

PALM SPRINGS POLICE OFFICERS' ASSOCIATION (PSPOA)



MEMORANDUM OF UNDERSTANDING

DECEMBER 16, 2018 – JUNE 30, 2020

**The Palm Springs Police Officers' Association
Memorandum of Understanding
December 16, 2018 – June 30, 2020**

<u>GENERAL PROVISIONS</u>	<u>3</u>
ARTICLE 1, TERM.....	3
ARTICLE 2, RECOGNITION	3
ARTICLE 3, FEDERAL AND STATE LAWS.....	3
ARTICLE 4, SOLE AND ENTIRE AGREEMENT	3
ARTICLE 5, COMPLETION OF MEET AND CONFER PROCESS	3
ARTICLE 6, SEPARABILITY PROVISIONS.....	4
<u>COMPENSATIONS AND OTHER PAY</u>	<u>5</u>
ARTICLE 7, WAGES	5
ARTICLE 8, SPECIAL COMPENSATION	5
ARTICLE 9, OVERTIME.....	7
ARTICLE 10, CALL BACK.....	8
ARTICLE 11, UNIFORM ALLOWANCE	8
ARTICLE 12, MILEAGE REIMBURSEMENT	8
ARTICLE 13, PROBATIONARY PERIOD FOR POLICE OFFICERS	9
ARTICLE 14, CELL PHONE ALLOWANCE	9
ARTICLE 15, COURT APPEARANCES.....	9
<u>BENEFITS</u>	<u>10</u>
ARTICLE 16, HEALTH, DENTAL, VISION AND OTHER INSURANCE	10
ARTICLE 17, RETIREE HEALTH INSURANCE.....	11
ARTICLE 18, RETIREMENT	12
ARTICLE 19, EDUCATIONAL REIMBURSEMENT	13
<u>WORK HOURS/LEAVE</u>	<u>14</u>
ARTICLE 20, HOURS OF WORK	14
ARTICLE 21, ANNUAL LEAVE	15
ARTICLE 22, PAYMENT IN LIEU OF HOLIDAYS	16
ARTICLE 23, SICK LEAVE AND LEAVE PURSUANT TO A WORKERS' COMPENSATION INJURY OR ILLNESS.....	17
ARTICLE 24, REINSTATED EMPLOYEES.....	18
ARTICLE 25, ADVANCED OFFICER TRAINING SCHEDULE	18
ARTICLE 26, DETECTIVES AND DETECTIVE SERGEANTS.....	18
ARTICLE 27, LIGHT DUTY ASSIGNMENTS.....	18
<u>EMPLOYER/EMPLOYEE RELATIONS</u>	<u>19</u>
ARTICLE 28, DRUG POLICY/DRUG SCREENING.....	19
ARTICLE 29, ANTI-NEPOTISM POLICY	19
ARTICLE 30, PROMOTIONAL PROCESS	19
ARTICLE 31, WEAPON REQUIREMENTS FOR NEWLY HIRED OFFICERS	20
ARTICLE 32, WRITTEN REPORTS.....	20
ARTICLE 33, GRIEVANCE PROCEDURE	20
ARTICLE 34, DISCIPLINARY APPEALS PROCESS	22
ARTICLE 35, ASSOCIATION TIME	26
ARTICLE 36, STRIKES AND WORK STOPPAGES.....	26
ARTICLE 37, LAYOFF AND RECALL	27
ARTICLE 38, CITY RESPONSIBILITIES AND RIGHTS	27
ARTICLE 39, ASSOCIATION RIGHTS	28
ARTICLE 40, MISCELLANEOUS PROVISIONS	28
EXHIBIT A - 700.00 TAKE HOME VEHICLES	29
EXHIBIT B - DRUG POLICY/DRUG SCREENING	31
EXHIBIT C – SENIOR POLICE OFFICER, MASTER POLICE OFFICER AND SERGEANT II AND III QUALIFICATIONS	33

**MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN
THE CITY OF PALM SPRINGS
MUNICIPAL EMPLOYEE RELATIONS REPRESENTATIVE (MERR)
AND THE PALM SPRINGS POLICE OFFICERS' ASSOCIATION (PSPOA)
DECEMBER 16, 2018 – JUNE 30, 2020**

GENERAL PROVISIONS

ARTICLE 1, TERM

The term of this MOU shall be from December 16, 2018 through June 30, 2020.

ARTICLE 2, RECOGNITION

Pursuant to the provisions of the Meyers-Milias-Brown Act., Government Code Section 3500, *et. seq.*, the City of Palm Springs (hereinafter called the "City") continues to recognize the Palm Springs Police Officers' Association (herein called the "Association") as the exclusively recognized employee organization for the employee unit of representation known as the Police Safety Unit, which is comprised of all employees in the Police Department in the following classifications: Police Officer, Senior Police Officer, Master Police Officer, Police Sergeant, Police Sergeant II and Police Sergeant III. (See Resolution No. 17793)

ARTICLE 3, FEDERAL AND STATE LAWS

It is understood and agreed that this MOU is subject to all present and future applicable Federal and State laws and regulations. If any part of this MOU is in conflict or inconsistent with such applicable provisions of Federal or State laws or regulations, and has been held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable laws and regulations and the remainder of this MOU shall not be affected thereby and shall remain in full force and effect.

ARTICLE 4, SOLE AND ENTIRE AGREEMENT

It is the intent of the parties hereto that the provisions of this MOU shall supersede all prior agreements and memoranda of agreement, or memoranda of understanding, or contrary salary and/or personnel rules and regulations or administrative codes, provisions of the City, oral and written, expressed or implied, between the parties, and shall govern the entire relationship and shall be the sole source of any and all rights which may be asserted hereunder. This MOU is not intended to conflict with Federal or State law or the City's Municipal Code. The Association and the City agree that all personnel rules not specifically included in the MOU shall be incorporated by reference herein. City reserves the right to add to, modify or delete from the Personnel Rules subject to its obligations under the Meyers-Milias-Brown Act.

ARTICLE 5, COMPLETION OF MEET AND CONFER PROCESS

The Association and the City agree that they had a full and unrestricted right to make, advance, and discuss all matters properly within the scope of meet-and-confer in accordance with State laws and local ordinances and regulations. Except as otherwise provided herein, during the term

of this MOU, the Association and the City expressly waive and relinquish the right to meet and confer except upon mutual consent of the parties with respect to any subject or matter, whether referred to or covered by this MOU or not, even though each subject or matter may not have been within the knowledge or contemplation of either or both the City and Association at the time they met and conferred or executed this MOU, and even though subjects or matters were proposed and later withdrawn. Except as expressly changed by this MOU, nothing contained herein shall be deemed to have changed any past practices in so far as known to either party.

Notwithstanding Article 5, the parties agree that immediately following City Council approval of this MOU, they will continue with their negotiations over their respective proposals on body-worn cameras. If those negotiations are not completed by the beginning of the pay period which includes July 1, 2019, the salary increase to which the parties have agreed would go into effect on that date will not go into effect until those negotiations are completed.

ARTICLE 6, SEPARABILITY PROVISIONS

Should any provision of this MOU be found to be inoperative, void, or invalid by a court of competent jurisdiction, all other provisions of this MOU shall remain in full force and effect for the duration of this MOU, provided that if any such affected provisions invalidate or void any benefits of employees covered hereunder, the parties shall forthwith commence negotiations to replace the invalidated benefits with benefits of comparable value.

COMPENSATIONS AND OTHER PAY

ARTICLE 7, WAGES

Effective December 16, 2018, members of the Unit shall receive a six and eighty-eight one-hundredths percent (6.88%) salary increase.

Effective the pay period which includes July 1, 2019, members of the Unit shall receive a three percent (3.0%) salary increase.

For each classification represented by the Association, there is one range on the salary schedule.

ARTICLE 8, SPECIAL COMPENSATION

8.1 Motor Officer

Officers shall receive compensation of five percent (5%) while assigned as Motor Officers. The Police Department shall provide each Motor Officer with a helmet and jacket. The parties agree that to the extent permitted by law, Motor Officer pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(4) Motor Officer Pay.

In addition, Motor Officers will receive three (3) hours of pay per month at the rate of fifteen dollars (\$15) per hour for the off-duty responsibilities related to caring for their Motor Unit. The parties acknowledge that the FLSA, which governs the entitlement to compensation for off-duty motor duties, entitles the parties to agree to a reasonable number of hours per month for the performance of off duty motor duties. The parties agree that the officers assigned to the Motor Program may work up to three (3) hours per month on off duty activities related to their motor. The hours derived at in this MOU were determined after an actual inquiry of the Officers assigned as Motor Officers as addressed by *Leever v. City of Carson City*, 360 F.3d 1014 (9th Cir. 2004). The parties also acknowledge that this pay is not compensation earnable and will not be reported to CalPERS.

