

**PALM SPRINGS
FIRE MANAGEMENT
ASSOCIATION
(PSFMA)**



**MEMORANDUM OF
UNDERSTANDING**

JULY 1, 2018 – JUNE 30, 2021

The Palm Springs Fire Management Association (PSFMA)
Memorandum of Understanding
July 1, 2018 – June 30, 2021

<u>GENERAL PROVISIONS</u>	1
ARTICLE 1, TERM.....	1
ARTICLE 2, RECOGNITION	1
ARTICLE 3, PRACTICES.....	1
ARTICLE 4, FEDERAL AND STATE LAWS	2
ARTICLE 5, MAINTENANCE OF BENEFITS	2
<u>COMPENSATION/OTHER PAY</u>	3
ARTICLE 6, SALARIES.....	3
ARTICLE 7, OTHER COMPENSATION	3
ARTICLE 8, OVERTIME AND COMPENSATORY TIME OFF	4
ARTICLE 9, UNIFORM ALLOWANCE	5
ARTICLE 10, MILEAGE.....	5
<u>BENEFITS</u>	6
ARTICLE 11, HEALTH, DENTAL, VISION AND OTHER INSURANCE	6
ARTICLE 12, HEALTH INSURANCE FOR RETIREES	7
ARTICLE 13, RETIREMENT.....	8
ARTICLE 14, EDUCATIONAL REIMBURSEMENT	9
ARTICLE 15, IRS 125 PLAN	10
<u>WORK HOURS/LEAVE</u>	11
ARTICLE 16, WORK SCHEDULES	11
ARTICLE 17, ANNUAL LEAVE	11
ARTICLE 18, PAYMENT IN LIEU OF HOLIDAYS.....	12
ARTICLE 19, SICK LEAVE.....	12
ARTICLE 20, FORTY HOUR CONVERSION	13
ARTICLE 21, SHIFT TRADING	13
ARTICLE 22, JURY DUTY	13
<u>EMPLOYER/EMPLOYEE RELATIONS</u>	14
ARTICLE 23, DRUG POLICY/DRUG SCREENING.....	14
ARTICLE 24, NON-TOBACCO USE REQUIREMENT	14
ARTICLE 25, BOMB SEARCH.....	14
ARTICLE 26, SIDA BADGES.....	14
ARTICLE 27, FILLING VACANCIES	14
ARTICLE 28, BOARD OF DIRECTORS	14
ARTICLE 29, PAYROLL DEDUCTION FOR ASSOCIATION.....	14
ARTICLE 30, STRIKES AND WORK STOPPAGES	15
ARTICLE 31, GRIEVANCE PROCEDURE.....	15
ARTICLE 32, DISCIPLINARY APPEALS PROCESS	17
ARTICLE 33, CHANGES DURING TERM AND REOPENERS	21
ARTICLE 34, REQUIREMENT TO LIVE WITHIN 75 MILES OF THE CITY LIMITS	21
APPENDIX A. DRUG POLICY/DRUG SCREENING.....	22

**MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN
THE MUNICIPAL EMPLOYEE RELATIONS REPRESENTATIVE (MERR)
AND THE PALM SPRINGS FIRE MANAGEMENT ASSOCIATION (PSFMA)
REPRESENTING THE FIRE MANAGEMENT UNIT
JULY 1, 2018 – JUNE 30, 2021**

GENERAL PROVISIONS

ARTICLE 1, TERM

- A. This Memorandum of Understanding (“MOU”) shall be for the period of July 1, 2018, June 30, 2021; provided, however, that specific sections of this MOU shall have later effective dates as specified herein.

ARTICLE 2, RECOGNITION

This Memorandum of Understanding is entered into with reference to the following facts:

- A. The Palm Springs Fire Management Association, hereinafter referred to as the Association, is the exclusively recognized employee organization for members it represents employed by the City in the Fire Management Unit as defined in Section 8.1.2 of the Employer-Employee Relations Resolution, Resolution 16438, as amended by Resolution 17793 and then subsequently modified to delete Fire Captain by Resolution 24276 and is comprised of the classifications of Fire Battalion Chief and Fire Deputy Chief.
- B. The Association and the Municipal Employee Relations Representative, hereinafter referred to as the MERR, 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.

