine Goodloe
President**

By: _____
**Isiah Leggett
County Executive**

**Eric N. Bernard
Executive Director**

**Approved for form and legality
County Attorney**

Summary of Proposed Labor Agreement with MCVFRA Effective FY 2019

No.	Article	Subject	Summary of Change	Requires Appropriation of funds	Present or Future Fiscal Impact	Requires Legislative Change	Requires Regulation Change	Notes
1	Side Letter	Uniforms	The County will provide 50 gear sets annually to be distributed by mutual agreement of the parties.	Yes	Yes	No	No	See Fiscal Impact Statement
2	12	Nominal Fee	Nominal Fee adjustments of \$455 for eligible members who have accumulated the minimum number of points in a calendar year and \$700 for those eligible members who have reached the higher qualifications and points.	Yes	Yes	No	No	See Fiscal Impact Statement
3	16	Training	Provides funding up to a maximum of \$5,000 per year for professional certification fees and up to \$10,000 per year for training opportunities required by the National Professional Qualifications Board (Pro-Board).	Yes	Yes	No	No	See Fiscal Impact Statement
4	22	Volunteer Basic Orientation Course	Provides funding of \$9,000 each year for Volunteer Basic Orientation Course and an additional \$12,000 each year of this Agreement for reimbursement, not to exceed \$21,000 per year.	Yes	Yes	No	No	See Fiscal Impact Statement
5	Side Letter	Association Funding and Vehicles	The County will provide an increase in funding of 1.75% each year of this Agreement from the base amount of \$246,340 established on July 1, 2017.	Yes	Yes	No	No	See Fiscal Impact Statement
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7								
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9								
10								
11								
12								
13								
14								
15				Yes	Yes	No	No	See Fiscal Impact Statement
16								

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Montgomery County Volunteer Fire and Rescue Association Fiscal Impact Summary*

<u>Article</u>	<u>Item</u>	<u>Description</u>	<u>Annual Cost</u>	
			<u>FY20</u>	<u>Beyond FY20</u>
11	Uniforms & Equipment	Purchase 50 gear sets annually	\$135,000	\$0
12	Nominal Fee	Nominal fee of \$455/\$700 in FY20**	\$20,923	\$0
16	Training	Provide \$10,000 funding for training and \$5,000 for Pro-Board certification	\$15,000	\$0
22	Volunteer Basic Orientation	Training fee not to exceed \$21,000 each year of the agreement	\$3,000	\$0
Side Letter	Association Operating Funds	Association funding effective July 1 each year of the agreement	\$4,386	\$0
Total			\$178,309	\$0

* Estimates reflect the impact to all funds.

** Nominal fee paid to eligible volunteers on July 1 of the fiscal year.