8.2 Canine Officer

Officers assigned to the Canine Program shall receive compensation of five percent (5%) while assigned as Canine Officers. The City and Association understand and agree that the five percent (5%) compensation paid to Canine Officers is intended to compensate Canine Officers for their time on duty as Canine Officers. The parties agree that to the extent permitted by law, Canine Officer pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(4) Canine Officer/Animal Premium.

In addition, Canine Officers will receive fifteen (15) hours of pay per month at the rate of fifteen dollars (\$15) per hour at time and one half for all off duty hours spent caring, grooming, feeding, and otherwise maintaining their canine unit, in compliance with the FLSA and interpretive cases and rulings. The parties acknowledge that the FLSA, which governs the entitlement to compensation for canine duties, entitles the parties to agree to a reasonable number of hours per month for the performance of off duty canine duties. The parties agree that the officers assigned to the Canine Program may work up to fifteen (15) hours per month in off duty activities related to their Canine. The hours derived at in this MOU were determined after an

actual inquiry of the Officers assigned in the Canine Program as addressed by *Leever v. City of Carson City*, 360 F.3d 1014 (9th Cir. 2004). The parties also acknowledge that this pay is not compensation earnable and will not be reported to CalPERS.

It is the intent of the parties through the provisions of this article to fully comply with the requirements of the FLSA. In addition, both parties believe that this article of the MOU does comply with the requirements of the FLSA.

8.3 Field Training Officers

Field Training Officers (FTO) designated as such by the Chief of Police shall hold that position for a period of four years. Officers designated FTO shall receive compensation of an additional 5% pay while assigned as Field Training Officers. Normally a FTO completing their four-year period will not be eligible for reassignment as an FTO until they have been out of the program for two years. Time requirements may be waived by the Chief of Police. Service time as an FTO may be extended by the Chief of Police. Eligibility for reassignment as an FTO may be waived. The Chief of Police shall determine the number of officers to be assigned as FTOs at any given time, but not less than eight FTOs. The Police Chief may remove with cause an officer from the duties of FTO.

The parties agree that to the extent permitted by law, Field Training Officer pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(4) Training Premium.

8.4 Bilingual Pay

The parties agree that a minimum of twenty-one (21) officers shall be entitled to premium pay of five percent (5%) over their regular base salary for their services as bilingual officers. The City agrees that it will not bump out any of the employees receiving bilingual pay at the time of approval of this 2018-2020 MOU for employees who are certified to receive bilingual pay in the future by passing the examination to become eligible for bilingual pay.

In order to be eligible for bilingual pay, an officer must pass an examination to be developed and administered by the City demonstrating fluency in reading, writing, and speaking the desired second language. All employees receiving bilingual pay must pass the prescribed examination every two years to continue to receive bilingual pay. An employee receiving the pay who does not pass a recertification examination may be replaced by another employee who has passed the examination. If there are no other employees who are certified to receive bilingual pay, the employee may take another recertification examination after waiting at least three (3) months after taking the recertification examination to which the employee did not pass. The Human Resources Department will coordinate the recertification examination for each employee receiving bilingual pay. The Police Chief shall determine the language needs at time of reopening of position. In the event that there are more qualified officers who apply for bilingual pay than the maximum number of bilingual positions available, the selection of the officers receiving such positions shall be based upon seniority. Any officer who accepts a bilingual position shall be subject to scheduling at the discretion of the Police Chief and shall not be entitled to remain a part of the regular shift rotation, but such bilingual officers shall have a separate shift rotation by seniority among the bilingual officers.

Any employees hired after July 1, 2018 who become eligible for bilingual pay shall receive two hundred and fifty dollars (\$250) per month for Bilingual Pay.

For any employees in the bargaining unit who receive bilingual pay, they must sign up to be present at, and prepared to use their bilingual skills at one City Council meeting per year. On the day of the Council meeting for which the employee signs up, they shall adjust their work schedule that day by starting four hours later than their regular start time so that they can be present at the Council meeting to utilize their bilingual skills.

The parties agree that to the extent permitted by law, Bilingual pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(4) Bilingual Premium.

ARTICLE 9, OVERTIME

9.1 Policy

Police Safety Unit members are eligible to receive overtime pay or compensatory time off, but they shall not work overtime unless authorized in advance to do so by the Police Chief or an appropriate authorized supervisor. The Police Chief shall be responsible for keeping accurate records of all overtime worked by employees. The minimum amount of contract overtime (i.e., special detail overtime work performed for a third party who is paying for the work as provided for in the Department of Labor regulations implementing the FLSA at 29 C.F.R. Section 553.227) is four (4) hours.

Members of the Police Safety Unit shall be compensated for overtime worked at one and one half (1.5) times their regular hourly rate of pay for the time worked in excess of forty (40) hours per work week. For overtime computation, the forty hours worked are to include paid leaves of absence. Notwithstanding the work schedule utilized by the Department, the City has adopted the 28 day work period in accordance with Section 7(k) of the Fair Labor Standards Act. The City will pay overtime as it has historically paid in excess of the requirements of the FLSA.

9.2 Right to Receive Overtime Pay or Compensatory Time Off

At the Police Chief's discretion, employees eligible to receive overtime pay may be granted compensatory time (off earned at time and one half) in lieu of overtime pay.

9.3 Using Compensatory Time Off

The Police Chief or the Police Chief's Designee shall approve compensatory time off as soon as operationally practical. Requests received with reasonable advance notice shall be approved as long as there is adequate staffing for that shift. Requests for time off will be considered in priority order in which they were received. The Police Chief or their designee may authorize overtime to fill shift vacancies created by comp time off requests. There shall be no obligation to grant all requests for time off should numerous requests be received simultaneously. The Department will hire back up to two employees per shift as long as replacement officers can be hired. No officer shall be compelled to work in order to grant another employee compensatory time off. The parties agree that the policies set forth in this article are consistent with the law on use of compensatory time off as set forth by the FLSA, its regulations and case law decided on this issue.

9.4 Maximum Accumulation Of Compensatory Time Off

No Police Safety Unit employee shall accumulate compensatory time off in excess of one hundred and sixty (160) hours. An employee who has accumulated the maximum amount of compensatory time shall not accumulate additional compensatory time when working overtime until the employee's accumulation has been reduced below 160 hours.

9.5 Using Compensatory Time Off for Paid Sick Leave

Compensatory time off may be used for paid sick leave purposes only if an employee has exhausted all accrued paid sick leave, has requested the use of compensatory time off, has received the approval of the Police Chief, and has such compensatory time off available for use.

ARTICLE 10, CALL BACK

When an employee is called back to work, the employee shall receive a minimum of four (4) hours pay or four (4) hours of compensatory time. The Police Chief shall determine whether the employee receives pay or time. Employees who are called in to work less than four (4) hours prior to the start time of their regularly scheduled shift shall receive pay for the time actually worked but shall not be entitled to the minimum guarantee of four (4) hours provided in this article.

Police Safety Unit employees called back to work shall be paid for actual travel time not exceeding one-half (1/2) hour which is included in the four (4) hour minimum.

ARTICLE 11, UNIFORM ALLOWANCE

The City agrees to pay a uniform and safety equipment allowance to each Unit member as a reimbursement for expenses incurred for acquisition and maintenance of uniforms and safety equipment in an amount of one hundred and thirty-five dollars (\$135) per month. Motor officers shall receive one hundred and sixty dollars (\$160) per month. The parties expressly agree that the payment each month of said allowance will cover the expenses of acquisition and replacement of all uniforms and safety equipment required for the various assignments of police officers and police sergeants, and that said allowance will meet any and all obligations the City has by law to provide, furnish, use, or provide for the said uniforms and safety equipment. Employees shall be required to buy their own required uniforms and safety equipment and to maintain and replace, when necessary, any of the said items, from moneys received from the allowance. In consideration of the City's agreement to pay said allowance, the PSPOA agrees not to commence any litigation or other proceeding in which it is contended the City is failing to comply with a legal obligation to provide safety equipment.

The parties agree that to the extent permitted by law, uniform allowance shall be reported to CalPERS as such pursuant to Title 2, CCR 571(a)(5) and the City will report as special compensation, the value of the uniforms for a unit member who is a classic member employee per the Public Employees' Pension Reform Act of 2013 (PEPRA) "New members" as defined by the PEPRA will not have the value of the uniforms reported as special compensation.

ARTICLE 12, MILEAGE REIMBURSEMENT

Members of the Police Safety Unit shall receive mileage reimbursement in accordance with existing City policy, at the prevailing IRS rate.