ARTICLE 3, PRACTICES

It is understood that existing ordinances, resolutions, and policies of the City cover matters pertaining to employer-employee relations including, but not limited to, wages, salaries, benefits, hours, and other terms and conditions of employment. Therefore, it is agreed that all such ordinances, resolutions, and policies, including Sections 4, 5, 6, 7, and 13 only of the Employer-Employee Relations Resolution 17793 are hereby incorporated by this reference and made a part hereof as though set forth in full and except as provided herein shall remain in full force and effect during the term hereof. The City and its employees shall continue to have the rights and prerogatives as set forth in Sections 4, 5, 6, 7, and 13 of Resolution 17793 and nothing in this MOU shall be deemed in any manner to abridge, restrict or modify the same except as limited by the Strikes and Work stoppages section of this MOU.

ARTICLE 4, 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 and the provisions hereof shall be effective and implemented only to the extent permitted by such 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, or otherwise 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 5, MAINTENANCE OF BENEFITS

The status of all existing benefits and conditions of employment now enjoyed by the members represented by the Association shall not be deemed affected by this MOU, except as specifically modified by provisions hereof or by actions taken in implementation hereof.

COMPENSATION/OTHER PAY

ARTICLE 6, SALARIES

Effective in the pay period following Council approval of this MOU, members of the Unit shall receive a two and fifty-six one hundredths percent (2.56%) salary increase.

Effective the pay period which includes July 1, 2019, members of the Unit shall receive a three and ninety-one one hundredths percent (3.91%) salary increase.

Effective the pay period which includes July 1, 2020, members of the Unit shall receive a two and eighteen one hundredths percent (2.18%) salary increase.

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

ARTICLE 7, OTHER COMPENSATION

7.1 Bilingual Pay

The City agrees to compensate Unit employees who are bilingual an additional five (5%) percent, but limited to one (1) person/shift. The City shall establish testing procedures and employees are required to pass the test. The City shall determine the languages for which it will compensate employees for Bilingual Pay based on the needs of the City and the community.

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.

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.

7.2 Education Incentive Pay

Fire Management Unit employees can receive an 2.5% for a Bachelor's Degree or 5% for a Master's Degree from a college or university accredited by either or both the Council for Higher Education Accreditation ("CHEA") and/or the U.S. Department of Education ("USDE").

The parties agree that to the extent permitted by law, the pays in this article are special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(2) Educational Pay.

7.3 Emergency Recall

When a Fire Management Unit employee is off-duty, and is called back to work, the employee shall receive a minimum of four (4) hours pay or (4) hours compensatory time at the department head's discretion, at overtime rate. For "Emergencies" defined as engaging or combating fires, floods, accidents, or involvement in other disaster operations, employees will be paid their travel time from their fire station to the emergency and back to their fire

station. Payment for travel time is in addition to the compensation they receive pursuant to this Article for all hours worked (from time of dispatch from their fire station to return to their fire station) as a result of the emergency.

7.4 Acting Out of Classification

A Fire Battalion Chief may be assigned by the Fire Chief to work out of classification to perform the duties of a Fire Deputy Chief. A Fire Deputy Chief may be assigned by the City Manager to work out of classification to perform the duties of the Fire Chief. Employees who are assigned to work out of classification shall receive pay for working out of classification. Employees shall be paid from the first day they are assigned to work in the higher classification at the lowest step on the range of the higher classification, which will provide an increase in pay of five percent (5%) (as long as the increase does not exceed the top step of the classification for which the employee is assigned). If a five percent (5%) will exceed the top step of the classification for which the employee is assigned, the employee will be assigned the top step of classification in which the employee is acting. Employees shall receive all other pay and benefits related to their actual classification while assigned to act in the higher classification. To receive pay for working out of classification, employees must be assigned in advance to work out of class.

The parties agree that to the extent permitted by law, acting pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(3) temporary upgrade pay.

When an employee is assigned to work out of classification, a Personnel Action Form shall be submitted designating that the employee as acting in the position they are holding.

7.5 Forty (40) Hour Battalion Chief Differential Pay

Battalion Chiefs assigned to a 40 hour schedule shall receive differential pay at the rate of 3.67 hours of pay per pay period for 24 pay periods per year (88.08 hours per year) in the year. In the two months of the year when there are three pay days, these employees shall not receive the pay on the third pay day of the month.