ARTICLE 13, PROBATIONARY PERIOD FOR POLICE OFFICERS

The parties agree that Section 11.2 of the City's Personnel Rules is incorporated herein. It states:

Section 11.2 establishes a modification in the probationary period for the position of Police Officer from twelve to eighteen months. However, such probationary employee may be eligible for a merit increase at the sole discretion of the Chief of Police upon completion of twelve (12) months service. After completion of the eighteen-month probationary period, if the Police Officer becomes "regular status", then the City will, if the employee was not granted a merit increase upon twelve (12) months of initial service as provided above, pay the Police Officer six months retro pay. The employee's anniversary date for future merit increases shall be the twelve month anniversary of the employee's hire date.

Effective July 1, 2018, the probationary period for the position of Police Officer if hired as a lateral Police Officer as opposed to a new Police Officer whose first job as a Police Officer is with the City of Palm Springs is twelve (12) months.

ARTICLE 14, CELL PHONE ALLOWANCE

Employees shall be provided a cell phone allowance of \$50 per month. It is the policy of the Department that each Police Safety Unit member will be required to have a cellular telephone with text capabilities which are active for official Department business use. These eligible employees shall provide the Department with their cell phone number and immediately report any changes to this number to the Office of the Chief of Police. The requirement to possess and use the cell phone in no way assumes a condition of "on call status" while off duty. Except in times of declared emergency and court, employees are not required to use the cell phone while off duty.

ARTICLE 15, COURT APPEARANCES

15.1 Compensation for Safety Police Unit Employees' Court Appearances

Police Safety Unit members who are subpoenaed to appear in court during non-working hours regarding official City business, shall be paid for actual court time with a minimum of four (4) hours pay for each day's appearance at one and one-half (1-1/2) times the officer's regular hourly rate of pay.

15.2 Cancelled Subpoenas

If a subpoena of the type referred to in section 15.1, above, is cancelled twenty-four (24) hours or more before the employee is scheduled to appear or by the end of the employee's last shift prior to the scheduled appearance time, whichever is later, no payment shall be due to the employee. If the subpoena is cancelled less than twenty-four hours prior to the scheduled appearance or later than the end of the employee's last shift prior to the scheduled appearance time, whichever is later, the employee shall be paid a cancellation fee of Fifty Dollars (\$50.00). Employees are required to call in to the court liaison officer or their backup to determine whether or not the subpoena has been cancelled. If an employee fails to call in sufficient time to avoid a cancellation fee, no fee shall be paid if the subpoena had in fact been cancelled and the information was available from the liaison officer or their backup. Similarly, no court pay shall be paid under this article if the employee failed to call in and the subpoena had in fact been cancelled.

BENEFITS

ARTICLE 16, HEALTH, DENTAL, VISION AND OTHER INSURANCE

This article sets forth various insurance benefits available to Unit members. The amounts provided by the City for health, dental and vision insurance for 2018 are set forth below. In the event that the premium charges for the health, dental or vision benefits exceed the total premium costs for the prior year by 4% or more the amount of the excess shall be paid by the Unit member through a payroll deduction. Each calendar year, the City will pay up to a 4% increase above the prior year's premium rates. The above explanation of the health, vision and dental contributions are described with the following example involving the 2016-2018 rates:

- A. In 2016, the Blue Shield single party rate was \$927.80.
- B. In 2017, the rate increased by 4.75% to \$971.87.
- C. In 2017, the City paid the first 4% of the 4.75% increase = \$37.11 of the \$44.07 increase and the employee paid the remainder (the difference between 4% and 4.75% = .75% of the increase or \$6.96). Thus, in 2017, the premium rate was \$971.87 and the City paid \$843.07 + \$37.11 = \$880.18 and the employee paid \$91.69.
- D. In 2018, that same rate went up to \$1,010.74. This was a 4.0% increase over the 2017 rate. The parties agree that it was the City's responsibility to pay the first 4% of the 2018 increase on top of the 2017 premium. Since the 2017 rate was \$971.87, and 4% of that amount \$38.87, the City's additional increase for 2018 is \$38.87 which is added to what it was paying in 2017. \$880.18 + \$38.87 = \$919.05. The employee pays no increase for 2018 as the premium amount did not exceed the 4% that the City contributes.

Vision and Dental Insurance are calculated exactly the same way as described above for health insurance.

16.1 Health, Dental and Vision Insurance

The City agrees to contribute up to the amounts below for calendar years 2018 and 2019 for Police Safety Unit members toward Health (including hospitalization, drug coverage through such program(s)), Dental and Vision insurance. Unit members will sign verification of dependent eligibility annually at open enrollment.

January 1, 2018

Type of Coverage	Health	Dental	Vision
Single Party	\$919.05	\$35.67	\$13.42
Two-Party	\$1,764.10	\$50.54	\$13.42
Family	\$1,869.38	\$74.33	\$13.42

City Contribution for 2019

Type of Coverage	Health	Dental	Vision
Single Party	\$959.48	\$35.67	\$13.42
Two-Party	\$1,841.70	\$50.54	\$13.42
Family	\$1,951.62	\$74.33	\$13.42

The City of Palm Springs provides Domestic Partner Coverage to the current health, dental and vision insurance. The enrollee must provide a copy of the Declaration of Domestic Partnership, Proof of Domestic Partner Relationship as issued by a governmental agency, Statement of Financial Liability for Domestic Partnership, Statement of Financial Liability for Domestic Partner Health Benefits, and Affidavit of Eligibility for Economically Dependent Children to the City. The City will use the same enrollment policies for domestic partnerships as are currently used for traditional marriages or as provided by the requirements of the insurance carrier.

For medical coverage, if an employee elects to opt out of coverage offered by the City, they must provide proof of "minimum essential coverage" (as defined by the Affordable Care Act) through another source (other than coverage in the individual market, whether or not obtained through Covered California).

16.2 Term Life Insurance

The City agrees to provide (\$50,000) Term Life Insurance coverage at no cost to the employee.

16.3 IRS 125 Plan

The City agrees to provide an IRS 125 health reimbursement Plan for Police Safety Unit members. The Association agrees that member employees who subscribe to the plan shall pay the Plan Administrator's fees. Any IRS 125 supplemental plan benefit not being offered by the Plan Administrator during the enrollment period for the new plan year will become the responsibility of the employee to pay via direct billing.

ARTICLE 17, RETIREE HEALTH INSURANCE

For all employees hired prior to October 25, 2006, or who had already received a written offer of employment by that date, the City's maximum contribution for its retired employees will be 75% of insurance premium for retirees coverage upon completion of 20 continuous years of City service, and 100% payment for retirees coverage upon completion of 25 continuous years of City service. In the event of the employee's death, the City's contribution will end. The surviving spouse may remain on the plan as a retiree without a City contribution to the premium. Retired employees who have not completed 20 continuous years of City service shall be entitled to participate at their own cost in the Association's health, hospitalization and drug coverage plan. All employees who become eligible to receive Medicare must enroll in Medicare Part A and B to remain eligible to receive the above contributions.

For all employees hired after October 20, 2005, there will be no City contribution for retiree health benefits. The City will, however, make a \$100.00 per month contribution to an employee Retiree Health Savings Plan and the associated fixed dollar cost of administration.

ARTICLE 18, RETIREMENT

18.1 Retirement Formula

Unit members (and not “new members as defined by the Public Employees’ Pension Reform Act of 2013 - PEPRA) hired prior to June 17, 2011 are covered by the 3% @ 50 formula provided for by the Public Employees’ Retirement Law at Government Code section 21362.2. These employees’ retirement will be calculated pursuant to the option-al benefit (in the City’s contract with CalPERS) of single highest twelve month period.

Unit members (and not “new members as defined by the Public Employees’ Pension Reform Act of 2013 - PEPRA) hired after June 17, 2011 are covered by the 3% @ 55 formula provided for by the Public Employees’ Retirement Law at Government Code section 21363.1. These employees’ retirement will be calculated pursuant to the option-al benefit (in the City’s contract with CalPERS) of single highest twelve month period.

Unit members who are defined as “new members” under the PEPRA, are covered by the 2.7% @ 57 formula provided for by the PEPRA at Government Code section 7522.25(d). These employees’ retirement will be calculated per the three year average final compensation as provided for by the PEPRA.

18.2 Employee Contributions to the Retirement System

A. Employees subject to the 3%@50 and 3%@55 formula:

Employees in the Unit shall pay their nine percent (9%) member contribution.

These employees also pay an additional three percent (3%) of pensionable income of the employer rate as cost sharing (per Government Code Section 20516(f)). If, at any time in the future, the Association informs the City that it no longer agrees to this cost sharing agreement, effective on the date of the elimination of the cost sharing (which would need to coincide with the expiration date of the MOU) the base salary of all employees in the bargaining unit will be reduced by three percent (3%).

The twelve percent (12%) employee contribution is 9% member and 3% cost sharing. The parties acknowledge that this 12% contribution to retirement satisfies the 2018 legislative goal of the Public Employees’ Pension Reform Act that safety employees pay up to 12% for their pensions.

B. Employees subject to the 2.7%@57 Formula – “New Members” as defined by PEPRA

Unit members who are defined as “new members” under the PEPRA, are covered by the 2.7%@ 57 formula provided for by the PEPRA at Government Code section 7522.25(d). These employees’ retirement will be calculated per the three year average final compensation as provided for by the PEPRA per Government Code section 7522.32(a). These employees shall pay the statutorily mandated employee contribution rate of one half of the total normal cost as determined each year by CalPERS.

18.3 Adoption of IRS Code Section 414(h)(2) Resolution

The City has adopted the CalPERS resolution in accordance with and as permitted by IRS Code section 414(h)(2) to ensure that the employees' payment (i.e., "pick up" as that term is used in section 414(h)(2)) of their employee contribution is made on a pre-tax basis.

18.4 Optional Benefits

The City contracts with CalPERS for the following optional benefits:

- A. Pre-retirement death benefits to continue after remarriage of survivor – Government Code section 21551
- B. Death Benefit – Government Code section 21620
- C. Post Retirement Survivor Allowance – Government Code sections 21624/26/28 and 21635
- D. 1959 Survivor Benefit Level 4– Government Code section 21574
- E. Military Relocation Credit - Government Code section 21024
- F. Final Compensation Period One Year - Government Code section 20042 for classic members
- G. 2% Cost of Living Allowance - Government Code section 21329
- H. Prior Service - Government Code section 20055

ARTICLE 19, EDUCATIONAL REIMBURSEMENT

A member of the Unit shall receive educational reimbursement for courses either approved through the Tuition Reimbursement Program as set forth in Personnel Rule 18.2 or for other work-related courses approved in advance at the discretion of the Police Chief and the Human Resources Director. The maximum reimbursement shall be as follows: No Police Safety Unit member shall receive more than \$3,000 per fiscal year in educational reimbursement, subject to a \$20,000 cap per fiscal year for all employees in the Police Safety Unit.

WORK HOURS/LEAVE

ARTICLE 20, HOURS OF WORK

20.1 Work Week

The normal work week for full-time employees is forty (40) hours during the seven (7) day period starting 12:01 a.m. Sunday and ending 12:00 midnight of the following Saturday.

20.2 Schedule - Specified, Non-Patrol Safety Unit Members

Police Safety unit positions assigned to patrol duty, motorcycle duty or detective duty, the Personnel & Training Sergeant, the Traffic Sergeant, and Canine patrol officers, but excluding the School Campus Officer, shall be allowed to work on a four (4) ten (10) schedule, with the understanding that such schedule can include weekends at the discretion of the Police Chief. It is also agreed that the Personnel & Training Sergeant, and the Traffic Sergeant shall be subject to a "flex schedule", in that their time worked would be adjusted to minimize overtime and provide flexibility in performing their duties, attending official events and functions at which their attendance is necessary. However, the regular scheduled hours of these employee will include three (3) contiguous days off per week.

The parties also agree that employees in the unit assigned as Community Policing Officer patrol duty may be assigned to work a 3/12 work schedule. A 3/12 work schedule is illustrated by example as follows:

	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
Officer 1	12	12	12	8	Off	Off	Off	12	12	12	Off	Off	Off	Off
Officer 2	Off	Off	Off	Off	12	12	12	Off	Off	Off	8	12	12	12

In this example, the unit member working the 3/12 work schedule shall not receive overtime compensation for working their regularly scheduled hours because the workweek for purposes of receiving MOU overtime shall begin exactly four hours after the start time of the eight hour shift for each employee assigned that work schedule. Thus, the employee will be scheduled to work 40 hours in that workweek.

If the City desires to modify an employee's 4/10 work schedule to a 3/12 work schedule (and vice versa) the City shall provide the Association with at least 14 days' advanced notice. The Association shall have the right to request to meet with the City to discuss any impacts it believes the change in work schedule will have on any members of the unit.

The Police Chief has the discretion to have Police Officers (any of the three classifications of Police Officers) assigned to the Palm Springs Airport and scheduled to work a schedule consisting of three 12-hour shifts per week with an additional eight (8) hour shift every other week.

20.3 No Guarantee of Hours

Nothing contained in this MOU shall be construed to constitute a guarantee of hours of work per day or per work week or of days of work per work week in the event that the City has a fiscal budget crisis declared by the City Manager.

20.4 Shift Assignments

For shift selection purposes, the early and late day shifts shall be considered separate, as it pertains to the four (4) ten (10) plan. If the Association wishes to address issues of shift selection, it may make such requests to the Police Chief.

20.5 Work Commuting

Any Police Safety Unit member hired after July 1, 2000 shall live within an hour's distance of the Police Department so that the officer is able to report to work within an hour.

ARTICLE 21, ANNUAL LEAVE

21.1 Definition

Annual leave is the period of approved absence with pay from regularly scheduled work that is not properly chargeable to some other category of leave.

21.2 Annual Leave Accrued While on Sick Leave

Annual leave shall accrue while an employee is on approved sick leave or occupational sick leave as provided in this MOU up to the maximum of four hundred (400) hours.

21.3 Annual Leave for Reinstated Employees (Employees Previously Employed by the City)

Notwithstanding other provisions of this MOU, for annual leave purposes only, reinstated employees shall receive service credit for their prior regular (non-temporary) employment and shall accrue annual leave commencing with the effective date of such reinstatement at the current accrual rate applicable to the service credit they received.

21.4 Annual Leave General Provisions

Employees may utilize their annual leave at the discretion of the Police Chief. Annual leave need only be used to cover shifts on regularly assigned days, not additional shifts. Annual leave shall be paid at the employee's straight time hourly rate of pay in effect during the leave period.

21.5 Accrual Rates

Annual leave shall accrue and vest (and is thus, subject to cash out) on the basis of each full month worked in accordance with the following schedule:

Years Of Service	Hours Accrued And Vested For Each Full Month Worked
0 Through 5	8
6 Through 10	10
11	12.67
12	13.34
13	14
14	14.67
15	15.34
16	16
17	16.67

Annual leave shall begin to accrue on the first day of the month following employment with the City.

21.6 Maximum Accrual

Annual leave shall accrue to a maximum of four hundred (400) hours. An employee whose accrual is at 400 hours shall not accrue additional annual leave unless and until they use such leave bringing his balance below 400 hours or cashes in such leave per article 21.7 of this MOU.

21.7 Annual Leave Cash-In

Until December 31, 2019, employees in the Police Safety unit may request payment for up to a total of one hundred sixty (160) hours of annual leave per year in lieu of time off. Such cash-ins of annual leave shall be permitted twice per year on the last pay day of July, and the first pay day of December.

Effective for calendar year 2020 and every year thereafter: By December 15 (the first year being 2019) of each year, employees may make an irrevocable election to cash out up to the maximum number of hours of annual leave which they can accrue per year which will be earned in the following calendar year (with a maximum of 160 hours) at the employee's base rate of pay. In the following year, the employee can receive the cash for the annual leave they irrevocably elected to cash out in either two (2) separate increments of up to half their annual accrual cap (i.e., for those who accrue 13.34 hours per month - 160 hours per year, 80 hours each) or one (1) increment of up the maximum they can accrue in a year.

The employee would be paid one half of what they irrevocably elect to cash out hours on both the second pay day in July and the first pay day in December or the employee can elect to be paid their full amount they elected to cash out on the first pay day in December. However, if the employee's annual leave balance is less than the amount the employee elected to cash out (in the prior calendar year) the employee will receive cash for the amount of leave the employee has accrued at the time of the cash out.

If an employee makes an irrevocable election to cash out annual leave in the following calendar year and uses annual leave in that subsequent year, the annual leave used will come from annual leave the employee had earned prior to January 1 of the year the employee has elected to cash out annual leave. This is to ensure that assuming an employee had an annual leave balance prior to January 1, the annual leave used will not result in a reduction in the amount of annual leave the employee will be eligible to cash out.

21.8 Payment of Annual Leave At Separation From City Employment

Upon separation, all unpaid accrued and vested annual leave will be paid at the employee's current salary rate. All unpaid accrued and vested annual leave of deceased employees shall be paid to the estate of said deceased except as otherwise provided by law.