ARTICLE 8, OVERTIME AND COMPENSATORY TIME OFF

8.1 Overtime

Fire Management employees shall be compensated for overtime worked at a rate of fifty percent (50%) above the employee's regular hourly rate of pay for work performed in excess of one hundred and eighty two (182) hours per twenty four (24) day work period (in accordance with Section 7(k) of the Fair Labor Standards Act) or in excess of forty (40) hours a week for those assigned positions. In addition to the foregoing, when an employee is required to work outside the City per the City's agreement to provide mutual aid in the City's California Fire Assistance Agreement with the Governor's Office of Emergency Services, the employee will be paid at the rate of time and one half for the total hours assigned on such mutual aid. Both Fire Battalion Chiefs and Fire Deputy Chiefs qualify as overtime exempt per the FLSA as managers who qualify for the Executive Exemption of the FLSA. Thus, the overtime provided herein is provided per this MOU and not per the requirements of the FLSA.

8.2 Compensatory Time Off

The maximum accumulation cap for compensatory time off (CTO) is one hundred and ninety-two (192) hours. Compensatory time off may be earned in lieu of overtime at the discretion of the employee. Upon separation, all unpaid accrued and vested compensatory time will be paid at the employee's current salary rate.

Until December 31, 2019, employees may cash out accrued compensatory time off at the same time they cash out annual leave in July and December each year.

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 192 hours of CTO which they may earn in the following calendar year. In the following year, the employee can receive the cash for CTO they irrevocably elected to cash out in either two (2) separate increments of up to 96 hours or one (1) increment of 192 hours.

The employee would be paid one half of what they irrevocably elected to cash out hours on both the second pay day in July and the first pay day on December (assuming they have earned it) 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 CTO 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 off CTO the employee has earned at the time of the cash out.

If an employee makes an irrevocable election to cash out CTO in the following calendar year and uses CTO in that subsequent year, the CTO 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 a CTO balance prior to January 1, the CTO used will not result in a reduction in the amount of CTO the employee will be eligible to cash out. Employees with compensatory time off banks of 192 hours must use compensatory time off to lower the time in their bank below 192 hours to be able to accrue additional compensatory time off.

ARTICLE 9, UNIFORM ALLOWANCE

City agrees to pay a uniform allowance of \$125.00/month to each Unit member as a reimbursement for expenses incurred in the acquisition and maintenance of uniforms.

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 employed on or before December 31, 2012. "New members" as defined under the Public Employees' Pension Reform Act of 2013 will not have the value of the uniforms reported as special compensation.

ARTICLE 10, MILEAGE

Reimbursement for personal vehicle use shall be at prevailing IRS rate.

BENEFITS

ARTICLE 11, 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. Each calendar year, the City will pay up to a four percent (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 2016-2019 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 \$850.27 + \$37.11 = \$887.38 and the employee paid \$84.49.
- D. In 2018, that same rate went up to \$1010.74. This was a 4% 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. \$887.38 + \$38.87 = \$926.25. The employee pays no increase for 2018 as the premium amount did not exceed the 4% that the City contributes.
- E. For 2019, the City will pay the amount of any increase in the health insurance up to 4% over the 2018 premium of \$1010.74. That increase (if any) will be added to the City's 2018 contribution of \$926.25.

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

11.1 Health, Dental and Vision Insurance – Current Employees

The City agrees to contribute up to the amounts below for calendar year 2018 for Unit members toward Health (including hospitalization, drug coverage through such program(s) as shall be designated by the Association and approved by the City Council), Dental and Vision insurance. Unit members will sign verification of dependent eligibility annually at open enrollment.

City Contribution for 2018

Type of Coverage	Health	Dental	Vision
Single Party	\$926.25	\$35.67	\$13.42
Two-Party	\$1,777.93	\$50.54	\$13.42
Family	\$1884.03	\$74.33	\$13.42

City Contribution for 2019

Type of Coverage	Health	Dental	Vision
Single Party	\$966.68	\$35.67	\$13.42
Two-Party	\$1,855.53	\$50.54	\$13.42
Family	\$1,966.27	\$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 employees elect 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).

11.2 Term Life Insurance

The City agrees to provide \$35,000 (effective on the first day of the month following City Council approval of this MOU, the coverage is increased to \$50,000) Term Life Insurance coverage at no cost to employees in the unit.