ARTICLE 22, PAYMENT IN LIEU OF HOLIDAYS

Police Safety Unit members, in lieu of all City recognized holidays, shall be paid 3.67 hours per pay period (the 24 pay periods when holiday in lieu pay is paid to employees) at their straight time hourly rate.

The parties agree that to the extent permitted by law, the compensation in this section is special compensation for those employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(5) holiday pay.

ARTICLE 23, SICK LEAVE AND LEAVE PURSUANT TO A WORKERS' COMPENSATION INJURY OR ILLNESS

23.1 Industrial Leave

Police Safety Unit members who are compelled to be absent from duty because of illness or injury covered by State of California Workers' Compensation Insurance & Safety Act shall, in lieu of temporary disability compensation payable under the aforementioned Act, continue to be paid their normal salary and accrue other benefits in accordance with the provisions of Labor Code Section 4850 and court interpretations of that law.

Any period of time during which an employee is required to be absent from their position by reason of an industrial injury or industrial illness for which they are entitled to receive compensation, shall not be considered a break in continuous service for the purpose of his/or her right to salary adjustment or to the accrual of annual/sick leave and seniority.

23.2 Sick Leave Maximum Accrual

Sick leave shall accrue to a maximum of three (3) months or five hundred and twenty (520) hours. Sick leave shall begin to accrue on the first day of the month following employment with the City. Employees who accumulate over 520 sick leave hours will have an opportunity to cash out the excess hours over the 520 sick leave hours twice per year on the last pay day of July and the first pay day of December. Employees will have the option of depositing the excess hours into their deferred compensation account or converting the excess hours to taxable cash (as income). If an employee does not exercise the option to deposit the excess hours into their deferred compensation account or convert it to taxable cash, the hours will be converted to cash by the City. Thus, following the final pay day in December, unit members shall not have more than 520 hours of accrued sick leave in their sick leave account.

23.3 Accrual Rates

For the first twelve (12) months of continuous service full-time employees shall accrue sick leave at the rate of five (5) hours for each full month of service, and part-time employees normally working not less than twenty (20) hours per week shall accrue sick leave at the rate of two and a half (2.5) hours for each full month of service.

After completion of twelve (12) months of continuous service, full-time employees shall accrue sick leave at the rate of ten (10) hours for each full month of service and part-time employees normally working not less than twenty (20) hours per week shall accrue sick leave at the rate of five (5) hours for each full month of service.

23.4 Disposition of Sick Leave Upon Retirement

Unless converted to service credit, unit members shall be paid for accrued, vested and unused

sick leave and excess sick leave (having been accrued at that time of the year) upon a public safety service or disability retirement. All unpaid accrued and vested sick leave of deceased employees shall be paid to the estate of said deceased except as otherwise provided by law.

ARTICLE 24, REINSTATED EMPLOYEES

A Unit member who leaves employment (i.e., not an employee on a leave of absence, but who is no longer a City employee) with the City and returns to work the Unit within one (1) year thereafter shall be treated in all respects as a new employee regarding shift assignments, scheduling of vacations and days off and with respect to promotions. Benefit accruals for such reinstated officers shall be governed by the existing benefit accrual rules.

ARTICLE 25, ADVANCED OFFICER TRAINING SCHEDULE

The Association agrees that City can change schedule three (3) times a year to accommodate Advanced Officer Training Schedule. Each schedule change not to exceed fourteen (14) days. If training occurs during Spring Break schedule, it will be considered Advanced Officer Training.

ARTICLE 26, DETECTIVES AND DETECTIVE SERGEANTS

The Police Chief shall determine the number of officers to be assigned as detectives at any given time and shall determine whether or not there is a continuing need to have any given officer work as a detective.

ARTICLE 27, LIGHT DUTY ASSIGNMENTS

The City and the Association agree that the Police Chief shall have complete discretion to decide whether or not light duty work can be made available to a Police Safety Unit member employee who is unable to perform their regular duties due to a non-work related illness or injury.

EMPLOYER/EMPLOYEE RELATIONS

ARTICLE 28, DRUG POLICY/DRUG SCREENING

This policy is attached and incorporated by reference into this Agreement as Exhibit B. The parties acknowledge and agree that this topic is subject to meet and confer per the Meyers Miliias Brown Act.

ARTICLE 29, ANTI-NEPOTISM POLICY

29.1

The PSPOA and the City agree that no persons related by blood may be employed in the Palm Springs Police Department at the same time. Consistent with the definition for non-spouse relatives in City Personnel Rule 9.4, related by blood shall include an employee's child, parent, grandparent, brother, sister, grandchild, uncle, nephew, niece and first cousin. This Article does not apply to sibling relationships or parent/child relationships if the sibling, parent or child is within 24 months of normal retirement. Employees of the Palm Springs Police Department employed prior to July 1, 1998 and related by blood to another employee of the Palm Springs Police Department employee who was also employed prior to July 1, 1998, are exempted from the above, but in no case shall any employee be supervised by a person related by blood.

29.2

Consistent with City Personnel Rule 9.4, the initial employment of persons related by marriage to City employees will not be permitted within the Palm Springs Police Department unless specifically approved by the City Manager.

- A. They shall not work the same patrol hours. For purposes of this regulation, motors will be viewed as a patrol assignment.
- B. They shall not work on the same shift or any shift that overlaps with a shift that the other spouse works.
- C. They shall not work any overtime or contract overtime at the same time.
- D. They shall not work any special assignments at the same time, including task forces.
- E. They shall not supervise one another at any time.
- F. They shall not be assigned to investigate one another or in any manner participate in an investigation of an incident that involves a spouse, including but not limited to incidents where the spouse is an investigator, subject, victim or witness in the incident.

Supervisors may make exceptions to A. through D. only in emergency situations.

ARTICLE 30, PROMOTIONAL PROCESS

Whenever there is a promotion to the position of Police Sergeant, a Rule of 5, i.e., the top five candidates (assuming there are at least five) on the eligibility list in ranked order, shall be

presented to the Police Chief for consideration. If any of the candidates chosen for promotion to Police Sergeant are passed over by the Police Chief, i.e., the Police Chief does not pick the highest ranking person remaining on the list, the Chief will provide an explanation (orally or in writing) to the person passed over as to why another candidate was chosen for the promotion.

ARTICLE 31, WEAPON REQUIREMENTS FOR NEWLY HIRED OFFICERS

All Police Safety Unit members, shall be precluded from carrying any weapon other than a weapon of the type or types prescribed by the Police Department and heretofore agreed upon with the Association.

ARTICLE 32, WRITTEN REPORTS

A unit member has the right to have an attorney present when preparing a written incident report for an officer-involved shooting. Such reports must be submitted to the watch commander or designated supervisor within three working days of the incident.

The attorney must be present when the report is submitted, in the event that the reviewing official needs further information.

ARTICLE 33, GRIEVANCE PROCEDURE

33.1 Definition of Grievance

- A. A "Grievance" is a dispute of one or more employees or a dispute between one or more employees involving the interpretation, application or enforcement of the provisions of the MOU, or of the Personnel Rules and Regulations that are within the statutory scope of representation, and for which there is no specific method of review provided by federal, State or local law.
- B. Personnel rules 4.3.3 or 7.7 are excluded from the grievance procedure as well as any other rules as specified and complaints involving harassment shall be handled by a separate procedure.
- C. Release or lay-off of employees during an initial probationary period after hire, reinstatement, or reemployment is not subject to the grievance procedure.

33.2 Time Limits and Waivers

- A. Working Days - For purposes of the Grievance Procedure, working days, further referred to as "days", are defined as the period from 8 a.m. to 6 p.m. City Hall working days, currently Monday-Thursday, excluding holidays.
- B. Initiation - A Unit employee must initiate the grievance within fifteen (15) days of the occurrence of the event giving rise to the grievance or within fifteen (15) days after the grievant should, with reasonable diligence, have had knowledge of such occurrence, whichever is later.
- C. Management Reply - Failure by management to reply to the employee's grievance within the time limits specified under the grievance procedure shall automatically grant the employee the right to process the grievance to the next level of review.

- D. Failure to Submit to Next Level - If a Unit employee fails to submit from one level to the next level within the time limits and in the manner provided under the grievance procedure, the grievance shall not be subject to further consideration and will be deemed resolved.
- E. Waiver by Mutual Agreement - Any level of review or any time limits established in the procedure may be waived or extended by mutual agreement between the Unit employee and management, which must be confirmed in writing.
- F. Outside of Authority - If the supervisor, manager, or department head designated by the grievance procedure below to receive the grievance determines that they do not have the authority to resolve it, that supervisor, manager, or department head, shall so inform the grievant and forward the grievance to the next higher level of supervision with authority to resolve it, if applicable, or advise the grievant in writing they may continue to the next level in the process.