ARTICLE 12, HEALTH INSURANCE FOR RETIREES

A. “Tier I” – Effective 7/1/2000:

A represented Unit employee who leaves active service as a Palm Springs employee after 20 years of continuous service, the City shall pay 75% of the cost of "retirees" health premium plan being covered at the time one leaves active service.

A represented Unit employee who leaves active service as a Palm Springs employee after 25 years of continuous service, the City shall pay 100% of the cost of "retirees" health premium plan being covered at the time one leaves active service.

Coverage for retiree health insurance occurs upon retiring from the City. The City will pay up to family coverage.

A represented Unit employee who retires from active service as a Palm Springs employee who has not completed 20 years of City service shall be entitled to participate at their own cost in the Association’s medical, hospitalization, and prescription drug coverage plan.

All employees eligible for retiree medical benefits who become eligible to receive Medicare must enroll in Medicare Part A and B to remain eligible to receive the above contributions.

1. Service Credit for Health Insurance For Retirees in Tier 1

Employees in Tier 1 shall be eligible for two years of service credit for the purpose of being eligible for retiree health insurance (e.g., an employee with 18 years of continuous service will be eligible for the benefits available to those with 20 years of continuous service) if in the month of June (starting in 2019) the employee makes an irrevocable offer to retire (which will be immediately accepted by the City) by no earlier than ninety (90) days from the date of notice or later than December 31 of that same calendar year.

B. "Tier II" – Effective 7/1/2006:

For all new employees with an *initial* hire date which is after July 1, 2006, there will be no City contribution for retiree health benefits. The City will, however, make a \$100.00 per month (this amount is increased to \$150 effective at the beginning of the first day of the month following City Council approval of this MOU) contribution to an employee Retiree Health Savings Plan (during employment) and the associated fixed dollar cost of administration.

A represented UNIT employee who retires from active service as a Palm Springs employee who has not completed 20 years of City service shall be entitled to participate at their own cost in the Association's medical, hospitalization, and prescription drug coverage plan.

ARTICLE 13, RETIREMENT

13.1 Retirement Formula

Unit members (and not "new members as defined by the Public Employees' Pension Reform Act of 2013 - PEPR) hired prior to December 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 optional 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 - PEPR) hired after December 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 optional benefit (in the City's contract with CalPERS) of single highest twelve month period.

Unit members, who are defined as "new members" under the PEPR, are covered by the 2.7% @ 57 formulas provided for by the PEPR 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 PEPR per Government Code section 7522.32(a).

13.2 Employee Contributions to the Retirement System

A. Employees subject to the 3%@50 and 3%@55 formula hired prior to January 1, 2013:

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

Effective at the beginning of the pay period including July 1, 2019, these employees shall pay three percent (3%) compensation earnable for cost sharing in accordance with Government Code section 20516(a).

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

These employees shall pay the statutorily mandated employee contribution rate of one half of the total normal cost.

13.3 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 and cost share is made on a pre-tax basis.

13.4 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. Military Reallocation Credit - Government Code section 21024
- E. Sick Leave Credit - Government Code section 20965
- 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 14, EDUCATIONAL REIMBURSEMENT

A member of the Unit shall receive tuition 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 Fire Chief and the Human Resources Director.

Unit members shall receive up to \$1,500/fiscal year through the Tuition Reimbursement Program. However, the City shall budget for the Tuition Reimbursement Program and once the funds in the budget for the Program have been exhausted by employees accessing the funds, no additional funds for tuition reimbursement are required to be paid.

ARTICLE 15, IRS 125 PLAN

The City agrees to provide an IRS 125 health reimbursement Plan for 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.

WORK HOURS/LEAVE

ARTICLE 16, WORK SCHEDULES

16.1

Fire Management Unit positions assigned to the classification of Deputy Chief shall be allowed to work on either a 4/10 schedule or a 9/80 schedule, with the understanding that such schedule is at the discretion of the Fire Chief.

The City reserves the right to schedule hours of work. City and Association agree to meet and confer on the impacts of any significant work schedule changes made to the work schedules of members of Fire Management Unit, other than the 4/10 or 9/80 schedule described above.

16.2

Fire suppression personnel work a “48/96” work schedule. The “48/96” work schedule shall consist of two 24-hour shifts (for a total of 48 consecutive hours) of scheduled work followed by four consecutive days (for a total of 96 consecutive hours) off-duty.