33.3 Informal Resolution

- A. The responsibility of a Unit employee with a bona fide grievance concerning terms and conditions of employment is to promptly inform and discuss the grievance with the department supervisor or designee in order to, in good faith, endeavor to resolve the matter expeditiously and informally.
- B. If such informal discussion does not resolve the grievance to the Unit employee's satisfaction, such employee may file a formal grievance in accordance with the procedure set forth in this section.

33.4 Procedure

- A. The Unit employee shall provide the grievance in writing, with signature and date, and submit it to their immediate supervisor within fifteen (15) days of the initial commencement of the occurrence being grieved. The supervisor shall further consider and discuss the grievance with the Unit employee and such employee's designated representative as deemed appropriate, and shall, within fifteen (15) days of having received the written grievance, submit a response thereto in writing to the employee and the employee's representative, if applicable.
- B. If the written response of the immediate supervisor does not result in a resolution of the grievance, the Unit employee may further submit the grievance, by presenting a written request, with date and signature, to the Unit employee's department head within seven (7) days of the Unit employee's receipt of the supervisor's response. The department head may investigate the grievance and may set a meeting with the Unit employee, employee's designated representative, and other persons as deemed appropriate to consider the grievance. Within thirty (30) days of receipt of the grievance by the department head, the department head shall submit a response to the grievance to the Unit employee and employee's representative, if applicable.
- C. If the response by the department head, does not result in a resolution of the grievance, the Unit employee may further submit the grievance, by presenting a written request, with

date and signature to the Human Resources Director, for submission to the Office of the City Manager, within seven (7) days of the unit employee's receipt of the department head's response. The City Manager or designated representative, may set a meeting with the Unit employee, employee's designated representative, and other persons as deemed appropriate, to consider the grievance. Within thirty (30) days of receipt of the grievance the City Manager or designated representative shall submit a response to the Unit employee and employee's representative, if applicable. The decision of the City Manager Office is final and binding.

- D. This grievance procedure is the sole and exclusive method for alleging a violation, misinterpretation or misapplication of any provision of this MOU.

ARTICLE 34, DISCIPLINARY APPEALS PROCESS

Effective July 1, 2018, the parties agree that if an employee subject to discipline is entitled to appeal that discipline per Personnel Rules 14 and 15, the appeal process provided by the Personnel Rules (the Personnel Board) will no longer apply. Rather, the parties agree that effective July 1, 2018, discipline which is subject to appeal may be appealed to a hearing officer selected by the parties. The disciplinary appeals process is as follows:

34.1 Property Interest Discipline

A. Appeals Procedure

1. If an appeal of a dismissal, suspension, demotion or reduction in salary is filed with the Director of Human Resources within ten (10) days of receipt of a written notice of discipline, this process will be used which includes the use of a hearing officer.
2. The City and the employee or their representative may agree on the hearing officer. If they cannot agree, the hearing officer shall be chosen from a panel of seven (7) hearing officers from a list provided State Mediation and Conciliation Service. The parties shall alternately strike names until one hearing officer remains. The parties shall flip a coin with the winner of the coin flip getting to choose whether to strike the first name or the second name. Names will be struck until the hearing officer is selected.
3. The hearing officer shall submit an advisory decision setting forth findings, conclusions, and recommendations to the City Council.

B. Hearings

1. The hearing shall commence no more than ninety (90) calendar days from the date the hearing officer is selected provided that the parties may agree to a longer period to commence the hearing.
2. All disciplinary hearings shall be closed to the public unless the affected employee requests that the hearing be open to the public.
3. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of

evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule, which might make improper admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil and criminal actions, and irrelevant and unduly repetitious evidence shall be excluded. The hearing officer shall not be bound by technical rules of evidence. The hearing officer shall rule on the admission and exclusion of evidence.

4. Each party shall have these rights: to be represented by legal counsel or other person of their choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses; to impeach any witness regardless of which party first called the witness to testify; and to rebut the evidence against them. If the employee appealing the discipline does not testify on their own behalf, they may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation. A court reporter will be engaged to record the hearing. The cost of the reporter will be paid for by the City. However, if the employee wants to order a transcript the City will not pay for the cost of that transcript. The cost of the hearing officer will be paid for by the City.
5. The hearing shall proceed in the following order, unless the hearing otherwise directs:
 - a. Opening statements shall be permitted with the City proceeding first.
 - b. The City shall proceed first in the hearing. If witnesses are called, the opposing party shall have the right to cross-examine the witnesses on any matter relevant to the issues, even though that matter was not covered on direct examination.
 - c. The parties may then, in order, respectively offer rebutting evidence only, unless the hearing officer for good reason permits them to offer evidence upon their original case.
 - d. Closing arguments and written briefs shall be permitted.
 - e. The hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. The hearing officer shall base findings on the preponderance of evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the hearing officer, for good cause, otherwise directs. The hearing officer, prior to or during a hearing, may grant a continuance for any reason believed to be important to reaching a fair and proper decision.
 - f. The hearing officer may recommend sustaining, rejecting or modifying the disciplinary action but not increasing the proposed discipline.
6. The hearing officer's findings, conclusion and recommendations shall be filed with the Director of Human Resources, who will forward them to the City Manager who then

forward to the City Council. The City Council, in its sole discretion, may hear limited oral arguments and/or request written statements from either party on the hearing officer's advisory decision. The City Council shall inform the employee appealing the discipline of its decision regarding the appeal within sixty (60) calendar days of the receipt of the hearing officer's report. The City Council may sustain, reject or modify the findings of the hearing officer but cannot increase the discipline proposed by the City. However, the City Council may extend the time to issue its decision beyond the sixty (60) calendar day period if it believes it is necessary. The decision of the City Council regarding the appeal shall be the final step in the administrative appeal process. However, any disciplinary action is deemed final as of the effective date. Copies of the City Council's decision, including the hearing officer's report shall be filed where appropriate, including the employee's personnel file. The City Council's decision is subject to review by a superior court pursuant to Code of Civil Procedure Section 1094.6.

7. Subpoenas and subpoenas *duces tecum* pertaining to the hearing shall be issued at the request of either party, not less than ten (10) calendar days prior to the commencement of the hearing; after commencement, subpoenas shall be issued only at the discretion of the hearing officer.
8. The time limits specified at any step in this procedure may be extended or reduced by written agreement of the employee or representative and the representative for the City.

34.2 Appeals Procedures for Punitive Action For Which There Is No Property Interest

A. Appeals Procedure:

In accordance with Government Code section 3304.5, the following procedure shall be used if an employee is subject to punitive action which does not implicate a property interest as defined by the Public Safety Officers Procedural Bill of Rights Act that does not involve termination from employment, demotion, suspension or a reduction of pay.

1. Appeal to the Police Chief or Designee
 - a. An employee who receives notice of a punitive action shall be entitled to appeal the action to the Police Chief prior to the effective date of the punitive action. The appeal is an opportunity for the employee to present written material and arguments why a punitive action should not occur or offer alternatives to the action.
 - b. Notice of Appeal: Within fourteen (14) calendar days of receipt by an employee of notification of a punitive action, the employee shall notify the Police Chief in writing of the intent to appeal the punitive action. The notice of appeal shall specify the action being appealed and the substantive and procedural grounds for the appeal. Nothing in this section shall limit the right of the Department to institute disciplinary action, notwithstanding that an appeal may be pending.
2. Hearing
 - a. Hearing Officer: The Police Chief or designee shall act as the hearing officer. The Police Chief shall have twenty (20) days from receipt of the request to schedule an

appeal hearing. The hearing shall take place within ninety (90) calendar days of the date the employee appealed the punitive action or such other time as may be agreeable by the parties.

b. Burden of Proof:

- (1) If the action being appealed does not involve allegations of misconduct (i.e., allegations that the officer has violated one or more federal, state, or local laws, and/or City or Police Department regulations, procedures, or rules) the limited purpose of the hearing shall be to provide the employee the opportunity to establish a record of the circumstances surrounding the action. The City's burden shall be satisfied if the City establishes that the action was reasonable, even though reasonable persons might disagree about whether the action was the best one under the circumstances.

For example, if the Police Department affected a non-disciplinary transfer of an employee out of a premium pay assignment with the intent of affording other employees the opportunity to work in the assignment, the decision would not be subject to being overturned as long as it was reasonable, even if one or more persons might disagree with the decision.

- (2) If the punitive action involves charges of misconduct, (i.e., allegations that the employee has violated one or more laws, regulations, procedures, or rules), the City shall have the burden of proving by a preponderance of the evidence the facts which form the basis for the charge of misconduct and the burden of persuasion that the punitive action was reasonable under the circumstances.