ARTICLE 17, ANNUAL LEAVE

Employees in the Unit accrue Annual Leave as follows:

Years of Service	Hours Accrued & Vested Monthly (40 Hour Employees)	Hours Accrued & Vested Monthly (Shift Employees)
0 through 5	12	16.8
6 through 10	14	19.6
11 and after	16	22.5

Employees in Unit assigned a fifty-six (56) hour shift workweek shall not accrue annual leave hours beyond the maximum of four hundred fifty-six (456) hours. Unit employees assigned to a forty (40) hour workweek shall not accrue annual leave hours beyond the maximum of three hundred twenty-five and seventy-one hundredths (325.71) hours. Employees in the Unit shall be eligible to use annual leave as it is accrued.

Employees with leave in the special excess annual leave bank can use the leave or cash it out on a semi-annual basis as set forth below until all hours are exhausted. Accrued unused annual leave in the excess annual leave bank shall be paid upon separation from the city service.

Until December 31, 2019, employees in the Unit shall have the option of converting accrued and vested annual leave into cash on the last pay date of July and the first pay date of December. Such conversion may be for any amount of accrued and vested annual leave hours.

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 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 16 hours per month – 192 hours per year, 96 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 on 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.

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 18, PAYMENT IN LIEU OF HOLIDAYS

In lieu of all City recognized holidays, Unit Members who work the suppression shift of an average of 56 hours per week shall be paid 5.14 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 19, SICK LEAVE

Members of the Fire Management Unit on a 40-hour work week shall accrue sick leave at the rate of 8.57 hours for each full month of service. Members assigned to shift duty shall accrue sick leave at the rate of one-half (1/2) shift or 12 hours for each full month of service, to be earned and reported in shift hours.

Sick leave shall accrue to a maximum of three (3) months or seven hundred and twenty (720) hours. Notwithstanding the preceding sentence, if an employee's accrued sick leave reaches 720 hours, they will continue to accrue sick leave in that calendar year subject to the following: An employee may cash out any accrued sick leave above 720 hours in the last pay period in July, if an employee still has sick leave on the books in excess of 720 hours by the pay day for the first pay period of December, the unused sick leave above 720 hours shall be compensated by a cash payment in an amount equal to the employee's straight time hourly rate of pay for those unused accumulated sick leave hours.

Commencing April 1, 2007, PSFMA members who had accrued unused sick leave in excess of 720 hours had those hours placed into a special excess sick leave bank. Employees have been able to draw against or cash out on a semi-annual basis as set forth below from this special excess sick leave bank until all hours are exhausted. Accrued unused sick leave in the excess sick leave bank shall be paid upon retirement from the city service.

All accrued unused sick leave (in either the regular or excess sick leave bank) shall be paid upon retirement from the city service.

ARTICLE 20, FORTY HOUR CONVERSION

Where appropriate, the employee leave benefits accorded members of the Fire Management Unit shall be converted to accommodate the 40-hour/week-work schedule (shift hours/1.4 = 40 hour conversion).

Employees who convert from a 56 hour per week suppression shift assignment to a 40 hour per week assignment shall have their leave accruals divided by 1.4 when entering that assignment. Employees who convert from a 40 hour per week assignment to a 56 hour per week suppression shift assignment shall have their leave accruals multiplied by 1.4 when entering that assignment.

ARTICLE 21, SHIFT TRADING

Unlimited time exchanges will be permitted between Fire Management Unit employees in accordance with Fire Department policy and procedure.

ARTICLE 22, JURY DUTY

Fire Management Unit employees who are called for and serve on jury duty, or to honor a subpoena, will be given time off from work with pay.

Employees who call the court while at work and find out that they must report to jury duty the next day, must continue to work the shift but will be relieved from duty with sufficient time to arrive at the court for jury duty in the morning. If an employee is scheduled to be on duty on the day they are on jury duty, they must return to their shift after the jury service is done for the day. For employees who are required to serve on jury duty for longer than two weeks (and who are informed of such when empaneled on a jury) their work schedule shall be converted to a 40 hour staff schedule during their time on jury duty.

EMPLOYER/EMPLOYEE RELATIONS

ARTICLE 23, DRUG POLICY/DRUG SCREENING

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

ARTICLE 24, NON-TOBACCO USE REQUIREMENT

All Unit members shall not use tobacco products on or off duty throughout the term of their employment. This includes, but is not limited to, all e-cigarettes.