For example, if an employee received a written reprimand for unauthorized absence from work then the City would bear the burden of proving that the employee was absent from work without authorization and that a written reprimand was reasonable under the circumstances.

c. Conduct of Hearing:

The formal rules of evidence do not apply, although the Hearing Officer shall have discretion to exclude evidence which is incompetent, not relevant or cumulative, or the presentation of which will otherwise consume undue time. The rules of privilege shall be observed.

- (1) The parties may present arguments through documents and statements.
- (2) If the punitive action being appealed is a written reprimand, the parties will not be entitled to confront and cross-examine witnesses.
- (3) Following the presentation of written material and statements, the involved parties may submit closing arguments orally or in writing for consideration by the hearing officer.
- (4) Representation: The employee may be represented by an association representative or attorney of their choice.

d. Decision:

After the hearing, a decision will be submitted in writing within forty-five (45) calendar days. The decision shall be served by first class mail, postage pre-paid, upon the employee as well as any attorney or representative, shall be accompanied by an affidavit or certificate of mailing, and shall advise the employee that the time within which judicial review of the decision may be sought is governed by Code of Civil Procedure § 1094.5.

ARTICLE 35, ASSOCIATION TIME

The Police Chief has the authority to grant the Association President, or their de-signee, time off with pay to attend conferences or other events not to exceed forty (40) hours in a calendar year (except as shall otherwise be provided by the Chief of Police).

The Association shall be provided with seven hundred and fifty (750) hours of paid release time annually to be used by Association Board members to conduct union business. Board members wishing to use this release time must seek approval from their supervisor in advance. Approval will be granted if reasonable notice is provided to address the work load or any operations issues caused by the Board member's absence. However, the Department, through its supervisors, retains the discretion to deny a request to use such time for operational reasons but cannot and will not act unreasonably in granting a request to use such time. This release time does not accrue. Each January 1st there will be seven hundred and fifty (750) hours to be used for the calendar year. If any of the 750 hours are not used, they do not carry over to the next year. The POA President is responsible for keeping track of the hours used by the Association and will inform the Human Resources Director each quarter of the hours used by the Board members.

ARTICLE 36, STRIKES AND WORK STOPPAGES

36.1 Prohibited Conduct

The Association, its officers, agents, representatives and/or members agree that during the term of this MOU, they will not cause or condone any strike, sympathy strike, walkout, slowdown, sick-out, or any other unlawful job action or concerted activity by withholding or refusing to perform services.

Any employee who participates in any conduct prohibited in Article 36.1(A) above, may be subject to suspension, demotion or dismissal by the City.

In addition to any other lawful remedies or disciplinary actions available to the City, if the Association fails, in good faith, to perform all responsibilities listed below in Article 36.2, Association Responsibility, the City may suspend any and all rights and privileges accorded to the Association in this MOU, including but not limited to suspension of the Grievance Review Procedure and dues deduction.

36.2 Association Responsibility

In the event that the Association, its officers, agents, representatives, or members engage in any of the conduct prohibited in Article 36.1(A), Prohibited Conduct, the Association shall immediately instruct any persons engaging in such conduct that their conduct is in violation of this Agreement and unlawful, and they must immediately cease engaging in conduct prohibited in said Article 36.1(A) and return to work.

ARTICLE 37, LAYOFF AND RECALL

The Association agrees to Personnel Rule 13.3 Layoff and Recall, except that if a Police Sergeant bumps to Police Officer as a result of layoffs, the "Classification Seniority" in the position of Police Officer will be defined as the time in the classification of Police Officer plus the time in classification of Police Sergeant. Where Personnel Rule 13.3 indicates that job performance shall be considered, for members of the Police Safety Unit, an employee's final ranking of the eligibility list for the position will be considered instead.

ARTICLE 38, CITY RESPONSIBILITIES AND RIGHTS

In order to insure that the City is able to carry out its functions and responsibilities imposed by law, the City of Palm Springs has and will retain the exclusive right to manage and direct the performance of City services and the work force performing such services and therefore the following matters shall be within the exclusive discretion of the City:

- A. To determine issues of public policy;
- B. To determine the merits, necessity, or organization of any service or activity conducted by the City;
- C. To determine and change the facilities, methods, means, and personnel by which City operations are to be conducted;
- D. To expand or diminish services;
- E. To determine and change the number of locations, relocations, and types of operations and the processes and materials to be employed in carrying out all City functions, including but not limited to, the right to subcontract any work or operations;
- F. To determine the size and composition of the work force, to assign work to employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments, and to determine the days and hours when employees shall work;
- G. To relieve employees from duty because of lack of work or other non-disciplinary reasons;
- H. To discharge, suspend, or otherwise discipline employees for proper cause in accordance with established personnel rules;
- I. To determine job classifications;
- J. To hire, transfer, promote, and demote employees for non-disciplinary reasons;
- K. To determine policies, procedures and standards for selecting, training and promotion of employees;
- L. To establish employee performance standards including but not limited to, quality and quantity standards;
- M. To establish reasonable work and safety rules.

The City, in exercising these rights and functions, will not discriminate against any employee because of membership or non-membership in any employee organization.

Except in emergencies, or where the City is required to make changes in its operations because of the requirements of law, whenever the contemplated exercise of Management's rights shall impact on a significant number of members of the Police Safety Unit, the City and the Association agree to meet and confer in good faith with representatives of the Association regarding the impact of the contemplated exercise of such rights prior to exercising such rights, unless the matter of the exercise of such rights is provided for in this Agreement.

ARTICLE 39, ASSOCIATION RIGHTS

- A. Deduction of dues and/or Association sponsored programs.
- B. The Association shall have the right to use a Police Department bulletin board for communications with its members. Any communication shall be in accordance with applicable ordinances, statutes and laws.
- C. The Association shall have the right and responsibility to use and maintain the "Officer/Employee of the Year Photo Display."

ARTICLE 40, MISCELLANEOUS PROVISIONS

The parties will try to work cooperatively when handling claims against police officers and the City for the purpose having consistent positions to better handle such claims.

40.1 Joint Drafting

Each party has cooperated in the drafting and preparation of this MOU. Hence, in any construction to be made of this MOU, the same shall not be construed against any party.

40.2 Modification

This MOU may only be modified or amended by written agreement between the parties and must be subsequently approved by resolution of City Council.

40.3 City Council Approval

The MERR and the Association have met and conferred in good faith on wages, hours, and other terms and conditions of employment for the employees represented by the Association and have reached agreements which are set forth in this MOU. This MOU constitutes a joint recommendation by the MERR and the Association, after ratification of the Association's membership, to be submitted to the City Council for its determination and approval by one or more resolutions, as the City Council may deem fit and proper. This MOU is of no force or effect unless or until ratified and approved by the City Council of the City.

40.4 Police Department Policy 700.00 – Take Home Vehicles

This policy is attached and incorporated by reference into this Agreement as Exhibit A.

EXHIBIT A - 700.00 TAKE HOME VEHICLES

POLICY

The City Manager shall authorize take home vehicles for patrol officers living within either the Palm Springs city limits, or in certain instances, within 33 miles of the Palm Springs city limits as determined by Google Maps or another map software agreeable to both parties. Motor Officers will be eligible for a take home motorcycle.

Marked police vehicles will be assigned as take home vehicles by the Police Chief to sworn officers who reside within the city limits of Palm Springs based upon vehicle availability and seniority of the officer.

Marked vehicles may also be assigned to officers in critical assignments requiring an immediate response. Critical assignments are described as sergeants, SRT, K-9 and Traffic. Unmarked police vehicles will be assigned to sworn officers in Detective, Traffic (except Motor officers) and administrative positions.

No officer will be eligible to participate in the take home program until they have successfully completed their FTO training.

Notwithstanding any provision of this policy, the City of Palm Springs is only obligated to purchase a maximum of five (5) new vehicles per year pursuant to this policy. This means that if a unit member is unable to be provided a vehicle (because there are an insufficient number of operable vehicles to provide a take home vehicle to every member of the unit who would qualify for a vehicle) they will not be provided as such. In such case, the determination as to who will qualify for a take home vehicle will be based on seniority.

USE OF CAR

The take home vehicle is to be used in a manner that facilitates immediate response of the officer in case of call out. Use of the vehicle is restricted to a 33-mile radius from the City of Palm Springs city limits. A unit member who is assigned a take home car may use the car to commute back and forth to work, including stopping on the normal route for personal purposes. However, the take home car is not to be used as the unit member's personal car when not commuting to or from work. This includes, but is not limited to, that the unit member is not to use the car on days when they are not working as well as on work days if not commuting to or from work. For unmarked vehicles, the unit member may transport members of their immediate family in the unit if doing so during their normal commute to or from work.