ARTICLE 25, BOMB SEARCH

Fire Management Unit employees are not required to perform bomb searches. Upon receipt of a bomb threat, Fire Management Unit employees shall be asked to stand by should rescue or suppression become necessary.

ARTICLE 26, SIDA BADGES

All new employees shall obtain a SIDA Badge within first three months of employment, at no cost to the employee.

ARTICLE 27, FILLING VACANCIES

The City recognizes the value of promotion through the ranks in the Fire Department and acknowledges its desire to offer promotional opportunities to members of the bargaining unit. To that end, all vacancies will be open to internal candidates and their years of service, qualifications, and service to the City will be factors considered in making a final decision. However, the City reserves the right to open such recruitments externally if it determines it is necessary to do so based on the particular vacancy.

ARTICLE 28, BOARD OF DIRECTORS

The Association may conduct a Board of Directors meeting once each month at a City facility and during the workday, not to exceed two (2) hours.

The City will provide a bank of fifty (50) hours per year to be allocated by the Association Board of Directors for use by Association Officers or members. The Board of Directors shall be responsible for notifying the City's Director of Human Resources of the use of such hours when those hours are used. In addition, the Association will provide a report to the Human Resources Department upon request (up to twice a year) of the use of these hours in the previous year.

ARTICLE 29, PAYROLL DEDUCTION FOR ASSOCIATION

The City will make a payroll deduction at the request of the Association for dues, assessments, and other deductions authorized by the Association. The deductions will occur biweekly and will be paid to the Association's treasurer.

ARTICLE 30, STRIKES AND WORK STOPPAGES

30.1 Prohibited Conduct

The Association, its officers, agents, representatives, and/or members agree that, they will not cause or condone any strike, walkout, slowdown, sick out, or any other unlawful job action by withholding or refusing to perform services.

Any employee who participates in any prohibited conduct listed above shall 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 as Association Responsibility, the City may suspend any and all rights and privileges accorded to the Association in this Agreement, including but not limited to suspension of the Grievance Review Procedure and Dues Deduction.

30.2 Association Responsibility

In the event that the Association, its officers, agents, representatives, or members engage in any 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 Section 30.1 and return to work.

ARTICLE 31, GRIEVANCE PROCEDURE

31.1 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.

31.2 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.

31.3 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.

31.4 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 director, 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 32, DISCIPLINARY APPEALS PROCESS

The parties agree that effective July 1, 2018, the disciplinary appeals process is as follows:

PROVISIONS:

A. Disciplinary actions defined:

1. Oral/Written Warning

The use of an oral or written warning shall be used as a tool by supervisors to address performance problems or minor instances of misconduct and may be initiated at any time. If it qualifies as punitive action under the Firefighter Procedural Bill of Rights Act, the employee shall be entitled to an administrative appeal per the informal process below. The supervisor or manager will review with the employee both the specific deficiencies in question and the City's standards. The cause(s) of the deficiency will be identified along with specific improvement needed. The employee should be advised of the action that will be taken should they fail to achieve the improvement outlined within the time period specified. Any written warnings will be kept in the supervisory file, not the official personnel file, and a copy given to the employee. The supervisory file is intended to be a temporary file to record performance, both positive and negative, throughout the performance year. Once the performance evaluation is completed for the year, all items in the file should be referenced in the performance evaluation if appropriate, and discarded at the end of the performance year.

2. Written Reprimand

A Written Reprimand generally is appropriate to correct instances of more serious circumstances or employee misconduct which do not warrant suspension or discharge, repeated instances of minor misconduct or identified performance problems. The purpose of a Written Reprimand is to put the employee on notice that the City will take other disciplinary action unless immediate, real and consistent improvement in performance is demonstrated. Any decision to issue a Written Reprimand should be reviewed by the Human Resources Department. The

supervisor or manager issuing the Written Reprimand shall meet with the employee to discuss specific improvements required within a defined time period to avoid further disciplinary action. A copy of the Written Reprimand will be placed in the employee's official personnel file.

3. Suspension

Suspension is the temporary removal of employees from their duties without pay.

4. Reduction in Pay

A Reduction in Pay is a reduction in hourly salary for a limited and defined period of time, and does not result in any classification change. The employee continues to report to work for the duration of the reduction in pay.

5. Demotion

Demotion is the movement of an employee from his current classification to a new classification having a lower salary range.

6. Discharge

An employee may be discharged for cause.

B. Pre-Disciplinary Procedure

If an employee is to be suspended, receive a reduction in pay, be demoted or discharged, the employee shall:

1. Receive written notice of the intended action at least 7 calendar days before the date it is intended to become effective, stating the specific grounds and the particular facts upon which the action is based.
2. Receive copies of any known materials, reports or other documents upon which the intended action is based.
3. Be accorded the right to respond in writing within a reasonable period of time to the intended charges.
4. Be accorded the right to meet within a reasonable period of time with the Department Head or designee who has the authority to modify or eliminate the intended disciplinary action.
5. Be given the written decision of the Department Head or designee prior to the effective date of the disciplinary action.

C. Appeal Process

The following appeals procedures are adopted by the parties pursuant to Government Code § 3254.5 of the Firefighters Procedural Bill of Rights Act.

1. Definitions

- a. The term “firefighter” means an employee who is considered a firefighter (including employees at both ranks within this unit) under Government Code § 3251(a) as well as any firefighter who is a peace officer pursuant to Penal Code § 830.37. This includes all employees who are in this Unit.
- b. The term “punitive action” means any action defined by Government Code § 3251(c), i.e., “any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.”

2. Formal Appeals Procedures – For Punitive Action Causing a Loss of Pay Not Covered by the Informal Hearing Process

A firefighter shall be entitled to an appeal hearing before an Administrative Law Judge assigned from the Office of Administrative Hearings which shall be conducted in accordance with Chapter 5 (commencing with § 11500) of Part 1 of Division 3 of Title 2 of the California Government Code.

- a. Notice of Discipline as Accusation - The final notice of discipline which may be issued at the conclusion of the pre-disciplinary procedures shall serve as the Accusation as described in Government Code §§ 11500, *et seq.*
 - (1) Pursuant to Government Code § 3254(f), the discipline shall not be effective sooner than 48 hours of issuance of the final notice of discipline.
 - (2) The notice shall be prepared and served in conformity with the requirements of Government Code §§11500, *et seq.* A copy of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code shall be provided to the firefighter concurrently with the notice of discipline.
- b. Administrative Law Judge - Pursuant to Government Code § 11512, the appeal will be heard by an administrative law judge
- c. Time and Place of Hearing- Pursuant to Government Code § 11508, unless otherwise decided by the administrative law judge, a hearing shall be conducted at City Hall or in another City facility at a time to be determined by administrative law judge with the input of the representatives of both the City and employee.
- d. Notice of the Hearing- A notice of the hearing shall be provided to the parties pursuant to Government Code § 11509.
- e. The burdens of proof and production of evidence shall be borne by the City. The standard of proof shall be by a preponderance of the evidence.
- f. The proposed decision of the administrative law judge shall be in writing. Copies of the proposed decision shall be delivered to the parties by registered mail and accompanied by a proof of service.

- g. Following receipt of the proposed decision, the City Council, or any designee (e.g., the City Manager) to the extent authorized by law, may take any of the actions set forth in Government Code § 11517(c)(2) A through E.

3. Appeals Procedures Informal Process

The Informal Hearing Procedure, as opposed to the formal procedures, will be used for disciplinary action imposed on an employee that does not involve termination from employment, demotion, suspension without pay for more than two (2) shifts for employees working a 56-hour suppression schedule or three (3) working days for employees working a 40-hour administrative schedule, or where the practical financial effect of the discipline equates to a two shift suspension or less for employees working a 56-hour suppression schedule or three (3) working days or less for employees working a 40-hour administrative schedule.

a. Appeal to the Fire Chief or Designee

(1) A firefighter who receives notice of a punitive action shall be entitled to appeal the action to the Fire Chief prior to the effective date of the punitive action. The appeal is an opportunity for the firefighter to present written material and arguments why a punitive action should not occur or offer alternatives to the action.

(2) Notice of Appeal: Within seven (7) calendar days of receipt by a firefighter of notification of a punitive action, the firefighter shall notify the Fire Chief in writing that they intend 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.