Officers, who are assigned to attend training classes, responding to a City of Palm Springs job-related court subpoena, or attending any other Department sanctioned event outside the city of Palm Springs, may use their assigned vehicle to attend the event.

Officers who are not assigned a take home vehicle shall park their assigned vehicle at the police department. Those officers have the option of responding to court or other department sanctioned events outside the city of Palm Springs either from the department in their assigned vehicle, or from their home, using their own vehicles and putting in for mileage reimbursement.

DUTY TO RESPOND

Officers driving a take home vehicle may not ignore stranded or disabled motorists, traffic collisions, or any hazardous conditions they observe. The officer must have the equipment necessary to respond and shall activate the radio, notify Dispatch of the situation and take action if deemed appropriate.

PARKING

Officers who are not assigned a take home vehicle shall park their assigned vehicle at the police department or other City of Palm Springs facility as directed by the Chief of Police.

MAINTENANCE

It is the responsibility of the employees to keep their vehicles clean. The City's contract car wash may be used as often as necessary to keep vehicles in a presentable condition.

It is the employee's responsibility to make their assigned vehicle available to the City Shop for scheduled maintenance or when notified that additional service is required.

SUSPENSION OF PRIVILEGE

The take home privilege may be suspended if the officer has two or more preventable accidents within a three-year period, or if they fail to follow the guidelines set forth in this policy.

EXHIBIT B - DRUG POLICY/DRUG SCREENING

The City of Palm Springs and the Association have a vital interest in maintaining safe, healthful and efficient working conditions. Being under the influence of a drug or alcohol on the job may pose serious safety and health risks not only to the user, but also to co-workers and the citizens of Palm Springs. The possession, use or sale of an illegal drug or of alcohol on the job also poses unacceptable risks for safe, healthful and efficient operations. "On the job" means while on City premises, at work locations, or while on duty or being compensated on an "on call status."

The City of Palm Springs and the Association recognize that their future is dependent on the physical and psychological well-being of all employees. The City and the Association mutually acknowledge that a drug and alcohol-free work environment benefits employees and citizens. The purpose of this Article is to define the City's drug and alcohol policy as well as the possible consequences of policy violation.

Section 1

Possession, sale, use or being under the influence of drugs or alcohol while on the job is strictly prohibited. This prohibition shall not apply to legitimate undercover activities of Police Officers that are undertaken in accordance with the direction of the Police Department. Being under the influence of drugs or alcohol shall mean having a blood alcohol content of .04% or higher and having any residue or metabolite of illegal drugs in the body.

Section 2

When the City has a reasonable suspicion that an employee is, or may be, impaired or affected on the job by alcohol or illegal drugs, or that alcohol or illegal drugs are, or may be, present in an employee's body in violation of the rules set forth in this policy, the employee shall be required to submit to a blood alcohol/drug screen test immediately upon demand by the City.

Reasonable suspicion of controlled substance or alcohol use may be based on appropriate factors, including excessive absenteeism or attendance problems, poor work performance or erratic, threatening or violent behavior coupled with other conditions, including but not limited to the following: bloodshot or watery eyes, very large or very small pupils, runny nose, excessive perspiration, nausea and vomiting, lack of coordination, slurred speech or unpredictable responses to ordinary requests.

Refusal to submit to such a test amounts to insubordination and shall be sufficient grounds for dismissal. Any employee failing such a test, or who tampers with the test specimen, shall be subject to dismissal from the City.

Section 3

Any manager or supervisor requesting an employee to submit to a substance screening shall document in writing the fact constituting reasonable suspicion and shall give the employee a copy. This report must advise the employee of his right to representation. The employee shall be given an opportunity to provide additional facts. An employee who is then ordered to submit to a substance abuse screening may request to be represented. Because time is of the essence in drug and alcohol screening, there shall be no delay in the testing process based on an employee's request to be represented.

Section 4

The supervisor, or designee, shall transport the suspected employee to the testing facility for a blood test. Testing shall occur on City time and be paid for by the City.

Section 5

Any positive test for alcohol or drugs will be confirmed by a scientifically sound method. An employee who tests positive on a confirmatory test will be given the opportunity to discuss the results with a physician to be designated by the City. The employee should be prepared at that time to show proof of any valid medical prescription for any detected substance or to otherwise explain, if they so choose, a positive test result.

Section 6

While use of medically prescribed medications and drugs is not per se a violation of this policy, this policy shall establish that no employee shall operate a City vehicle or dangerous machinery or equipment while taking any kind of medication or drugs which are clearly marked that they may cause significant drowsiness or impair an employee's performance. An employee shall notify their supervisor, before beginning work, when taking such medications or drugs. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a physician designated by the City may be required. The City reserves the right to send an employee home on sick leave under these circumstances.

Section 7

Employees with substance abuse problems are encouraged to participate voluntarily in the City-sponsored Employee Assistance Program (EAP). Assistance through the EAP may be sought by an employee with complete confidentiality and without adverse consequences to their employment. Employees should be aware, however, that a request for assistance through the EAP would not insulate the employee from disciplinary action already contemplated based on the employee's violation of this policy.

Depending upon the facts surrounding the reasonable suspicion determination, positive test result, and/or other violation of this policy or other City/department rules and regulations, the City may refer an employee to the EAP. Such referral could, at the discretion of the City, be made available to the employee as an alternative to disciplinary action. Referral would be subject to agreement by the employee to enroll, participate in and successfully complete a rehabilitation and/or counseling program and other terms and conditions in a "Last Chance Agreement".

EXHIBIT C – SENIOR POLICE OFFICER, MASTER POLICE OFFICER AND SERGEANT II AND III QUALIFICATIONS

A Police Officer can be reclassified to the classifications of Senior Police Officer and Master Officer and a Sergeant can be reclassified to the classifications of Sergeant II and Sergeant III once the City certifies that the employee meets the minimum qualifications of the higher-level classification.

The minimum qualifications for each classification are as follows:

Senior Police Officer

- A. Current or previous service of a minimum of two (2) years of experience within the past four (4) years as a Police Officer with a California law enforcement agency and have successfully completed a POST approved patrol field-training program.
- B. Possession of, or ability to obtain, an appropriate, valid driver license with a satisfactory driving record
- C. Possession of a California Intermediate P.O.S.T. Certificate or an approved California Intermediate P.O.S.T certificate application verified by the Administrative Services Sergeant of the Palm Springs Police Department
- D. Possession of, or ability to obtain, an appropriate, valid C.P.R. Certificate.

Master Police Officer

- A. Current or previous service of a minimum of three (3) years of experience within the past five (5) years as a Police Officer with a California law enforcement agency and have successfully completed a POST approved patrol field-training program.
- B. Possession of, or ability to obtain, an appropriate, valid driver license with a satisfactory driving record.
- C. Possession of a California Advanced P.O.S.T. Certificate or an approved California Advanced P.O.S.T certificate application verified by the Administrative Services Sergeant of the Palm Springs Police Department.
- D. Possession of, or ability to obtain, an appropriate, valid C.P.R. Certificate.

Police Sergeant II

- A. A minimum of one (1) year of experience as a Police Sergeant with the City of Palm Springs and currently on non-probationary status with the City of Palm Springs.
- B. Possession of, or ability to obtain, an appropriate, valid driver license with a satisfactory driving record.

Police Sergeant III

- A. A minimum of two (2) years of experience as a Police Sergeant with the City of Palm Springs.
- B. A current performance evaluation in which the employee was rated overall satisfactory or higher.
- C. Possession of, or ability to obtain, an appropriate, valid driver license with a satisfactory driving record.
- D. Possession of a California Supervisory P.O.S.T. Certificate or an approved California Supervisory P.O.S.T certificate application verified by the Administrative Services Sergeant of the Palm Springs Police Department.

To request reclassification to the next classification level, an employee must be actively at work, complete a Reclassification Request form (including supporting documentation of required education or P.O.S.T Certification) and submit it for approval via the chain of command. If all qualifications are met, the Police Chief will authorize the Professional Standards Unit to generate a Personnel Action Form to initiate the reclassification.

The effective date of the reclassification is the beginning of the pay period after the Human Resources Department receives and certifies the employee has met all of the eligibility requirements. Upon reclassification, the employee will be placed at the same salary step as they are currently (i.e. upon reclassification, a Police Officer at Step 4 will be placed at Senior Police Officer Step 4). A reclassified employee will not be required to serve a new probationary period and the employee's dates for performance evaluations and merit increases will remain on the same schedule.