(3) Hearing Officer: The Fire Chief or designee shall act as the hearing officer. If the Fire Chief cannot serve as the hearing officer because of actual bias, prejudice or interest as defined by Government Code §11425.40, then the City Manager or designee shall serve as the hearing officer. The hearing shall take place within thirty (30) calendar days of the date the firefighter was notified about the punitive action (e.g. received a written reprimand) or such other time as may be agreeable by the parties.

(4) Burden of Proof: The City shall bear the burden of proof at the hearing.

The Department shall have the burden of proving by a preponderance of the evidence the facts which form the basis for the charge(s) and that punitive action was reasonable under the circumstances.

(5) Conduct of Hearing:

- i. 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.

- ii. The parties may present arguments through documents and statements.
- iii. If the punitive action being appealed is a written reprimand, the parties will not be entitled to confront and cross-examine witnesses.
- iv. 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.
- v. Representation: The firefighter may be represented by an association representative or attorney of their choice.

(6) Decision:

After the hearing, a decision will be submitted in writing within thirty (30) calendar days and provided to the employee. The decision shall advise the firefighter that the time within which judicial review of the decision may be sought is governed by Code of Civil Procedure § 1094.5.

(7) Decision to impose Discipline:

If, after the hearing, a decision is rendered which imposes discipline, pursuant to Government Code § 3254(f), the discipline shall not be effective sooner than 48 hours of issuance of the final notice of discipline.

ARTICLE 33, CHANGES DURING TERM AND REOPENERS

33.1 Waiver of Further Bargaining on Terms Within the MOU

The terms agreed upon by the MOU shall take effect at the time specified herein upon approval by Resolution of the City Council of the City of Palm Springs and shall remain in full force and effect until midnight, June 30, 2021.

ARTICLE 34, REQUIREMENT TO LIVE WITHIN 75 MILES OF THE CITY LIMITS

Unit members hired on or after 8:00 a.m. on October 11, 2015 must live within 75 miles of the City limits.

APPENDIX A. DRUG POLICY/DRUG SCREENING

The City of Palm Springs, the Association and Fire Management Unit employees 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 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, the Association and Fire Management Unit employees recognize that their future is dependent on the physical and psychological well-being of all employees. The City and the Palm Springs Fire Management Association mutually acknowledge that a drug and alcohol-free work environment benefits employees and citizens, and members agree to comply with this policy at such time as a mutually agreed upon employee assistance program is in place. The purpose of this article is to define the City's drug and alcohol policy as well as the possible consequences of policy violation.

Possession, sale, use or being under the influence of drugs or alcohol while on the job is strictly prohibited.

Section 1

When reasonable suspicion exists, the City may require an employee to submit to a substance screening. The employee will be given the option to select a blood test or urinalysis.

Reasonable suspicion is cause based upon objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform their job safely is reduced.

Section 2

Any manager or supervisor requesting an employee to submit to a substance screening shall document in writing the facts 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 screening, a representative must be available within a reasonable time or the employee will then be ordered to submit to a substance screening. An employee who refuses to submit to a substance screening may be considered insubordinate and shall be subject to disciplinary action up to and including termination.

Section 3

The supervisor, or designee, shall transport the suspected employee to the testing facility or shall call to the Police Station a licensed phlebotomist who will draw blood samples, when a blood test is selected. Urine samples shall be taken at the Police Station under supervision of the supervisor. Testing shall occur on City time and be paid for by the City. Employee urine samples, or other body fluids, will be collected in a DOX Security Container System or other

system which includes methods or mechanisms designed to assure the integrity of the sample. The facility used for testing shall be certified by the National Institute of Drug Abuse and comply with established guidelines for "chain of custody" to insure that identity and integrity of the sample is preserved throughout the collecting, shipping, testing and storage process.

Section 4

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 chooses, a positive test result.

Section 5

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 6

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 will not insulate the employee from disciplinary action already contemplated.

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 will 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".

PALM SPRINGS FIRE MANAGEMENT ASSOCIATION REPRESENTATIVE

Date: _____

By: _____
PSFMA President

Signature

By: _____
PSFMA Member at Large

Signature

MUNICIPAL EMPLOYEE RELATIONS REPRESENTATIVE

Date: _____

By: _____
City Manager

By: _____
Labor Attorney

Attest:

By: _____
City Clerk

By: _____
Director of Human Resources

Approved to form:

By: _____
City Attorney

Council Approval: